

PRACTICE

approved by
Commission

no. 6-50

subject

11 September 1985

effective date

USE OF COMMISSION-OWNED PARK HOUSES

AUTHORITY

This practice, originally approved by the Commission February 11, 1976, was revised by the Executive Committee October 3, 1983, to include provisions for lease extension; security deposits; maintenance of electrical systems in park houses; and coordination of agreements with carry-over provisions for tenancy. The current revision amends the basis for rentals, the date for rental adjustments, and contains new criteria for discounting rents.

Thomas H. Countee, Jr.
Thomas H. Countee, Jr.
Executive Director

REFERENCES

Art. 28, §§5-103, 5-110, 5-113, and 5-115, Annotated Code of Maryland, 1957, as amended, 1983 Replacement Volume.

U.S. Code Annotated, Title 26, Internal Revenue Code, §3501(b).

M-NCPPC Merit System Rules and Regulations, Sections 640 and 641 (as amended by the Commission April 14, 1982).

Prince George's County park houses classifications (Attachment A).

Montgomery County park houses classifications (Attachment B).

PURPOSE

To make Commission-owned park houses available for use in a manner beneficial to the public, the Commission, and its employees.

POLICY

A. General

Commission-owned park houses not otherwise covered by agreements made with the grantor at the time of acquisition shall be made available: (1) for rent to Commission employees; (2) at the discretion of a Planning Board, for use by public agencies or private nonprofit organizations or for individuals as part of an approved public program; and (3) for rent on the open market at fair market value.

Rental of Commission-owned park houses shall be administered without discrimination towards applicants or tenants because of age, sex, race, religion, color, national origin, or disability.

POLICY
(Continued)

B. Appraisals

All Commission-owned park houses are appraised by independent certified appraisers when acquired, or on an as needed basis.

C. Rental Adjustments

Rental adjustments as appropriate shall be made July 1 each year to reflect changes in the Metropolitan Area market.

Annual rental adjustments will be based on market surveys or other indices of market rents for single family detached houses and apartments.

Each Planning Board may establish dates for gradual implementation of substantial rent increases necessitated by unusually high changes in appraisals.

D. Income Tax Liability

The Internal Revenue Service assesses income tax liability to employee-tenants if the rental rate constitutes additional compensation. Such additional compensation is not permissible under the Merit System Rules and Regulations. Accordingly, there should be no income tax liability, but if IRS determines that liability exists, it will be the personal responsibility of the employee.

E. Personnel Action Forms

Personnel Action Forms (PA2's) will show the requirement of an employee's occupancy in a Commission park house as a condition of employment. (See M-NCPPC Merit System Rules and Regulations, Sections 640 and 641.) Such occupancy shall be reevaluated if there is a change in employment status. (See item 2., p.4.)

F. Leases

All terms of rentals of park houses must be contained in written leases between the Commission and tenants. All lease agreements require Legal Department approval of legal sufficiency and form, and must be signed by the Executive Director or designee. Leases shall state that employee-tenants shall be charged rent through payroll deduction.

All leases for park houses, unless otherwise stated, are written on a month-to-month basis for a minimum of 3 months, and must allow at least 90 days prior notice to vacate for the convenience and necessity of the Commission. However, 30 days notice shall be provided in the case of eviction for cause. Tenants may terminate their lease with 30 days notice. To the extent possible, the Property Management Offices will assist in the relocation for employee-tenants forced to vacate.

Employee-tenants must vacate park houses within 90 days of leaving the Commission's employ, unless granted an extension in writing by the Park Property Managers with approval of the Director of Parks or the Director of Parks and Recreation, as appropriate.

Unless otherwise defined in the lease, the Commission maintains roofs, essential electrical and plumbing systems, and furnaces of its park houses, and provides paint and other maintenance materials to tenants. Employee-tenants will be credited for labor cost to paint the structure, with a reduction in rent to cover that labor cost.

Park houses are rented in "as is" condition.

G. Nonemployee Leases

Leasing of Commission-owned park houses to nonemployees will be allowed when it has been determined that neither Commission employees nor the County Government is interested in leasing a particular park house.

Availability of those park houses shall be advertised in local newspapers and leased at fair market value.

Property Management Offices shall negotiate these leases based on condition of the structure and repairs to be made.

