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# THE CENTER REPORTS:

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## This Land Is Your Land

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Two months ago the Center published its first major report on state government activities. The report examines state land transactions stretching over four administrations and is entitled, *This Land Is Your Land: Here's How The State Buys and Sells It*. On December 6 the Council of State voted to adopt several new policies for the State Property Office which were based on some of the recommendations made by the Center. The following article consists of excerpts from the report, including the Center's recommendations, and a summary of the Council of State's action in the December meeting.

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State lands have been bought, sold, swapped and even loaned during the past four administrations for the advantage of private interests and at the expense of taxpayers. In managing the public's property, state officials have sometimes relied on wrong or inadequate information, bowed to influential politicians, been victimized by bad judgment and poor planning and even ignored the laws and their own established procedures.

In two instances examined by the North Carolina Center for Public Policy Research, the state bought or swapped for land the sellers didn't even own. In two others, property was loaned to private organizations for use as security for construction loans and mortgages, and in others property was sold for a fraction of its appraised value. These transactions should not be considered a condemnation of all—or even a majority of—land transactions by the state. Neither should they be considered rare or extreme. Some turned up in a simple review of real estate transactions in 15 counties selected for examination because of the heavy concentration of state-owned land or the development potential of the area. Others were suggested by current or former state officials who have been involved, either directly or indirectly, and believed the public's interests had not been protected.

In five specific cases, the Center found shortcomings in the procedures that ended up costing the state money. In three others, state property was used in such a way as to violate the intent, if not the letter, of the law.

Most of these transactions were handled through the normal channels established by law or under the internal procedures that have evolved in the property office. As a result, each of the examples illustrates problems that have occurred, sometimes more than once, and which can occur again.

- In the case of the North River Game Lands in Currituck County, state property officials and the Wildlife Resources Commission staff members were “stampeded,” as one who was involved put it, into a \$750,000 land purchase before they had a proper survey of the property or even a complete title search of the ownership.

- In the case of marshland off Figure 8 Island near Wilmington, the Council of State was supplied incorrect information on two separate occasions under two administrations that resulted in the sale of navigable waters, contrary to state law, to resort developers in Wilmington. Today, the state still does not control these channel bottoms.

- The Division of Marine Fisheries invested five years, hundreds of hours in state employees' time and a valuable piece of property in Morehead City in the development of a possible park and office complex that may never be built because someone forgot to get a proper deed from another state agency that controls the land.

- Land developers in Morganton were allowed to profit from the sale of prime commercial property, rather than the taxpayers who owned the land, because state officials disposed of the property through private negotiations rather than a public sale.

- The state Constitution prohibits any exclusive emoluments or privileges for “any person or set of persons” in North Carolina, but the University of North Carolina loaned land to five private fraternities at Chapel Hill which used the property to secure building loans of as much as \$120,000. If there is a default on the loans, the bank can take the public's land if the university does not buy the building and pay off the debt.

Each of these transactions passed through the Department of Administration, which is legally responsible for investigating them before forwarding them for approval to the Council of State—composed of the Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Auditor, Superintendent of Public Instruction and Commissioners of Insurance, Labor and Agriculture. The department is charged by law with the job of buying, selling and leasing land for all state agencies except land used in highway construction. This office processes requests from various agencies to buy or sell land for such things as hospitals, prisons, parks, wildlife game areas, easements for use of state channel bottoms and marshes, new state office buildings and the preservation of historic homes.

Many of the mistakes, intended and unintended, could have been avoided if the state's laws and written procedures had provided reasonable safeguards. The Center recommends a number of changes which should help North Carolina to protect its people's interest in land transactions.

**LAND REVIEW PANEL** The Center recommends that the Council of State establish a land review panel or screening committee that would serve in an advisory role to the property officer and the council. This panel should be composed of members with specialties in various areas of real estate---appraisals, surveys, engineering, architecture, law, agriculture, geology and state fiscal procedures. All of these skills are available within state government or at state universities in or near Raleigh. The members of this panel, serving staggered terms, could meet in Raleigh as often as needed to review proposed transactions with the property officer. In the event of differing opinions, the committee's dissent would be made known to the Council of State. To make the most of the panel members' time, the panel should be limited to reviewing sales and purchases of \$50,000 or more, those in which land of particular ecological, historic or sociological significance is involved or privately negotiated transactions.

