

Auditing for the Australian Capital Territory

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PA97/09

25 June 1998

The Speaker
ACT Legislative Assembly
South Building
London Circuit
CANBERRA ACT 2601

Dear Mr Speaker

In accordance with the Authority contained in the *Auditor-General Act 1996*, I transmit to the Legislative Assembly my Report titled "*Lease Variation Charges - Follow-up Review*".

This audit was managed by Peter Hade and conducted by Katie Marini and Fiona Nairn of this Office.

Yours sincerely

John A Parkinson

LEASE VARIATION CHARGES - FOLLOW-UP REVIEW

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1. REPORT SUMMARY

1.1 INTRODUCTION

Auditor-General's Report 10 of 1997 "*Public Interest Disclosures — Lease Variation Charges*" presented the results of an audit of several lease variation applications made in the early 1990s. The audit had resulted from a public interest disclosure to the Auditor-General.

It was found in that audit that a large amount of change of use charge revenue had been foregone by the Territory due to a failure to correctly interpret and apply legislation when calculating the change of use charge¹.

In 1996-97 the Department of Urban Services received \$4.4m for approximately 65 lease variations¹.

The Audit Office conducted this follow up audit of the system of lease administration to determine whether legislation was being complied with in 1996-97 and that correct amounts of change of use charge were collected.

1.2 OBJECTIVES OF THE AUDIT

The objectives of the audit were to provide independent opinions to the Legislative Assembly on whether:

- procedures required by relevant legislation

¹ The term betterment has been commonly used for lease variation charges. However the Land (Planning and Environment) (Amendment) Act (No. 3) 1996 introduced the term '*change of use*' charge. This term will be used throughout this Report in place of the old term "*betterment*".

² Variations for lease purpose and dual occupancy, increases in gross floor area.

are being followed for lease variation applications; and

- change of use charge calculations are being based on appropriate valuations.

The audit opinions formed from the audit are set out in the shaded box on page 3.

1.3 BASES FOR AUDIT OPINIONS

The audit opinions are based on the following findings:

Processing of Applications

- in 10 out of a sample of 11 applications for variations examined, the requirements of the applicable legislation were followed; and
- the exception involved an incorrect interpretation of the legislation by the Department. (*Chapter 3*)

Appropriate Valuations

- for all 11 applications examined, Australian Valuation Office (AVO) valuations or Administrative Appeals Tribunal (AAT) determinations were used as the basis for determining the change of use charge. (*Chapter 3*)

AUDIT OPINIONS

- Processing of applications for lease variations determined during 1996-97 was consistent with the relevant legislation; and
- Change of use charges have been based on appropriate valuations.

Other Significant Findings

- In one case, a change of use charge of \$3,750 was imposed incorrectly because of an incorrect interpretation of the law; and
- In another case, a restricted purpose was not carried through to the Instrument of Variation resulting in an undercharge to the lessee of \$26,250.

1.4 PARTICULAR ISSUES NOTED DURING THE AUDIT

Imposition of change of use charge on “residential purposes only” lease

In one case a change of use charge of \$3,750 had been imposed incorrectly as the application for a dual occupancy did not require a variation to the purpose in the lease. In this case, the wording of the lease purpose - “residential purposes only” - on a pre 1970 residential lease was sufficient to allow dual occupancy without variation.

The variation was determined in accordance with Departmental policies which apply a consistent interpretation to all residential leases. The Department was unable to advise the number of similar cases which had been determined or the level of change of use charge which had been paid. The Department had received legal advice in 1997 that its interpretation was incorrect. (*Chapter 3*)

Lease error in Mawson

In another case, a variation which resulted in a restricted purpose on part of a lease in Mawson was not included in the Instrument of Variation giving effect to the approval. This clerical error effectively provided a benefit of \$26,250 to the lessee by extending a wider purpose to the whole lease. (*Chapter 3*)

Transparency of valuations

Chapter 3 of this Report outlines the processes which were undertaken for the applications for variations examined in this audit. In several of the cases reviewed, the valuations finally adopted were different from the initial valuations for a variety of reasons. Variations in valuations were also noted by the Stein

Report³ which discussed concerns about the transparency of valuations, including possible negotiations of valuations between the Department and lessees. The inquiry recommended that the AVO assessment become a statutory valuation under the Land Act not subject to negotiation or revision (with a right of appeal to the AAT).

In its response to the Report of the Committee, the Government proposed the involvement of the Commissioner for Land and Planning when valuations were disputed.

