

HOUSE No. 4300

The Commonwealth of Massachusetts

By Mr. Murphy of Burlington, for the committee on Ways and Means, on House, No. 4231, a Bill authorizing the division of capital asset management to convey, lease and grant easements with respect to certain land in the town of Uxbridge (House, No. 4300). October 28, 2009.

An Act authorizing the division of capital asset management to convey, lease and grant easements with respect to certain land in the town of Uxbridge.

FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Charles Murphy	21st Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act authorizing the division of capital asset management to convey, lease and grant easements with respect to certain land in the town of Uxbridge.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is to authorize the forthwith to provide for the exchange of land in the town of Uxbridge, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 **SECTION 1.** Notwithstanding sections 40F to 40J of chapter 7 of the General Laws or any
2 other general or special law to the contrary, the commissioner of the division of capital asset management
3 and maintenance, in consultation with the secretary of the Massachusetts department of transportation,
4 may lease, for the purposes described below, certain parcels of land and any improvements located
5 thereon, upon terms and conditions as the commissioner of capital asset management and maintenance
6 determines to be in the best interest of the commonwealth and in no event for a term of longer than 50
7 years, to KGI Properties, LLC or its designee; may convey a fee interest in a certain parcel of land and
8 any improvements located thereon to KGI Properties, LLC or its designee; and may convey to the town of
9 Uxbridge certain temporary and permanent easements for utility purposes.

10 The first parcel to be leased, known as the northbound rest area on route 146, is located on the northbound
11 side of route 146 and contains approximately 7.59 acres. The second parcel to be leased, known as the
12 southbound rest area on route 146, is located on the southbound side of route 146 and contains
13 approximately 11.98 acres. The parcel to be conveyed in fee is located on the eastbound side of route 16,
14 at the intersection of route 16 and route 146 southbound and contains approximately 9.49 acres. The
15 exact boundaries of each of the 3 parcels and the temporary and permanent easements shall be established
16 prior to such conveyance by a survey approved by the commissioner of capital asset management and
17 maintenance.

18 Notwithstanding any general or special law to the contrary, the permitted uses under the leases shall be
19 such uses as rest areas open to the public for motorists traveling on route 146, and may include restrooms,
20 restaurants, gasoline service stations and such other uses deemed acceptable to the Massachusetts
21 department of transportation. If at any time the property ceases to be used for the purposes described in

22 this section, the commissioner shall give written notice to the lessee of the unauthorized use. The lessee
23 shall, upon receipt of the notice, have 30 days to respond and a reasonable time to establish an authorized
24 use of the parcel. If an authorized use of the parcel is not thereafter established, the lease of the parcel,
25 upon the recording of a notice thereof by the commissioner in the appropriate registry of deeds, shall
26 terminate and any further disposition of the property shall be subject to chapter 7 of the General Laws.

27 **SECTION 2.** The consideration for the parcel to be conveyed in fee shall be the full and fair market
28 value of such parcel as determined by the commissioner of capital asset management and maintenance
29 based upon an independent professional appraisal. The rental for the leases shall be the full and fair
30 market rental value of the parcels to be leased as determined by the commissioner of capital asset
31 management and maintenance based upon an independent professional appraisal.

32 **SECTION 3.** Contemporaneously with the conveyance authorized in section 1, Uxbridge Woods Realty
33 Trust shall convey to Massachusetts department of transportation a certain parcel of land located on Pond
34 Street in the town of Uxbridge, which is shown on the town of Uxbridge Assessor's Map 28 as lot 3163.
35 The grantee of the fee parcel and the lessee of the leasehold parcels shall be entitled to credits against the
36 consideration for the conveyance and the rental under the leases in an aggregate amount equal to the full
37 and fair market value of the parcel to be conveyed by Uxbridge Woods Realty Trust to the Massachusetts
38 department of transportation, as determined by the commissioner of capital asset management and
39 maintenance based upon an independent professional appraisal. The grantee of the fee parcel and the
40 lessee of the leasehold parcels shall be entitled to credits against the consideration for the conveyance and
41 the rental under the leases in an aggregate amount equal to the full and fair market value of any
42 construction provided by KGI Properties, LLC of facilities for use by the Massachusetts department of
43 transportation as determined by the commissioner of capital asset management and maintenance. Any
44 construction provided by KGI Properties, LLC shall not be subject to the provisions of sections 44A to
45 44J, inclusive, of chapter 149 of the General Laws, or any other public construction procurement law;
46 provided further that KGI Properties, LLC shall not design or construct any facilities on the parcel
47 without the written approval of the commissioner of the division of capital asset management and
48 maintenance and the secretary of the Massachusetts department of transportation; provided further that
49 said commissioner and said secretary shall not approve any design or construction project pursuant to this
50 section unless said commissioner and said secretary have determined that KGI Properties, LLC has: (i)
51 sufficient financial resources to complete the project; and (ii) obtained insurance protecting the
52 commonwealth as specified by said commissioner and said secretary; provided further that prior to said
53 approval all agreements shall include a requirement that the performance of, and payment for,
54 improvements to the parcels shall be fully covered by bonds issued by bonding companies authorized to
55 issue bonds in the commonwealth as determined by said commissioners; provided further that KGI
56 Properties, LLC has met any other terms and conditions to ensure completion of the public facilities in a
57 timely manner; and provided that KGI Properties, LLC shall pay prevailing wage in accordance with
58 sections 26 and 27 of chapter 149 of the General Laws in connection with any such construction.

59 **SECTION 4.** Notwithstanding any general or special law to the contrary, the inspector general shall
60 review and approve the appraisals contemplated by sections 1 and 2 and the review shall include an
61 examination of the methodology utilized for the appraisal. Within 30 days of receiving the appraisal, the

62 inspector general shall prepare a report of his review and file the report with the commissioner of capital
63 asset management and maintenance. Within 15 days of receiving the inspector general's report, the
64 commissioner shall submit such report to the house and senate committees on ways and means and the
65 joint committee on bonding, capital expenditures and state assets but no later than 15 days before the
66 execution of any agreement or other document relating to the lease.

67 **SECTION 5.** Notwithstanding any general or special law to the contrary, the grantee of the fee parcel
68 and the lessee of the leasehold parcels shall be responsible for all costs and expenses, including but not
69 limited to, costs associated with any engineering, surveys, appraisals, deed preparation, easement
70 preparation and lease preparation related to the conveyance, leases and grant of easements authorized
71 pursuant to this act as such costs may be determined by the commissioner of the division of capital asset
72 management and maintenance. Upon conveyance of the parcel, the town shall be solely responsible for all
73 costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation
74 of the parcel.