



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS UNITED STATES AIR FORCE  
WASHINGTON DC

30 JAN 2002

MEMORANDUM FOR ALL STAFF JUDGE ADVOCATES

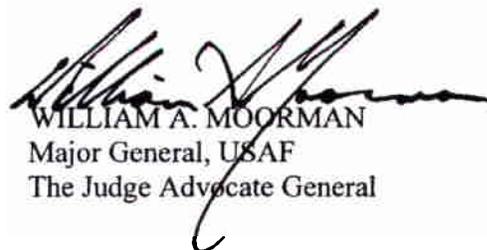
FROM: HQ USAF/JA  
1420 Air Force Pentagon  
Washington, D.C. 20330-1420

SUBJECT: **TJAG Special Subject Letter 2002-02: Housing Privatization Strategy and Needs**

**Summary.** This letter forwards a memorandum from the Air Force Civil Engineer that outlines his strategy for housing privatization projects. The letter highlights the need for the Air Force to aggressively pursue housing privatization in the years to come.

**The Strategic View.** In the view of Maj Gen Earnest O. Robbins II, the Air Force Civil Engineer, if the Air Force is to meet the housing development needs of the future, we cannot rely on Congressional MILCON projects alone. The Air Force must aggressively pursue housing privatization by developing additional projects, bundling multiple projects, and where appropriate, even bundling projects across MAJCOM lines.

**The Need for Teamwork.** I particularly agree with what General Robbins has to say about the teamwork needed among JA, comptroller, and contracting personnel. For our part we must stand ready to become actively engaged in all facets of housing privatization projects. In addition, and as I've explained in a recent Special Subject Letter (TJAG SSL 2001-09: Legal Support to Housing Privatization Projects, 7 Dec 01), we now have a body of specialized expertise in our AFMC/JA legal office. I encourage you to draw upon that growing resource as your organizations pursue some of these projects. As always, let us know if you need AF/JA assistance in this critically important area of practice.

  
WILLIAM A. MOORMAN  
Major General, USAF  
The Judge Advocate General

Attachment:  
HQ USAF/ILE Memo, 7 Jan 02



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS UNITED STATES AIR FORCE  
WASHINGTON DC

MEMORANDUM FOR SEE DISTRIBUTION

07 JAN 2002

FROM: HQ USAF/ILE  
1260 Air Force Pentagon  
Washington DC 20330-1260

SUBJECT: Housing Privatization Implementation

The attached memos are provided for your reference. It is clear that we need to meet the DPG 2007 housing goal as we submit the FY04 POM to OSD. It is also clear to me that housing privatization will play a pivotal role as we develop the strategy to achieve this accelerated housing revitalization goal next year. This means additional projects must be developed and we should expand our "vision" to include "bundling" projects among and potentially across MAJCOM lines to achieve the desired goals. We cannot allow ourselves to rely on congressional MILCON inserts to solve our housing problems.

Although you are the housing privatization lead for your MAJCOM, you cannot do the job without successful partnering with your JAG, Comptroller, and contracting professionals. This is a team effort, and AFCEE is available to work with you on the solution set. Also, as you note in the AF/JA memo to the MAJCOM/JAs, there is additional legal expertise available for your Command's use. It is our goal that AFCEE and AFMC JA/LO work together whenever a proposed initiative requires legal expertise beyond that available at MAJCOM level.

I look forward to hearing your plans for meeting our housing needs as we initiate the quarterly and semi-annual updates mentioned in attachment 1.

  
EARNEST O. ROBBINS II, Maj Gen, USAF  
The Civil Engineer  
DCS/Installations & Logistics

Atchs:

1. AF/IL Memo, 19 Dec 01
2. AF/JA Memo, 7 Dec 01



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS UNITED STATES AIR FORCE  
WASHINGTON DC

MEMORANDUM FOR ALMAJCOM/CV

19 DEC 2001

FROM: HQ USAF/IL  
1030 Air Force Pentagon  
Washington DC 20330-1030

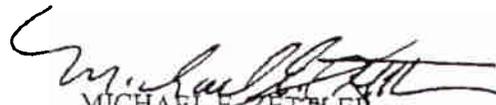
SUBJECT: Support for Housing Privatization Projects