*On December 6 the Council of State approved a new procedure that calls for notice of all land transactions to be presented to the members of the council seven days before the council meets. This has been standard procedure for some time but its inclusion in the administrative code will make it binding. This action, however, does not address itself to the problems of the past in which the council approved flawed land transactions because of its failure to get adequate or correct information. At the same meeting, the council briefly discussed the idea of a Land Review Panel and will discuss it again at its regular meeting on February 7.*

**PUBLIC ADVERTISEMENT OF SALES** The public should be notified of every piece of real estate that the state decides to dispose of. Public advertisement of dispositions is now optional within the administrative code. The Center recommends that the property office should be required to advertise every piece of property regardless of whether the office is considering a swap or trade with another property owner or not. This would provide additional information on the value of the property in the open market. The Council of State is not now bound to accept the high bid in a public auction of state land, and this option should continue. This would leave state property officials the opportunity to present the options to the council of either an outright sale or an exchange, whichever is most desirable.

*The Council of State adopted a new procedure which requires that all state land for sale be advertised in a newspaper of general circulation for 15 days to allow time for persons to bid. The council reserved the right to waive this procedure, however, in specific cases.*

**PROPERTY APPRAISALS** The Center recommends that the administrative code be amended to clearly establish the minimum standards for real estate appraisals used by the state property office. These standards, many of which are the present policy of the office, should be no less than those found in any competent real estate text. The property office should also include in its administrative procedures a requirement that at least two appraisals be obtained when the land involved is worth \$100,000 or more, or when the property has unique qualities on which even qualified appraisers may disagree. The property officer should also be responsible for insuring that appraisers are selected on their qualifications, as established in the administrative procedures, and not because of any political favoritism.

*The Council of State adopted a new policy in which at least two appraisals will be required on all properties having a value of more than \$100,000 unless waived by the council. It left to the property officer, however, the decision on whether to obtain appraisals on land with unique features.*

**TITLE INSURANCE** The Center recommends that the state require title insurance whenever the purchase price of the property involved is more than \$100,000, and in other instances when the Council of State decides it is necessary. This requirement will protect the public's investment as in Florida where the Division of Parks and Recreation requires title insurance in nearly all of its purchases. According to Charles I. Holliday of the North Carolina property office, title insurance is secured only if it is recommended by the Attorney General's office. With insurance against defects in the reported ownership of the property, the state can recover any money paid for property the sellers did not have the right to dispose of, such as in the case of the North River Game Lands.

*The Council of State adopted a new requirement that title insurance will be purchased when recommended by the Attorney General, apparently removing the option from the property office.*

**TITLE SEARCHES** The Center recommends that local attorneys hired to research titles to property involved in state land transactions be chosen for their ability and not their political allegiance to the Governor or Attorney General. The present patronage system in which the Attorney General chooses lawyers from a list prepared by the Governor should be scrapped in favor of a more equitable procedure that provides all attorneys interested in doing state work an opportunity to be hired.

*Action on the recommendation would lie with the Governor and Attorney General.*

# Reactions to Transactions

Reaction to the land report was generally favorable, but there were notable exceptions. Former Gov. Robert W. Scott, who held office when two of the transactions mentioned in the report took place, thought that the report reads "just like what it is---a newspaper reporter writing a story to prove a preconceived point." He felt that a few of the recommendations in the report were good, a few "so-so," and that a couple would be detrimental.

Stanley Moore, editor emeritus of the *Morganton News-Herald* was sharply critical of two chapters in the report on land transactions in Morganton, and said the Center "sought to document its arguments by use of insinuation, innuendo and circumstantial evidence which spreads clouds over many people whose participation in transactions was thoroughly legal and approved up and down the line from board to Raleigh authorities and back. . ."

More than a month after the report was released, the *Chapel Hill Newspaper* took issue with a section of the report which questioned the lending of state lands to private fraternities in Chapel Hill in order to provide them with security for obtaining construction loans. "In the strictest sense of the law this might be a violation," said the editorial, but "considering the same (housing) problem in the realm of need and common sense it should be done." In a comment which can only be considered unusual for a daily newspaper, the editorial began with this paragraph:

"As far as this Newspaper is concerned, the jury is still out on the North Carolina Center for Public Policy Research. It can be either a tremendous asset or a tragic liability to the people of North Carolina. After looking over the first report, a word of caution is offered: Gather as much information as possible, but act cautiously and with restraint before criticizing bodies of state government and public officials in future reports. If something is uncovered that seems to be in violation of the law, then turn the facts over to the Attorney General's office and allow them to handle the matter. Comments on possible improprieties are not fair to anyone."

**SURVEYS** The Center recommends that before the state acquires any property it be surveyed by a competent registered surveyor whose work must meet minimum standards established by the state property office. Like the standards for appraisals, these standards for surveys should be incorporated into the office's administrative procedures and filed with the Attorney General. In addition, the state property office should begin immediately to have all state lands surveyed and these surveys placed on file in Raleigh and in the county register of deeds offices where the property is located. These surveys should also meet the standards established by the state property office.

