

MAKING FEDERAL PROPERTY SALES MOVE FASTA: NEW LEGISLATION CREATES SIGNIFICANT REAL ESTATE DEVELOPMENT OPPORTUNITIES

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By: David H. Ehrenwerth, Peter V. Nelson, Stephen A. Martinko, Stephen A. Martinko, Jeffrey J. Denham

A new, expedited process for redeveloping surplus federal property could potentially create billions of dollars' worth of opportunities in key real estate markets across the country. Created by Congress to streamline the cumbersome, time-consuming, and costly process for disposing of unneeded government property, the Public Buildings Reform Board ("PBRB") is currently seeking recommendations for up to \$750 million worth of underutilized and vacant federal properties to sell in the next six months — part of an eventual \$8 billion worth of opportunities the Board is mandated to consider. Led by former Congressman Jeff Denham, who sponsored the legislation that created the PBRB, and former General Services Administration ("GSA") official David Ehrenwerth, the K&L Gates public policy and real estate teams can help clients understand, analyze, and capitalize on the opportunities created by the new law.

The federal government has a vast array of property under its control, but in many cases, properties that may have once served a vital function are no longer needed. While the federal government is required to sell these unused or underutilized properties, the process has historically been viewed as complicated and slow. Sponsored by former Congressman Denham, the Federal Asset Sale and Transfer Act of 2016 ("FASTA") streamlined the process by creating the PBRB to identify opportunities for the federal government to significantly reduce its inventory of civilian real property and thereby reduce costs.

As noted above, the PBRB is mandated to identify opportunities to reduce the federal real property inventory and make recommendations for the sale of at least \$8 billion worth of underutilized and vacant federal properties. Notably, these recommendations must include properties not currently identified by the government as surplus or excess. The Board must recommend the sale of not fewer than five such properties with a fair market value of not less than \$500 million and not more than \$750 million in the near term. In two subsequent rounds over a five-year period, the Board is responsible for making recommendations for other sales, consolidations, property disposals, or redevelopment of up to \$7.25 billion.

In addition to addressing some of the key hurdles of the property disposal process, FASTA also requires GSA to manage and maintain a publicly available database of federal property assets. The database represents a transformative resource in and of itself, as it establishes a single portal to identify and evaluate properties for redevelopment. Real estate experts, state and local officials, and others can use the database to identify opportunities federal agencies have not previously considered. The K&L Gates team can help clients realize the potential of this new resource.

The sale of federal real property under FASTA could create millions and potentially billions of dollars in real estate development opportunities nationwide. Excess federal properties can be found in every state. According to FY 2016 statistics, of the more than 260,000 buildings controlled by the federal government, approximately 77,000 are currently underutilized — comprising a vast trove of development possibilities for participants across the real estate sector. GSA itself has been eager to reduce the federal government's real estate costs both to respond to congressional pressure and to accomplish its own goal of cost-effective space reduction. GSA's ability to consolidate offices and sale of unneeded buildings also has been significantly enhanced by the implementation of computerized access cards that provide actual day-to-day utilization information which can be used to identify excess space.

K&L Gates partner David Ehrenwerth, who served as Associate Commissioner of the Public Buildings Service — the division of GSA that is responsible for overseeing the federal government's national civilian real estate portfolio — has commented that FASTA should excite the private real estate sector and open doors to significant opportunities for the private acquisition and repositioning of federal real estate. He has explained that the new law is expected to overcome many of the hurdles that previously have delayed and chilled this process. In addition, FASTA should stimulate cutting-edge techniques to satisfy the federal government's underfunded but substantial need for modern facilities, including real estate-exchanges, sale-leaseback transactions, and other creative public-private partnerships.

The PBRB held its first public meeting on Monday, June 17, 2019. At the meeting, the Board heard from a variety of representatives to gain their perspectives on the implementation of FASTA and the opportunities and challenges created by the new law. K&L Gates Government Affairs Counselor Jeff Denham addressed the Board as the sponsor of FASTA during his time in Congress. Mr. Denham has described the law as a bipartisan effort to reduce the size of government by liquidating unnecessary assets to generate revenue for other urgent priorities and revitalize the properties themselves.

Additional information regarding the PBRB and FASTA, including forms to submit a property for consideration for disposal via FASTA, is available [online](#). The K&L Gates public policy and real estate teams can assist clients in developing strategies to position particular buildings and projects for consideration by the Board.

KEY CONTACTS



DAVID H. EHRENWERTH
PARTNER

PITTSBURGH
+1.412.355.7486
DAVID.EHRENWERTH@KLGATES.COM

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