The Office of the Commissioner for Land and Planning was created under the Land (Planning and Environment) Amendment Act which came into effect on 24 June 1997. Under arrangements between the Commissioner and PALM, the Commissioner will consider endorsing the redetermination of the change of use charge where PALM, on the advice of the AVO agrees with the lessee that an alternative amount of charge is appropriate. The Commissioner's consideration would involve examination of the valuation processes. In the event that the Commissioner does not endorse a redetermination of the charge, the lessee would need to apply to the AAT for review.

The applications included in this report were settled, or were before the AAT, prior to the arrangements with the Commissioner commenced.

1.5 CONCLUSION

Overall, based on the sample of applications examined in the audit, the audit found no

³ Report into the Administration of the ACT Leasehold, Chapter 20.

evidence to suggest that applications were not being determined in accordance with the law (apart from the dual occupancy exception mentioned above).

One other exception apparently involved a clerical error when the Instrument of Variation of the lease was being prepared.

Assessments of change of use charge were all based on valuations provided by the Australian Valuation Office or were the subject of Administrative Appeals Tribunal orders.

Finally, the audit noted that lease administration and the determination of change of use charge was highly complex and technical. This contributes to delays in the consideration of applications for development. To some extent, these matters have been addressed by amendments to the Land Act.

1.6 SUGGESTIONS FOR FUTURE ACTION

To address the audit findings the following actions should be considered:

Imposition of change of use charge on “residential purposes only” leases

- the Department of Urban Services should take action to assess the amount of change of use charges which have been levied incorrectly in older leases and determine a policy in relation to reimbursement.

The Department commented that:

“action is now being taken to clarify in the Land Act the status and liability of owners of those leases. The question of possible

compensation will be addressed by the Government under advice from the Law Office. It is clear that the Government does not wish to disadvantage any leaseholder by giving additional rights to a specific class of lessees.”

Lease error in Mawson

- the Department should determine whether the lease error can be corrected.

The Department commented that:

“...the Department will seek legal advice on possible action to correct the lease. The Executive Director of PALM has already undertaken steps to put in place quality assurance measures to ensure that errors of this nature are avoided.”

2. *AUDIT APPROACH*

2.1 INTRODUCTION

In 1996-97 the Department of Urban Services received \$4.4m for approximately 65 lease variations.

The audit reviewed a sample of 11 applications for lease variation changes which were being finalised in 1996-97. These applications were made between 1993 and 1997.

2.2 LEASE VARIATIONS APPLICATIONS AND APPROVALS REPORTS

The Minister for Urban Services provides quarterly reports to the Legislative Assembly on the status of all finalised development applications, including information on payments of change of use charges.

The applications in the audit sample were selected from the summary information on all lease variation applications and approvals presented to the Legislative Assembly.

2.3 AUDIT PROCEDURES

The audit involved:

- an examination of the land file and the development application file relating to each application; and
- discussions with staff of the Planning and

Land Management in the Department of Urban Services.

2.4 CALCULATION OF CHANGE OF USE CHARGES

Lease administration and the calculation of change of use charges are highly technical and complex.

In general, a change of use charge will be levied where the value of the lease increases as a result of a change to the lease.

The calculation of change of use charge involves determining both the added value arising from a lease variation and the proportion of the added value which is required to be paid as the change of use charge.

Due to various changes in legislation the application of the specific method to be used to calculate change of use charges is dependent on the date on which the applications were formally approved by delegates in the Department.

The applications reviewed in this audit were lodged over a period of 5 years. Over this time several changes were made to the method by which change of use charges were to be calculated. The table on the following page sets out the various methods which have been applied at different times including how the calculation of any added value is determined and how much of the added value is levied as a change of use charge.

