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May 13, 2011

The Honorable Martin O'Malley
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401-1991

Re: Senate Bill 767 and House Bill 675

Dear Governor O'Malley:

We have reviewed, and hereby approve for constitutionality and legal sufficiency, Senate Bill 767 and House Bill 675, identical bills entitled "Somerset County - Private Sale of County Property." In our review of the bills, we have considered whether they violate the prohibition on special laws contained in Maryland Constitution, Article III, § 33 and have concluded that they do not.

Senate Bill 767 and House Bill 675 authorize the transfer of certain parcels of property by Somerset County and provide that these transfers are not subject to the provisions of Article 25, § 11A of the Annotated Code, which provides that the sale of surplus property in Somerset County is to be accomplished "by acceptance of sealed bids solicited by advertisement." Three of the provisions of the bills authorize the transfer of specific property of Somerset County to the City of Crisfield, and present no special law problem. The final provision authorizes the sale of the property located at County Tax Map 101, Grid 3, Parcel 991, consisting of 1.52 acres to the American Legion - Stanley Cochrane Post #16 "at private sale under any terms that the County Commissioners consider appropriate."

It is our understanding that this property was once the site of a U.S. Army radar station. After the radar system was removed, the site was used for the Sarah M. Peyton School for special education students until that school moved elsewhere. The property is now abandoned. It is our understanding that the property adjoins the property currently

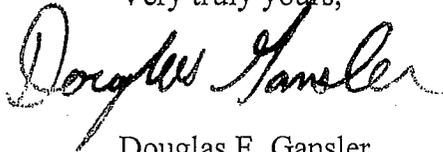
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owned by the Stanley Cochrane Post #16, and that it formerly belonged to the Post. *See* Testimony of Rex Simpkins, President, Somerset County Commissioners, on Senate Bill 767, dated March 10, 2011.

A law creating an exception from the generally applicable laws on the sale of surplus property for a single private entity would ordinarily constitute a special law. *Cities Service Co. v. Governor*, 290 Md. 553 (1981) (exception from gas station divestiture law for single mass merchandiser); *Beauchamp v. Somerset County*, 256 Md. 541 (1970) (tax break for specific American Legion); *Baltimore City v. Starr Church*, 106 Md. 281 (1907) (tax break for specific church). In this case, however, it appears that the bill is designed to address a situation where the desire is to return an abandoned property to the owner who initially made it available for State use. It has been held that Article III, § 33 was not intended "to foreclose to the sovereign the right to pass special legislation 'to serve a particular need, to meet some special evil, or to promote some public interest for which the general law is inadequate.'" *Jones v. House of Reformation*, 176 Md. 43, 56 (1939). Assuming that our understanding of the reasons for this provision are correct, it is our view that it falls within this exception and does not violate the constitutional prohibition on special laws.

Very truly yours,



Douglas F. Gansler
Attorney General

DFG/KMR/kk

cc: The Honorable James J. Mathias, Jr.
The Honorable Charles J. Otto
The Honorable John P. McDonough
Joseph Bryce
Karl Aro