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L.N. 369 of 2017

GOVERNMENT LANDS ACT
(CAP. 573)

Transfer of Commercial Leases of Government Property with a Goodwill Procedure Regulations, 2017

IN exercise of the powers conferred by sub-paragraph (L) of paragraph (g) of article 31 of the Government Lands Act, the Minister for Transport, Infrastructure and Capital Projects, together with the Parliamentary Secretary for Planning and the Property Market, has made the following regulations:-

Title.

1. The title of these regulations is the Transfer of Commercial Leases of Government Property with a Goodwill Procedure Regulations, 2017.

Transfer.

2. (1) Anyone who has, a commercial property by title of lease from the Government or the Lands Authority, can while the original lease is still running, transfer his rights in the lease to third parties, provided that this transfer is subject to the following conditions, which must be fully observed:

(a) the original tenant shall give a copy of the preliminary agreement made between him and the interested third party to the Lands Authority, to which agreement must be attached a sworn declaration that that is the only existing agreement between the parties and that the conditions set out in it will not be changed in any way. In the agreement there should also be declared the full amount of the value of goodwill which is going to be transferred. If it results to the Lands Authority, even after the signing of the new agreement, that there was even one condition changed from the agreement that was given to it, then the Authority has the right to terminate with immediate effect such new agreement;

(b) the original tenant shall guarantee that if there is no bidder, and in the event that the interested third party does not come forward to sign the transfer of the remainder of the original lease upon himself with the Lands Authority, he shall be liable for payment of rent for the remaining period from the call for tenders until the end of the original term of the lease;

(c) the original tenant shall guarantee that the rent shall never be less than what it actually is and if the offer is less, and if the interested third party does not come forward to sign the

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transfer of the remainder of the original lease upon himself with the Lands Authority, he shall be liable for payment of rent for the remaining period from the call for tenders and the end of the original term of the lease;

(d) the original tenant shall guarantee that the terms of the original lease are in no way changed;

(e) the original tenant shall guarantee that when the original lease is transferred onto the interested third party, following a call for tenders, he will remain jointly and severally liable with the new tenant for payment of the rent until the end of the period of the original contract;

(f) the agreement between the original tenant and the third party concerned is subject to the right of the Authority to issue a call for tenders.

(2) Before issuing a call for tenders, the Lands Authority shall:

(a) verify that the contractual provisions in the original contract have been fully met and that there are no violations of any law or contractual provision in respect of that property, including that there are no arrears of rent payments;

(b) be advised of the value of the goodwill, improvements, furniture and other objects found in the rented property and for which the original tenant is expecting to receive a payment. In the eventuality that the transfer of the remaining term of the original lease is done in favour of the interested third party, the same interested third party, before signing this agreement, shall pay the amount equivalent to ten percent (10%) of that sum.

Call for tender to the public.

3. (1) Having observed in full the conditions imposed in the previous regulations, the Lands Authority shall issue a call for tender to the public, which shall be publicized widely on various media informing the public that the original tenant does not want to remain in the original lease and inform the public that there is an interested third party who is ready to assume the remaining term of the original lease and this on the preliminary agreement that has been made and that the interested third party has been reserved the right of first refusal.

(2) The Lands Authority may, in its absolute discretion, require a bid-bond with the tender.

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(3) If the transfer of the remaining term of the original lease is made to the tenderer and not the interested third party, the tenderer is obliged to pay an amount equal to ten percent (10%) of the value of the goodwill, improvements, furniture and other objects found in the property leased, to the Lands Authority and for which the original tenant is expecting to receive payment. The remaining balance of ninety percent (90%) shall be paid by the tenderer to the original tenant. Having made such payments, the property can be transferred to the tenderer.

Expenses.

4. The Lands Authority shall ensure that all costs for the purpose of transfer, including costs for the tender, shall be levied on the person to whom the property is transferred to for the remaining period of the rent.

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