LEASE VARIATION CHARGES - FOLLOW-UP REVIEW

Methods of Calculating Change of Use Charges

TABLE 1

| METHOD | DATE OF EFFECT | SUMMARY OF VALUATION METHOD | CHANGE OF USE CHARGE |
|-----------------|---------------------------|---|--|
| METHOD A | Pre February 1990 | Added value defined as the difference between the current market value including improvements on the day before and the day after the lease variation. | Change of use charge calculated as 50% of the added value less \$1,500. |
| METHOD B | Feb. 1990 - April 1992 | Added value calculated as the difference between the before and after value based on the unimproved value excluding improvements. Before value could include potential. | 100% change of use charge charged less a remission based on a sliding scale according to the length of time lease had been held. Different scales existed for full charge and concessional leases. |
| METHOD C | 2 April 1992 - Sept. 1993 | Added value based on unimproved value of the land assuming no land rent payable. Potential could be included in the before value of the land if it could be established by market evidence. | Change of use charge is 100% of added value less remission based on a sliding scale as outlined above. |
| METHOD D | Sept. 1993 - Sept. 1996 | Added value is the difference between the unimproved value of the land immediately after the variation was approved and the value of the lease immediately before the variation. No potential is included in before value. | Change of use charge is 100% of added value less remission based on sliding scale. |
| METHOD E | Sept. 1996 - June 1997 | Same as Method D | Change of use charge 100% of added value less 25 % remission for all leases except prescribed leases for which a sliding scale of remission is applied. |
| METHOD F | June 1997 - December 1998 | Added value is the amount determined in accordance with the formula $V_1 - V_2$ where V_1 is the capital sum the lease might be expected to realise if varied and offered for sale in good faith immediately after the variation and V_2 is the capital sum the lease might be expected to realise if the lease were not to be varied during its term and the lease were offered for sale in good faith before the variation. | Change of use charge 75% of added value less 25% for some lease variations, plus 25% for others. |
| METHOD G | December 1998 | Same as Method F | Change of use charge 100% of added value. No remission applies. |

3. LEASE VARIATIONS REVIEWED BY AUDIT

3.1 INTRODUCTION

This Chapter summarises the outcomes of the examinations of the sample of applications selected for the audit.

A sample of eleven applications were reviewed in the audit. The sample was selected to cover a range of both large and small variations for a variety of purposes. Most involved change of use charges.

3.2 SIGNIFICANT FINDINGS

- *in 10 of the 11 applications for variations examined by the audit, the requirements of the Act were followed;*
- *in one case, a change of use charge of \$3,750 was imposed because of an incorrect interpretation of the law;*
- *for all applications examined Australian Valuation Office valuations or Administrative Appeals Tribunal determinations were used as the basis for calculating change of use charges; and*
- *in one case, a restricted purpose was not carried through to the Instrument of Variation resulting in an undercharge to the lessee of \$26,250.*

3.3 APPLICATION 931777 - BLOCK 4 SECTION 72 DICKSON (Change Of Use Charge \$178,000)

Introduction

This application covered the Parents Without Partners (PWP) Centre site in Dickson. A concessional lease over this property was issued to PWP on 23 March 1977 for \$5,500.⁴ PWP erected a clubhouse on the site

Application

In March 1993 an application was made by PWP in conjunction with a developer to vary the lease purpose clause to include serviced residential apartments. The application was initially refused on the basis that it was inconsistent with the Territory Plan.

After an appeal to the Administrative Appeals Tribunal the application was referred back to the Department for amendment and reconsideration. An amended application was submitted in December 1993 for a 36 unit motel. The application was approved in September 1995 after a Preliminary (Environmental) Assessment and public notification of the application.

Valuation

The determination of the added value of the variation to the lease was subject to extensive discussion with the Australian Valuation Office, the lessee and its agents over the period from September 1995 to 1998. In addition, the Department of Urban Services sought legal advice from the ACT Government Solicitor.

Because the application had been made in March 1993 it was subject to the law applying at that time. Consequently the change of use charge should have been assessed under *Method C* (see Table, page 10). Under this approach the determination of the 'before

⁴ The lease issued to Parents Without Partners (PWP) prohibited the lessee from assigning or sub-letting any portion of the lease without consent from the Commonwealth. It also required that the premises only be used by PWP as its national headquarters and as a welfare and social centre for PWP.

value' of a lease had to take into account the 'potential' for a change of lease purpose and development.

The estimated value of the concessional lease by itself was \$55,000. However, if the value of the lease was to take into account the potential for a change of lease purpose and development it would have been \$282,000.

As the 'after value' would not change - in this case it was estimated to be \$424,000 - the higher the before value, the less would be the added value and the change of use charge. The Department had concern about the discrepancy permitted by *Method C* because it provided a commercial benefit on a lease which had been granted on a concessional basis.

Following advice from the Government Solicitor which confirmed the use of *Method C*, a new valuation was carried out. The added value was calculated to be \$142,000 (before value: \$282,000; after value: \$424,000) with the change of use charge being the same amount.