*The Council of State adopted a new procedure that surveys, when required by the property officer, must comply with the "Manual of Practice for Land Surveying in North Carolina."*

**OPEN MEETINGS** The Center recommends that the Council of State conduct the public's business in public and maintain a complete account of its business. If meetings had been open to the public and the press, it is at least possible that questions would have been raised about the wisdom of several of the transactions covered in the Center's report. The Council of State is presently exempted from the state's public meetings law. This blanket exemption should be removed, and the council should hold open meetings except when a majority of the members vote to hold closed sessions because they believe it is essential to protect the public interest. The reasons for holding closed sessions should be determined in advance by the council and published in its administrative procedures. The Center found in its research that an accurate study of past land transactions is hampered by a lack of substantive information from previous council meetings. Only the barest details are recorded.

*The council is scheduled to discuss the matter at its February 7th meeting.*

Editor's note: J. K. Sherron, property officer in the Hunt administration, says that many of these changes have been standard practice in his office in 1977. It should be noted, however, that the council's decision to write them into the administrative code gives more assurance that the improvements will remain in force in future administrations. ■

Copies of the report *This Land Is Your Land* are available from the Center for \$5.00 postpaid.

Elsewhere, newspaper editorials praised the land report and the Center itself. *The News and Observer* in Raleigh said the report had "uncovered enough bad practices in specific cases to justify a full review and judicious tightening of state property management procedures. . . The land report issued Monday offers good promise for the Center's work."

*The Greensboro Daily News* wrote that the Center "is off to an auspicious start. Its choice of a first topic, covering Democratic and Republican administrations, establishes its non-partisan approach. The report is balanced, informative and highly readable, neither hungry for sensation nor bogged down in technicalities."

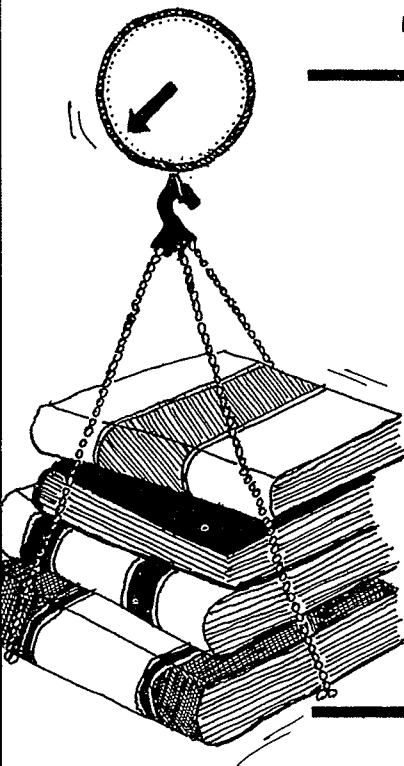
*The Charlotte Observer* concluded that "The first effort suggests the Center will perform a valuable service for state government---and the taxpayers."

*The Fayetteville Times* said the Center "has made a useful start," and that if it continued to study areas of state government that are ignored by the press "it will surely grow in usefulness."

*The Fayetteville Observer* said that the land report "has served a good public purpose" and praised the Center's recommendation that Council of State meetings should be open to the public.

*The High Point Enterprise* said the Center "has the means as well as the dedication to go the state press at least one better in investigative reporting. . . We believe that subsequent events will prove that it was a good day for North Carolina when this organization was established. It could have the positive effects of a Ralph Nader-type system but without the drawbacks of scattergun complaint. It bears watching."

what's yours ?



## The Full Weight of the Law

Frank Marina Sr. of Morehead City makes his living selling "anything I can put my hands on for an honest dollar." Right now, Marina has his hands full.

In early November Marina was the high bidder for 27,000 volumes of North Carolina General Assembly session laws, "casebound and weighing from 2½ to 5½ pounds each," according to the records at the state Surplus Property Agency. The agency operates somewhat like a flea market for state government, selling surplus or other property which has outlived its use. In the case of the books, which cost \$2 to \$19 apiece new, the Secretary of State's office was simply overstocked. John Cheney of the office said the books date back to 1931.

Marina's high bid was \$127, not much by the pound. In fact, removal costs may be even higher.

What's Marina going to do with them? "I'm going to put them on a truck, and I'm not going to stop 'til I get rid of them," he said. He said he'd sell to anyone who wants them.

Cheney said the Secretary of State's office has cut back on the larger printing orders of the past to prevent such stockpiling in the future.