H. Habitability; Razing

Commission-owned park houses that have no potential use as a park facility or require substantial expense to put into habitable condition to meet housing codes may be demolished, or disposed of by sale or auction as determined by the appropriate Department Director in accordance with applicable local law.

I. Special Provision Regarding Security Deposits

Prior to moving into a park house all prospective tenants must provide a security deposit equal to one month's rent. In unusual or hardship circumstances, this requirement may be waived by the Department Head. When a park house is to be vacated, it is inspected and upon satisfactory inspection, the lease terminated. The deposit and accrued interest, if any, are returned to the tenant. If the house has been damaged or is left in an unclean condition, the cost of the necessary maintenance or repairs will be charged against the security deposit. (NOTE: After the deposit has been held for one year, it will begin to accrue interest at a rate determined by the laws governing security deposits.)

RESPONSIBILITIES

A. Montgomery County Parks and Prince George's Parks and Recreation Property Management Offices

At the time of acquisition of improved park properties with carry-over tenants, the Land Acquisition Offices, General Counsel, and Property Management Offices must coordinate all agreements with any carry-over provisions regarding tenancy, such as life estates, established rentals, etc.

B. Montgomery County Director of Parks and Prince George's County Director of Parks and Recreation

1. On matters pertaining to only one county, each Director is responsible to the appropriate Planning Board. On matters of Commission-wide policy, they receive guidance from the Commission.
2. Both Directors determine the requirement for occupancy of Commission-owned park houses as a condition of employment, and reevaluate such occupancy upon employee reassignment of employment status.
3. Both Directors convey to employee-tenants pertinent information reported on park housing activities by the Secretary-Treasurer and General Counsel.
4. Designation of property to be covered by the provisions of this practice is the responsibility of each Director, as appropriate.
5. Further responsibilities of the Directors, or their designees, are:
 - (a) To establish initial rents (to be reviewed annually and adjusted, as appropriate), and to assign and reassign employees, as circumstances require, to occupancy in Commission-owned park houses (See assignment criteria, page 5);
 - (b) To keep a complete record of each park house appraisal and assignment;
 - (c) To adjust rentals by a percentage and/or a flat dollar amount, estimated to equal the benefit and savings to the Commission for: 1) lack of full landlord services, 2) lack of certain appliances, 3) rent payment through payroll deduction, and 4) other factors where Commission leases differ from conventional leases;

- (d) To pay employee-tenants for burdens and services, not directly compensated, governed by the Fair Labor Standards Act and Commission Merit Rules;
- (e) To adjust rentals for burdens and services (e.g., security, site protection, visitor intrusion and information, and related duties) on a case-by-case basis, at a discount ceiling as established by the appropriate Planning Board;
- (f) To assure that rents do not increase as a result of an increased appraisal resulting from the employee-tenant's improvements to the property where such improvements are made at the employees' full expense; NOTE: Prior permission must be granted by the Director of Parks or Director of Parks and Recreation to improve the property. No reduction in rental appraisals will be made resulting from improper maintenance of park houses.
- (g) To approve ^{for the following year,} a discount based on benefits to the Commission for exceptional maintenance by the employee-tenant;
- (h) To report current park houses activities periodically to the appropriate Planning Board;
- (i) To seek through the appropriate Planning Board authorization to make such other adjustments as the Secretary-Treasurer and General Counsel believe will satisfy IRS and Merit System criteria.

RESPONSI-
BILITIES
(Continued)

- A. Assignments of park houses shall be based on responses to advertisements of availability of park houses and review of applications, giving priority consideration to low/moderate income employee families (subject to total family income), place of employment, family size, years of service, hardship, and other factors that benefit the Commission (e.g., security, site protection, visitor intrusion and information, and related duties).
- B. Assignments of park houses will be based on the recommendation of the Park Property Managers and the approval of either the Director of Parks or the Director of Parks and Recreation, as appropriate.

ASSIGNMENT OF
PARK HOUSES

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Effective 11 September 1985
App. Commission

NOTICES OF
AVAILABILITY
OF PARK
HOUSES

Notices of availability of park houses and conditions of occupancy shall be advertised in UPDATE and by other appropriate means. Such notices must indicate that park houses are available to Commission employees regardless of the County or department in which they are employed.

