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ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

October 24, 1977

FILE NO. S-1299

STATE MATTERS:
Expenditure of State
Funds to Improve or
Remodel Property Being
Leased from a Private
Owner.

Donald S. Glickman
Executive Director
Capital Development Board
Third Floor
Stratton Office Building
Springfield, Illinois 62706

Dear Mr. Glickman:

I have your letter wherein you present the following question:

May the Capital Development Board expend funds to improve or remodel property leased by the State from a private owner?

Your letter states that it has long been a policy of the Board not to award contracts for the improvement of

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property not owned by the State of Illinois, based in part on section 2 of "AN ACT to punish fraud or extravagance in the expenditure of moneys appropriated for public improvements" (Ill. Rev. Stat., 1975, ch. 127, par. 132.52). That section, in relevant part, states:

"§ 2. Any person or persons, commissioner or commissioners, or other officer or officers, entrusted with the construction or repair of any public work or improvement, as set forth in Section 1, who shall expend or cause to be expended upon such public work or improvement, the whole or any part of the moneys appropriated therefor, or who shall commence work, or in any wise authorize work to be commenced, thereon, without first having obtained a title, by purchase, donation, condemnation or otherwise, to all lands needed for such public work or improvement, running to the People of the State of Illinois; said title to be approved by the Attorney General, and his approval certified by the Secretary of State and placed on record in his office, shall be deemed guilty of a Class A misdemeanor, * * *"

This office has consistently construed the word "title" in the above section to mean a fee simple. The policy of this State as expressed in this section is that a fee simple title approved by the Attorney General must be held by the State of Illinois before any construction or repair of any public work or improvement may legally be undertaken. See opinion No. S-1283, issued July 26, 1977.

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There are strong policy reasons supporting such a provision. The legislature surely intended to avoid any situation in which a lessor of land or buildings could refuse to renew a lease, or to renew on reasonable terms, subsequent to expenditure of State moneys on the property for remodeling or other improvements.

Therefore, it is my opinion that the Capital Development Board may not expend State moneys to improve or remodel property leased by the State from a private owner, unless specifically authorized by law.

Very truly yours,

A T T O R N E Y G E N E R A L