The Chief of Staff has charged us to aggressively work the Air Force Housing Privatization program. Privatization is an essential element of our strategy to satisfy Defense Planning Guidance direction to provide access to adequate housing by 2007. We are currently on track to meet this goal by 2010. Although your Civil Engineer is your family housing OPR, his or her efforts cannot succeed without your leadership. As the source selection authority for projects within your command, your personal involvement is key to meeting our ambitious goals. This requires balancing the requirement to be thorough in your decision-making with the urgency needed to execute the program. Our goal is to award all projects in the year approved by Congress. We must establish realistic schedules and commit to achieving key milestones.

To assist in your privatization efforts, we established the Air Force Housing Center of Excellence as part of the Air Force Center for Environmental Excellence (AFCEE) at Brooks AFB. The Center's combined team of engineers, lawyers, and financial experts, supported by AFCEE's Privatization Support Contractors, is available to work the implementation of these projects with you. Additionally, the Air Force Judge Advocate General has designated the AFMC Law Office's Real Estate Division as the TJAG's OPR for all Housing Privatization legal matters, and can assist your staff and field legal offices.

The Air Force Civil Engineer will conduct quarterly updates with your staff, with semi-annual updates, involving your privatization team and AF/ILE, directly to me. This process will ensure we all have regular feedback and can effect the critical process improvements required to keep our housing privatization program on-track. The first round of status reports to me will begin in late Jan 02 and must address how housing severability was determined for each installation in the Family Housing Master Plan.

Your leadership is essential to keeping our housing privatization projects on schedule. By staying on schedule we will ensure our military members and their families are provided the quality housing they deserve. Together we can make this happen!

  
MICHAEL E. ZETTLER  
Lieutenant General, USAF  
DCS/Installations & Logistics

cc: AF/JA



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS UNITED STATES AIR FORCE

7 DEC 2001

MEMORANDUM FOR ALL MAJCOM STAFF JUDGE ADVOCATES

FROM: HQ USAF/JA  
1420 Air Force Pentagon  
Washington, DC 20330-1420

SUBJECT: **TJAG Special Subject Letter 2001-09: Legal Support to Housing Privatization Projects**

**Summary.** This letter outlines roles and responsibilities related to legal support for housing privatization. It also discusses the function of privatization support contractors and how to evaluate their requests for outside legal support.

**Background.** The Air Force has decided to rely heavily on the housing privatization authorities at 10 U.S.C. §§ 2871-2885 for constructing, renovating, and maintaining military family housing. The Air Force's effort to privatize housing at some of our bases has raised the issue of the need for, and role of, outside counsel in providing legal support to these projects. This letter outlines the decisions as a result of last summer's Air Force Housing and Facilities Privatization Executive Steering Group (ESG) meeting wherein we determined the roles and responsibilities both government and non-government attorneys will have in providing support to this important undertaking.

**SAF and AF Legal Support.** Although the Federal Acquisition Regulation (FAR) provides useful guidelines, the Air Force considers these housing privatization projects to be real estate transactions. As such, authority to approve these projects has been delegated to SAF/IEI. SAF/GCN provides legal advice to SAF/IEI. The Judge Advocate General's Department (TJAGD) has responsibility for providing legal support to housing privatization projects at all levels below the Secretariat and exercises this responsibility through MAJCOM and field legal offices. The Air Force Center for Environmental Excellence (AFCEE) at Brooks AFB, Texas, has been designated as the Air Force's Housing Privatization Center of Excellence.

SAF/IEI has delegated to the MAJCOMs the authority to execute the housing privatization projects. MAJCOM commanders or vice commanders are the Source Selection Authorities (SSA) supported by Acquisition Support Teams (AST). MAJCOM legal offices are responsible for advising SSAs and providing legal support for the source selection process at the evaluation and advisory council level. This includes advice to the SSA and subordinate levels regarding the legal documents. As in the past, SAF/GCQ will also participate in the source selection process.