Further negotiations with the developer led to the Department agreeing that the portion of the lease with respect to the motel units would be exempted from the clause that prohibited transfer or sub-letting without prior consent. This increased the change of use charge by \$36,000 to \$178,000 which was paid on 5 February 1998.

Audit comment

The calculation of the change of use charge under the 1993 rules appears to be correct.

The interpretation of those provisions in this and other cases resulted in a treatment which appeared to be at odds with the intention of the Assembly for determining the change of use

charge. This was especially the case where concessional leases were being converted to commercial purposes. This interpretation was addressed by the Assembly in 1993 when the approach set out in *Method D* was introduced.

Had the market value of the concessional lease (\$55,000) been used for the before value instead of the market value which took into account the potential for redevelopment (\$242,000) the overall change of use charge would have been about twice the amount actually collected.

Nevertheless, on the evidence available, the requirements of the Act were followed and the change of use charge was calculated correctly.

3.4 BLOCK 6 SECTION 68 DEAKIN - OASIS LEISURE CENTRE (*Change Of Use Charge \$650,000*)

Introduction

The development on the Oasis Leisure Centre site was approved in 1988. The lease for this block specified that it was for '*an aquatic and indoor sports and recreation Centre*' with a maximum gross floor area of 10,000m².

Between January 1994 and May 1996 five applications were received from the new owners of the site for variations to the purpose clause of the lease. The audit examined three of these applications. These applications were for:

- a childcare centre of up to 500m²;
- a health facility not exceeding 1,000m², an educational establishment limited to an adult or continuing education facility not

exceeding 1,000m²; and

- a health facility not exceeding 1300m².

The applications were approved between February and September 1996 after considerable discussions between the Department of Urban Services and the owners. These discussions covered uses permitted under the Territory Plan, associated floor areas and other issues such as parking areas.

There was considerable difference between the Australian Valuation Office valuations of the added value arising from the variations and the valuations put forward on behalf of the owners. All three of the Australian Valuation Office's valuations were appealed to the Administrative Appeals Tribunal.

During an Administrative Appeals Tribunal (AAT) Directions Hearing, the Australian Valuation Office was requested to review the valuations. These new valuations were accepted by the AAT and a refund was paid to the applicant.

The table below summarises the different calculations of the added value. The amount of change of use charge paid was the same as the added value.

LEASE VARIATION CHARGES - FOLLOW-UP REVIEW

TABLE 2

| | INITIAL AVO CALCULATION OF ADDED VALUE | OWNER'S CALCULATION OF ADDED VALUE | AVO CALCULATION AFTER AAT DIRECTIONS HEARING |
|---|--|--|--|
| Childcare centre | \$220,000 | \$167,500 | \$125,000 |
| Health facility and educational establishment | \$425,000 | \$145,000 | \$305,000 |
| Health facility | \$260,000 | \$208,000 | \$220,000 |
| Total | \$905,000 | \$502,500 | \$650,000 |

Audit comment

As evidenced by the considerable differences between the Australian Valuation Office initial valuations, the owner's valuations and the valuations eventually accepted by the Administrative Appeals Tribunal, the variations posed significant problems for valuers. To some extent, these differences arose because of the thin market in Canberra for comparable centres and the lack of direct precedent for making a valuation. It is understood that additional evidence presented at the Directions Hearing led the Australian Valuation Office to reduce its earlier valuations.

Nevertheless, on the evidence available, the requirements of the legislation were followed and the change of use charge was calculated correctly.

3.5 APPLICATION 952342 - BLOCKS 4, 8, 9, AND 10, SECTION

52 BELCONNEN (*Change Of Use Charge \$585,000*)

Introduction

These blocks make up the Belconnen Mall site.

An application was made to the Department of Urban Services on 21 June 1995 seeking, amongst other things, to increase the gross floor area of the lease area by 2850m² to allow for the development of cinemas, cafes and additional retail areas at the Mall.

The application was approved on 18 December 1995. After advice from the Government Solicitor the approval also permitted a staged implementation of the development and progressive payment of the associated change of use charge. The staging involved the addition of cinema sites first, and then the cafes and additional retail areas later.

The Australian Valuation Office determined that the added value of the lease purpose change was \$1,000,000 divided into \$100,000 for the first stage and \$900,000 for the second stage. As there was no remission, the amount of change of use charge imposed on 18 April 1997 was also \$1,000,000.

