



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 27, 2015

Title	Agenda Item Type
Court Facilities: Prospective Lease of Corning Courthouse Pending Future Disposition	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	October 27, 2015
Recommended by	Date of Report
Facilities Policies Working Group	September 8, 2015
Hon. Douglas P. Miller, Chair	Contact
Hon. Marla O. Anderson, Vice-chair	Eunice Calvert-Banks, 415-865-4048 eunice.calvert-banks@jud.ca.gov
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Executive Summary

The Facilities Policies Working Group (FPWG) recommends that the Judicial Council (1) approve a short-term triple-net lease (the Lease) of the closed Corning Courthouse (Courthouse) to the County of Tehama (County) pending its sale to the County following further Judicial Council action and legislative authorization of such sale, and (2) direct staff to continue negotiating the Lease of the Courthouse to the County.

Recommendation

The Facilities Policies Working Group (FPWG) recommends that the Judicial Council, effective October 27, 2015:

1. Authorize staff to negotiate a triple-net lease of the Courthouse with Tehama County; and

2. Delegate to the Administrative Director or his designee the authority to execute that lease and other related agreements and documents.

Previous Council Action

Neither the FPWG nor the Judicial Council has taken any previous action with respect to leasing the Courthouse or its ultimate disposition.

At its March 20, 2015 meeting, the FPWG voted to recommend to the Judicial Council that Judicial Council staff be authorized to negotiate a lease of another closed court facility, the Plumas-Sierra Courthouse, to an unrelated third party, and to delegate to the Administrative Director authority to execute that lease, and on April 17, the Judicial Council voted to accept that recommendation.

Rationale for Recommendation

The Courthouse located at 720 Hoag Street in Corning is an approximate 4300 square foot building situated on a 0.5222 acre parcel of real property. The County transferred title to the Courthouse to the Judicial Council as part of the SB 1732 courthouse transfer process by grant deed recorded on January 19, 2010. The fair market value of the Courthouse is \$275,000 according to a February 2014 appraisal obtained by Judicial Council staff.

On July 1, 2013, the Superior Court of California, County of Tehama (the Court) ceased operations at the Courthouse due to budget cuts. At approximately the same time, work commenced on the New Red Bluff Courthouse which is scheduled for completion in the fall of 2016. Planning for the New Red Bluff Courthouse has always contemplated closure of the Courthouse and consolidation of its operations into the new courthouse. The Court has notified Judicial Council staff in writing that it does not intend to re-open the Courthouse prior to the completion of construction of the New Red Bluff Courthouse.

At the time of the Court's closure of the Courthouse in 2013 and prior to formation of the FPWG, Judicial Council staff gave written notice of that closure to the County, and asked the County whether it would be interested in purchasing the Courthouse pursuant to Government Code 70391(c)(2)¹ which provides as follows:

The Judicial Council shall consult with the county concerning the disposition of the facility. Notwithstanding any other law, including Section 11011, when requested by the transferring county, a surplus facility shall be offered to that county at fair market value prior to being offered to another state agency or local government agency.

¹ All future code references in this report are to the Government Code, unless otherwise noted.

The County responded quickly in the affirmative, and indicated that it wanted to consummate the transaction as soon as possible because it wanted to immediately lease the Courthouse to North Valley Services,² which has grant money that must be encumbered by the end of October, 2015.

Judicial Council staff informed the County that any sale of the Courthouse to the County would require specific legislative authorization, and that as a result, a sale transaction could not close before January 1, 2017, at the time of the likely effective date for the legislation authorizing the sale. With the passage of time since that exchange, that likely effective date has slipped to January 1, 2018.

As an interim measure that would allow the County to engage North Valley Services to provide services in Corning and allow North Valley Services to encumber its grant money before October 31, 2015, and relieve the Judicial Council of its ongoing obligations to operate and maintain the Courthouse, Judicial Council staff proposed leasing the Courthouse to the County on a triple-net basis until such time as title could be transferred to the County in a duly authorized sale transaction. The County was receptive to that proposal and since that time, Judicial Council staff and County staff have been negotiating terms for that lease.

The proposed lease would be of the entire property on an “as-is” basis for a nominal rental amount, but with the County solely responsible for all operation, maintenance, and repair of the Courthouse and for insuring it. Because of the County’s need to offer a stable location for North Valley Services for a period of up to ten years, the lease would have an initial two year term with eight one-year extensions, though after the initial term, either party could terminate the lease on 90 days prior notice. The expectation of the parties, however, is that the Courthouse would be sold to the County as soon as possible with the lease terminating upon the transfer of title.

Legal Authorities

With the enactment of the Trial Court Facilities Act in 2002 (as amended, the Act), the Legislature granted the Judicial Council broad authority over trial court facilities. Specifically, section 70391(a) provides that the Judicial Council shall “[e]xercise full responsibility, jurisdiction, control, and authority as an owner would have over trial court facilities the title of which is held by the state, including, but not limited to, the acquisition and development of facilities.”

This broad and unqualified language confers an authority coextensive with that of an owner upon the Judicial Council, except where expressly limited by statute. Other than the requirement that the Judicial Council dispose of surplus court facilities (section 70391(c)), nothing in the Act or elsewhere expressly prohibits the Judicial Council from entering into an out-bound lease of all or a portion of a court facility with an unrelated third party while it carries out its disposition duty.

² North Valley Services is a local non-profit organization that provides services to individuals with mental disabilities.

The Legislature’s use of the phrase “as an owner would have” to describe the nature and scope of the Judicial Council’s authority over court facilities is significant. Under California’s Civil Code (CC), “[t]he ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others” (CC section 654). Ownership is qualified when it is shared with one or more persons; when the time of enjoyment is deferred or limited; and when the use is restricted. (CC section 680). Otherwise, it is absolute, meaning the owner “has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws.” (CC sections 678-679). “Ownership is a bundle of rights and privileges,” and an owner may enter into a lease agreement conferring on the tenant the rights of exclusive possession of the property “against all the world,” including the owner (*Union Oil Co. v. State Bd. of Equal.* (1963) 60 Cal.2d 441, 447).

Based on the foregoing, Judicial Council has the requisite authority under California law to enter into a lease for the Courthouse.

Comments, Alternatives Considered, and Policy Implications

This proposal was not circulated for comment. Staff has received written communication from the Superior Court of Tehama County in which the court confirmed it has no plans to reoccupy the Corning Courthouse, and supports the proposed transaction.

Alternative actions considered

An alternative to the recommended course of action is to not go forward with the lease to the County and leave the Courthouse vacant until authorization is sought and obtained to permanently dispose of the Courthouse. This alternative is not recommended because the judicial branch would continue to bear the cost of operating and maintaining the property, and likely alienate the County, the one party that has already identified itself as a possible buyer of the property once its sale is authorized.

Implementation Requirements, Costs, and Operational Impacts

Staff will need to negotiate final lease terms, a routine task for Real Estate staff. No out-of-pocket costs will be incurred in order to enter into a lease. The Court ceased operations at this location in July, 2013; therefore, there are no operational impacts.

Attachments and Links

1. [Government Code section 70391](#):

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=70391.