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MEMORANDUM

TO: Honorable Joseph Pennacchio

FROM: Jeffrey T. Climpson *JTC*
Section Chief

DATE: May 2, 2008

SUBJECT: Surplus Greystone Park Hospital Property

This memorandum responds to your request for information regarding the Greystone Park Psychiatric Hospital complex in Morris County.

The Greystone Park Psychiatric Hospital complex, which opened in 1876, consisted of about 671 acres, on which a number of buildings existed for the purpose of caring for and housing mental health patients in the State.

In the last decade, two laws have been enacted directly addressing the use of surplus property at Greystone. Under P.L.1999, c.188, the Department of the Treasury was authorized to transfer surplus Greystone land from the Department of Human Services to the Department of Environmental Protection. The law required that any such transferred land be designated a State park, except that it also authorized the DEP to make available for conveyance all or a portion of the surplus land to Morris County, to the municipality in which it is located, or to a charitable conservancy, for open space, historic preservation or farmland preservation purposes. The land so conveyed was to be deed-restricted for those purposes and sold at a cost reflective of the deed restriction. The 1999 law also authorized lease agreements for similar purposes and uses.

Had the 1999 law been the sole law on the subject, had it been implemented, and had Treasury declared a portion of the Greystone land as surplus for transfer to the DEP, the DEP would have either established a State park there or perhaps conveyed all or a portion of the surplus land, with deed restrictions attached, to a local government unit or a qualifying nonprofit

organization. Apparently, neither was done, which presumably prompted passage of another law on the subject two years later.

P.L.2001, c.345 declared a portion of the 671-acre Greystone property as surplus to the needs of the hospital and of the State, and deemed the surplus portion "appropriate and usable for preservation, recreation, or conservation purposes, as well as for the provision of services to the public by local governmental or private not-for-profit entities." The portion in question is described in considerable detail in the law. Paragraph (2) of subsection d. of section 1 of the act states that the consideration to be paid by Morris County to the State for the surplus property was to be \$1. Subsection e. does recognize that some of the surplus land to be conveyed to Morris County may still be needed for hospital or State use for awhile and therefore allows any such land to be conveyed up to one year after the effective date of the act. The lands not declared to be surplus by the law and therefore not conveyed to Morris County remain under State ownership.

Of particular note, however, is paragraph (2) of subsection f. of section 1 of the 2001 law, which provides: "With respect to the Greystone Park Psychiatric Hospital property not conveyed under the provisions of subsection a. of this act, *no portion of that property shall be used for any purpose other than* (a) recreation and conservation, historic preservation, or farmland preservation, or (b) the administration of programs and the provision of services by the Department of Human Services" (emphasis supplied). Therefore, the 2001 law does not contemplate or authorize the sale of any portion of the Greystone property remaining under State ownership (after disposition of the Morris County portion) for private development. Rather, it explicitly commits the State to preservation uses or to Human Services use, unless and until the law is amended to provide otherwise.

Also, even though the State House Commission reportedly recently approved the proposed auction sale of 130 acres of newly declared surplus Greystone land owned by the Department of Human Services, under current law governing the disposal of surplus State land the property could not actually be sold unless and until the transaction receives legislative approval through enactment of a law to that effect. Presumably that law would also revise or delete the restrictive use provisions of P.L.2001, c.345 described above if the purchased land is to be used for private development or for other purposes not allowed by the 2001 law. However, even if the 2001 law was not so amended expressly, it is possible that a court might construe the later law giving legislative approval of the sale for private purposes as having implicitly amended the 2001 law.

I trust that this information satisfies your request. If you have any questions or require additional information on this issue, please do not hesitate to contact me.

c. J. Hutchison

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