Payment of both stages of the assessed change of use charge was made by the applicant. The applicant however appealed to the Administrative Appeals Tribunal in regard to the amount of the change of use charge.

Prior to the Administrative Appeals Tribunal hearing, the lessee and the Department of Urban Services were instructed by the Tribunal to discuss the before and after valuations. A consent order by the Tribunal was issued to this effect.

Under this order, the amount of change of use charge was reduced to \$585,000 (75% of the

added value determined at \$780,000) following reconsideration by the Australian Valuation Office of the current market circumstances affecting the Centre and changes to legislation that occurred between the original approval and the final approval of Stage 2 of the development.

Audit comment

As with the previous case, the thin local market was said to make it difficult to arrive at a valuation acceptable to both parties.

On the evidence available, the requirements of the Act were followed and the change of use charge was calculated correctly.

3.6 APPLICATION 962888 - BLOCK 2 SECTION 47 MAWSON
(Change Of Use Charge \$7,500)

Introduction

This block, which is located adjacent to the Southlands Shopping Centre, was approved for commercial/retail uses in 1980. Maximum floor and ground areas were specified in the lease.

In 1981, the site was sub-leased to the Commonwealth Department of Administrative Services. The Department sought to construct a shed on the site which would have increased the gross floor area. The Department of Territories (which administered the ACT at the time) objected but following representations it agreed to the construction. It required however that when the Department of Administrative Services quit the sub-lease that the shed would be demolished.

This requirement was overlooked when the Department left the site in 1994. The lease changed hands in August 1994 and by this time, the shed was being used by one of the businesses then operating at the site.

The Department of Urban Services became aware of the issue in 1996 when the lessee sought to unit title the site into four separate leases. In order to regularise the use of the site, an application was submitted on 17 July 1996 to vary existing clauses in the lease. These were that the building erected on the land shall not cover an area exceeding 515m² of the area of the land and that the gross floor area of the building erected on the land not exceed 865m².

After considerable discussion with the lessee, the application was approved by the Department of Urban Services on 15 October 1996.

An added value of \$45,000 was assessed using *Method D* (see page 10) for the variation, based on the increase in gross floor area and the current value per metre assessed to the site and the permitted use. After a remission of 25% (\$11,250), this resulted in a change of use charge of \$33,750.

The applicant disputed the assessment on the basis that the site was purchased with the shed and that the Department of Urban Services had been aware of the problem.

A solution was reached by having the valuation based on a restricted use of the additional land (in this case *food manufacturing only*) reflecting the current use of the premises. This involved an added value of \$10,000 and a change of use charge of \$7,500 which was paid on 27 February 1997.

Audit Comment

Leaving aside the error which allowed the non-demolition to go undetected, there are two concerns with the action in this case.

First, a general Territory policy is that any purchaser of a lease must make sufficient inquiry to ensure that any structures on the lease site are permitted and approved. Under this policy current lessees must accept responsibility for unpermitted or unapproved structures existing on their sites. From the files it appears that the Department considered itself bound by the error.

Secondly, although the change of use charge was based on a restricted purpose (food manufacturing) for the additional area the restricted purpose for part of the lease was not included in the Instrument of Variation giving effect to the approval. As a result, the site has the same general purposes as the rest of the lease and the lessee was undercharged approximately \$26,250 in change of use charge foregone by the Territory. This action effectively provided a benefit of \$26,250 to the lessee by extending the wider purpose to all of the unit title.

Departmental Comment

The Department has advised that:

“The report’s conclusion that the lessee received a benefit of approximately \$26,250 is correct. A thorough search of the file confirmed that, due to an administrative error, the Instrument of Variation does not restrict the use of the additional land to ‘food manufacturing only’ as it was indicated in the valuation sought at the time the change of use charge was imposed.”

**3.7 APPLICATION 963875 - BLOCK 3 SECTION 487
RICHARDSON - DUAL OCCUPANCY** (*Change Of Use Charge \$7,100*)

Introduction

This lease variation application was for a dual occupancy. The original lease purpose specified 'a single unit private dwelling'. The application, received on 23 September 1996, was approved on 13 December 1996 under the Act as at 28 February 1995.

The Australian Valuation Office determined an added value of \$10,000 and the change of use charge of \$7,100 was paid on 31 January 1997.

Audit Comment

On the evidence available, the requirements of the Act were followed and the change of use charge was calculated correctly.

**3.8 APPLICATION 965116 - BLOCK 13 SECTION 883
ISABELLA PLAINS** (*Change Of Use Charge \$7,500*)

Introduction

This site is occupied by the Isabella Plains Shopping Centre.