Availability of park houses for rent to the general public will be advertised in area newspapers.

PRINCE GEORGE'S COUNTY
PARK HOUSES CLASSIFICATIONS

Commission park houses are to be classified into one of three groups, Class I, II, or III, with the designations to be periodically reviewed and reclassified as required.

CLASS I

Houses that have the most restrictions of use and normally are not available for leasing as residences due to:

1. Purchase contract restrictions, life estates, deed covenants, existing valid leases, etc.
2. Conditions that qualify the use of the property acquired with Federal, State or private funds.
3. Historical or architectural significance.
4. Planned immediate conversion for recreational purposes, Commission office space or similar uses.
5. Location that enhances or protects Commission properties.
6. Poor structural condition and/or detrimental to park development.

CLASS II

Houses which are available for leasing, provided:

1. They are rentable without financially burdening the Commission.
2. Commission use of the property is not immediate because of lack of development funds, further required acquisitions, etc.
3. They are or may be of value as park/recreation facilities in the future.

CLASS III

Houses in this category are available to non-Commission parties.

1. The Prince George's County Planning Board shall declare houses in this class to be temporarily surplus and not needed for park purposes during the period of the proposed lease.
2. When houses are temporarily leased by non-Commission parties, the lessee will assume responsibility for all maintenance and insurance cost required by the Commission.
3. The lease shall contain the use proposed for the property and no other use may be made of the property without the written consent of the County Parks and Recreation Director.

MONTGOMERY COUNTY DEPARTMENT OF PARKS
PARK HOUSES CLASSIFICATIONS

Commission park houses are classified into one of three categories. The designations will be reviewed periodically and reclassified as required.

CATEGORY "A"

Category "A" houses are structures that are essential to a park program and should be maintained on a permanent basis. Factors to consider in making such designations include:

1. Potential or existing use for park purposes (other than as a residence) such as recreation centers, offices, conference centers, etc.
2. Location in or near a park area where security and management personnel are required.
3. Architectural or historical significance of the structure which makes its continued preservation desirable.

CATEGORY "B"

Category "B" houses are surplus to park use requirements and can be made available for rental on an interim basis. Factors to consider in making such designations include:

1. Location in park areas not planned for immediate development.
2. The structure is basically sound and its continued occupancy and maintenance will not place a major burden on the tenant or the Commission.

CATEGORY "C"

Category "C" houses are those which might otherwise be designated as "A" or "B" but have either 1) been conveyed to the Commission encumbered with a tenancy agreement worked out as part of the acquisition arrangement, or 2) have been found to be suited for use by public or nonprofit agencies and organizations. Factors to consider in designating houses for use by public agencies include:

1. The size and location of the park house make it suitable for use by government or nonprofit groups.
2. The park house will not be required for use as a park facility.

PRACTICE

approved by
The Commission

no. **6-51**

subject

Rev. 4 May 1983
effective date

LEASING COMMISSION-OWNED/ CONTROLLED PARKLANDS FOR AGRICULTURE

AUTHORITY

This practice was originally approved by the Commission at its meeting September 20, 1978. It has been updated, after appropriate coordination with the Montgomery County Department of Parks and the Prince George's County Department of Parks and Recreation, to permit leasing parklands for agriculture on the basis of bidding rather than formal appraisal; to give authority to the respective County Parks Directors to select lessees; and to clarify earlier language.

This revised practice was approved by the Commission May 4, 1983.

Thomas H. Countee, Jr.
T. H. Countee, Jr.
Executive Director

PURPOSE

To assure compliance with applicable Commission rules and regulations and equitable treatment for lessees in the management and leasing of Commission-owned and controlled parklands for agricultural purposes.

POLICY

1. Lands acquired by the Commission designated for park development and preservation of open space and stream valley protection may be leased for crop production and livestock grazing prior to planned development.
2. The respective Planning Boards may establish advisory committees to make recommendations to the staff on proper utilization of Commission-owned parklands for agriculture.
3. Leases shall be set at rates reflecting fair market value.

SELECTION OF LESSEES

1. Interested parties may contact either the Montgomery County or Prince George's County Park Property Manager for information regarding location and availability of parkland for leasing for agriculture, and will be required to submit a brief application detailing farming experience, financial stability, and other pertinent information.