**AFCEE Legal Office to Support PSC Contracts.** AFCEE has determined that private sector contractors, called "Privatization Support Contractors" (PSC) should be hired to assist the Air Force in selecting and finalizing arrangements with private developers to renovate or build and to operate military family housing for selected Air Force installations. Administration of AFCEE's PSC contracts is supported by the AFCEE legal office, which also serves as a resource available to assist other Air Force legal offices with their housing privatization projects. The PSCs, in turn, have sought to contract out legal support to help in both the source selection and real estate closing portions of the projects. Through the PSC contracts, AFCEE offers the MAJCOMs legal support using these outside counsel for source selections and preparation of legal documents.

**Reviews of PSC Requests for Outside Counsel.** In this regard, the ESG affirmed the SAF/GC and AF/JA policy that a PSC contractor may *only* include outside legal support in its Statement of Work and costs in its cost proposal *if* it is approved by the MAJCOM SJA and AFCEE's real estate attorney. Approval may be given only for work which is not inherently governmental and only for costs deemed reasonable. In reviewing proposed PSC legal work and costs, MAJCOM SJAs should determine whether any of the work could better be performed by Air Force lawyers either because of the cost or the nature of the work. In the event outside counsel is used, MAJCOM legal staffs must be sufficiently informed and knowledgeable about the legal work being performed, to be in a position to validate the recommendations and results, and to carry out their duties to provide legal advice to their clients.

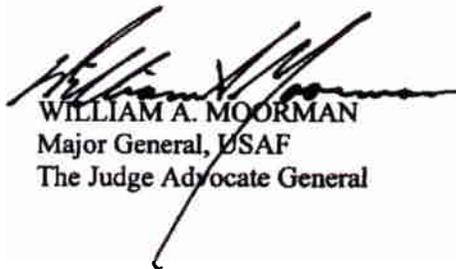
An important topic at the ESG meeting was maintaining the schedule. When reviewing proposals for the use of outside counsel, it is imperative that you respond to such requests in as timely a manner as possible. There are numerous privatization efforts underway and many others ready to be worked. AFCEE is under a tight schedule to get the PSCs on contract. We do not want to be a source of delay on these projects without good reason. To that end, you should review these requests as soon as you receive them, determine what legal services, if any, you require for the entire project, and respond to AFCEE promptly. I have accepted an ESG tasking to explore the possibility of establishing an AFLSA housing privatization office, staffed with Air Force lawyers trained in modern real estate transactions, to be collocated with AFCEE. This office would aid AFCEE in providing support for housing privatization projects.

**Responsibility for AFMC Legal Support.** In AFMC, the AFMC Law Office's Real Estate Division (AFMC LO/JAVR) is designated to provide MAJCOM-level legal support for AFMC housing privatization projects. This organization is set up to support both the source selection and portions of the process related to drafting legal documents. It is prepared to provide advice and legal support concerning the various legal issues that will arise subsequent to closing and during the administration of the project. AFMC's Reserve JAG Real Estate Unit provides consulting services, training, and legal information in real estate law matters. It assigns Reserve JAGs with commercial real estate expertise from throughout the Air Force to each AFMC project to assist and support the base and MAJCOM attorneys.

**Responsibility for AF-wide Legal Support.** I have designated the AFMC Law Office's Real Estate Division (AFMC LO/JAVR) as JA's Office of Primary Responsibility (OPR) for all legal matters in the area of housing privatization. That office can serve as a resource available

to other Air Force, MAJCOM, and field legal offices. They will act as my liaison at the action officer level with AFCEE, Air Staff, SAF/GC, and other DoD organizations. They will also be responsible for coordinating and resolving legal issues of common importance to us all, acting as a central focal point of legal expertise on housing privatization matters.

I encourage your staff to consult with them on matters potentially affecting any housing project. Major Kevin Fleming (DSN 785-6111, ext 331) and Mr. John Thrasher (DSN 785-6111, ext 304) are the primary working level points of contact within the AFMC LO/JAVR organization. Should the need arise, you may seek assistance or information from Colonel Brian Hopkins, Director of Environmental Law, AFMC LO/JAV, DSN 787-5034; Mr. Anthony Perfilio, Director AFMC Law Office, DSN 785-6113; or Brigadier General Jerald Stubbs, AFMC/JA, DSN 787-2964.



WILLIAM A. MOORMAN  
Major General, USAF  
The Judge Advocate General