An application to permit an increase to the gross floor area of buildings on this lease by 930m² to enable a storage area to be constructed was approved on 23 January 1997.

The Australian Valuation Office assessed the added value attributable to the lease variation as \$13,000. This amount was disputed by the applicant and an appeal was lodged with the Administrative Appeals Tribunal.

At a preliminary conference with the Administrative Appeals Tribunal an independent valuation was provided by the applicant who contended that the added value of the lease variation was \$5,200.

After further consultation the Australian Valuation Office agreed that an amount of \$10,000 as discussed at the preliminary conference was acceptable. The applicant agreed to this amount and the change of use charge of \$7,500 (i.e. \$10,000 less 25% remission) was paid on 18 June 1997.

Audit Comment

There were some difficulties in arriving at a valuation of the site because of a lack of comparable precedents. However, on the evidence available, the requirements of the Act were followed and the change of use charge was calculated correctly.

**3.9 APPLICATION 972855 - BLOCK 24 SECTION 57 DOWNER
- DUAL OCCUPANCY (*Change Of Use Charge \$3,750*)**

Introduction

This lease variation application was to allow for a block with an existing granny flat to qualify as a dual occupancy. The original lease purpose specified '*residential purposes*'.

The application was approved on 8 September 1997 and a change of use charge of \$3,750 was paid by the lessee on 25 September 1997.

The lease purpose for this site specifies '*residential purposes*'. This term was used as the purpose clause in residential leases from the 1950s to the 1970s. Later residential leases use

the purpose clause '*single unit private dwelling house*'.

Audit Comment

The lease purpose clause for the site did not limit the number of residential dwellings on the block. On this basis it appears that there was no requirement for a lease variation and that a change of use charge should not have been applied.

This view has been confirmed in advice from the ACT Government Solicitor to the Department of Urban Services.

It appears therefore that the change of lease charge of \$3,750 should not have been assessed against the lessee.

The variation was determined in accordance with Departmental policies which apply a consistent interpretation to all residential leases. The Department was unable to advise the number of similar cases which had been determined or the level of change of use charge which had been paid.

Departmental Comment

The Chief Executive of the Department of Urban Services advised that the Department:

“is aware of the contention that ‘residential purposes only’ purpose clauses allow for more than one dwelling without the need for a lease variation or, consequently the payment of a change of use charge.

“On 30 December 1997 the then Minister announced that the Government will act to correct a technical inconsistency in the ACT’s lease system which may be seen as giving an unintended advantage to holders of leases issued prior to 1970. The matter is still under

consideration.”

**3.10 APPLICATION 973124 - BLOCKS 4 AND 5 SECTION 56
CHARWOOD** (*Change Of Use Charge Nil*)

Introduction

This lease variation was received on 11 August 1997. ACT Housing as the lessee of adjoining properties applied to create a wider access to the rear of one property in order to locate a garage in the back yard of another.

To do this it needed to relocate the side boundary of one property one metre onto the adjoining block. The application was approved on 19 September 1997 and the change of use charge was correctly calculated to be nil.

Audit Comment

On the evidence available, legislative requirements were followed. The Australian Valuations Office determined that as no change in the market value resulted from the lease variation, no change of use charge was payable by the lessee.

3.11 APPLICATION 973674 - BLOCK 2 SECTION 32 CITY

(Change Of Use Charge Nil)

Introduction

An application to permit the operation of a hairdressing shop in the Jolimont Centre was made on 16 September 1997. The Crown lease for the Centre which was issued on 1 November 1981 under the City Area Leases Act (CALA) permitted retail operations but did not permit '*personal services*'.

The lease variation to include '*shop*' in the lease purpose clause was approved on 29 October 1997. The application was referred to the Australian Valuation Office for assessment of any increased market value as a result of the lease variation.

The Australian Valuation Office determined that as no change in the market value resulted from the lease variation no change of use charge was payable by the lessee.

Audit Comment

On the evidence available, relevant legislative requirements were followed and the change of use charge was calculated correctly.

3.12 SUMMARY OF FINDINGS

On the evidence available, in all but one case the requirements of ACT legislation in relation to lease variations were followed and change of use charges were calculated correctly (apart from the dual occupancy exception mentioned).

One other exception apparently involved a clerical error when the lease document was

being prepared.