NOTE: Although the Commission leases its parklands for other uses deemed appropriate, this practice deals solely with leases for agricultural purposes.

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CONTROLLED PARKLANDS FOR AGRICULTURE**
Effective 4 May 1983
App. The Commission

**SELECTION OF
LESSEES
(Continued)**

2. a. Incumbent lessees shall have the right of first refusal to continue leasing of parklands for agriculture. In the event the option is not exercised by an incumbent, then either the Montgomery County or Prince George's County Property Manager will advertise the availability of parkland for lease with a general statement of terms and conditions of the lease, and may accept bids.
- b. Commission employees are eligible to participate in the competitive bidding process.
3. Residents of the Metropolitan District have priority over non-residents except where other specific requirements must be set for a particular parcel.
4. Selection of lessees will be made after due consideration by the respective county Parks Directors.

**RESPONSI-
BILITIES**

1. The Montgomery County Parks Director and the Prince George's County Director of Parks and Recreation are responsible for implementation of leasing of Commission-owned and controlled parklands for agricultural purposes.
2. The Executive Director is responsible for executing leases.
3. Lessees are responsible for maintenance of improvements on the land to standards contained in the terms of the lease.

PROCEDURES

1. Leases will be processed in the same manner as contracts. (See Practice 4-14, Preparing and Processing Contracts.)
2. Leasing of Commission-owned and controlled parklands for agriculture shall include consideration of the following:
 - a. Rental rates may be established by advertising land for rental and accepting the highest bid submitted by responsible qualified bidders.
 - b. Available parkland may be rented for agricultural purposes for periods of one or more years provided that the parklands are adequately maintained. An annual on-site inspection shall be conducted by appropriate staff to assure proper maintenance. Inadequate maintenance is grounds for discontinuance of any agricultural lease regardless of the original terms of the lease.

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PROCEDURES
(Continued)

- c. Leases shall be specific as to buildings, acreage, and other improvements included in the rental, and an aerial photo or facsimile shall be attached to each lease clearly delineating boundaries and the location of improvements.
- d. No residential trailers or other temporary housing shall be moved onto leased properties; no additional buildings, sheds or other improvements are to be constructed by the lessee, nor any existing improvements removed, without prior written approval of either the Montgomery County or Prince George's County Park Property Manager, as appropriate. The Commission reserves the right to demolish or remove any building or other improvements deemed to be a health or safety hazard, after notice to the tenant.
- e. Structures deemed to be of historic value or importance are to be protected and remain unaltered, and are to be specifically noted in the lease.
- f. Lessees will be required to engage in good farming and conservation practices, will cut no standing timber or permit woodland grazing, except with written permission of either the Montgomery County or Prince George's County Park Property Manager, as appropriate, and must comply with all regulations with respect to health, sanitation, and use of pesticides, insecticides, and herbicides.
- g. Where the U.S. Soil Conservation Service has developed a specific plan for a particular property, the lessee will be bound by the plan.
- h. Subleasing of improvements or acreage of parklands is prohibited unless approved in writing by either the Montgomery County or Prince George's County Park Property Manager, as appropriate.
- i. As provided by law, the Commission reserves the right of entry to all leased properties for inspection after reasonable notice to the lessee.
- j. To protect the public interest, the lessee will be required to carry proper insurance as specified by the Commission and agreed to in the lease.

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PROCEDURES
(Continued)

- k. Leases shall permit grazing and cropping for food production, but shall not permit horseback riding or other recreational activities by non-lessees on public parkland. The Commission reserves the right to establish easements on leased parkland for approved riding trails.
- l. Before termination of a lease for agriculture, the lessees will be required to seed all open crop land with a pasture mixture specified by the Commission, unless otherwise notified by either the Montgomery County or Prince George's County Park Property Manager.
- m. The lease may provide that parklands under lease for agriculture will be available for limited use visitation and guided interpretive programs, managed hunting in season, and other proper uses of parkland that do not interfere with the agricultural operations of the lessee.
- n. In those instances where it is deemed to be in the Commission's best interest, the Montgomery County Director of Parks and the Prince George's County Director of Parks and Recreation may provide that in lieu of a fee per-acre charge for lands, the Commission will receive a share of the crops.