In all cases, assessments of change of use charge were based on valuations provided by the Australian Valuation Office or were the subject of Administrative Appeals Tribunal orders.

In one case, involving a dual occupancy, the change of use charge was imposed unnecessarily. As the lease concerned had a lease purpose allowing residential purposes without restricting the number of residences, legally a lease purpose variation was not required.

Annexure

Reports Published in 1992

- 1 Information Technology Management Policies in the ACT Government Service**
- 2 Financial Audits with Years Ending to 30 June 1991**
- 3 GAO Annual Management Report for Year Ended 30 June 1992**
- 4 ACT Board of Health - Management of Information Technology**
- 5 Budget Outcome Presentation and the Aggregate Financial Statement for the Year Ended 30 June 1992**
- 6 Financial Audits with Years Ending to 30 June 1992**

Reports Published in 1993

- 1 Management of Capital Works Projects**
- 2 Asbestos Removal Program**
- 3 Various Performance Audits Conducted to 30 June 1993**
 - Debt Recovery Operations by the ACT Revenue Office
 - Publicity Unaccountable Government Activities
 - Motor Vehicle Driver Testing Procedures
- 4 Various Performance Audits**
 - Government Home Loans Program
 - Capital Equipment Purchases
 - Human Resources Management System (HRMS)
 - Selection of the ACT Government Banker
- 5 Visiting Medical Officers**
- 6 Government Schooling Program**
- 7 Annual Management Report for the Year Ended 30 June 1993**
- 8 Redundancies**
- 9 Overtime and Allowances**
- 10 Family Services Sub-Program**
- 11 Financial Audits with Years Endings to 30 June 1993**

Annexure (continued)

Reports Published in 1994

- 1 **Overtime and Allowances - Part 2**
- 2 **Department of Health** - Health Grants
- Management of Information Technology
- 3 **Public Housing Maintenance**
- 4 **ACT Treasury** - Gaming Machine Administration
- Banking Arrangements
- 5 **Annual Management Report for Year Ended 30 June 1994**
- 6 **Various Agencies** - Inter-Agency Charging
- Management of Private Trust Monies
- 7 **Various Agencies** - Overseas Travel - Executives and Others
- Implementation of Major IT Projects
- 8 **Financial Audits with Years Ending to 30 June 1994**
- 9 **Performance Indicators Reporting**

Reports Published in 1995

- 1 **Government Passenger Cars**
- 2 **Whistleblower Investigations Completed to 30 June 1995**
- 3 **Canberra Institute of Technology - Comparative Teaching Costs and Effectiveness**
- 4 **Government Secondary Colleges**
- 5 **Annual Management Report for Year Ended 30 June 1995**
- 6 **Contract for Collection of Domestic Garbage/Non-Salary Entitlements for Senior Government Officers**
- 7 **ACTEW Benchmarked**
- 8 **Financial Audits With Years Ending to 30 June 1995**

Reports Published in 1996

- 1 **Legislative Assembly Members - Superannuation Payments/Members' Staff - Allowances and Severance Payments**
- 2 **1995 Taxi Plates Auction**
- 3 **VMO Contracts**

Annexure (continued)

- 4 **Land Joint Ventures**
- 5 **Management of Former Sheep Dip Sites**
- 6 **Collection of Court Fines**
- 7 **Annual Management Report For Year Ended 30 June 1996**
- 8 **Australian International Hotel School**
- 9 **ACT Cultural Development Funding Program**
- 10 **Implementation of 1994 Housing Review**
- 11 **Financial Audits with Years Ending to 30 June 1996**

Reports Published in 1997

- 1 **Contracting Pool and Leisure Centres**
- 2 **Road and Streetlight Maintenance**
- 3 **1995-96 Territory Operating Loss**
- 4 **ACT Public Hospitals** - Same Day Admissions
Non Government Organisation - Audit of Potential Conflict of Interest
- 5 **Management of Leave Liabilities**
- 6 **The Canberra Hospital Managements Salaried Specialists Private Practice**
- 7 **ACT Community Care** - Disability Program and Community Nursing
- 8 **Salaried Specialists' Use of Private Practice Privileges**
- 9 **Fleet Leasing Arrangements**
- 10 **Public Interest Disclosures** - Lease Variation Charges
- Corrective Services
- 11 **Annual Management Report for Year Ended 30 June 1997**
- 12 **Financial Audits with Years Ending to 30 June 1997**
- 13 **Management of Nursing Services**

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