



Ohio Administrative Code

Rule 1501-6-05 Lease.

Effective: July 4, 1999

A lease for lake Erie submerged land shall be prepared by the department of natural resources and shall contain, but not be limited to, language which reflects the following:

(A) A metes and bounds description of the submerged land to be occupied or an alternate description referenced to the applicant's upland property description that is considered adequate by the director as provided by the applicant.

(B) The director shall set the period of time (term) of the lease. The term of the lease shall be fifty years unless the director recommends a longer or shorter term. Should the director recommend a lease term less than or greater than fifty years, the director shall state in writing the specific findings, rationale and justification for the differential in setting the term. Applicant shall have the right of appeal in accordance with sections 119.06 to 119.13 of the Revised Code.

(C) A complete description of the development, improvement or activity upon the submerged lands. Said clause shall contain the following "any change in use approved by the director, Ohio department of natural resources, may also result in a re-evaluation of the rent. Said lease shall be amended to reflect the proper rent as assigned by the director, based upon the new use," or words of similar import.

(D) There shall be no assignment, sublease or mortgage of the leasehold without the expressed written consent of the director, which consent shall not be unreasonably withheld or unreasonably conditioned.

(1) A written request to assign, sublet, or mortgage shall be delivered by the lessee to the director not less than ninety days prior to the proposed effective date thereof, and the director shall respond within thirty days of the director's receipt of such request. Any assignment shall be held in escrow by the closing officer of the title company, bank, or attorney until the sale of the uplands has been completed. Should the sale not be consummated then the assignment shall automatically be null and



void. If the director fails to act in any manner within ninety days of the receipt of the written request, then the request shall be deemed approved by the director.

(2) Rent and other lease terms shall be subject to revision at time of assignment.

(3) Applicants for the director's consent to sublease, assign or mortgage shall be entitled to an administrative review of and appeal from any decision of the director pursuant to section 119.06 of the Revised Code.

(E) Each lease area shall be subject to the public's right to navigation in and around any structures covered in the lease. However, the public's right of navigation is limited to the extent that it does not interfere with lessee's safe use of lessee's structure.

(F) No lessee shall refuse, during storms or other adverse conditions, safe harbor refuge to any vessel seeking such refuge, provided that the harbor can safely accommodate such vessel.

(G) Each lease shall require adequate liability insurance or self insurance documentation for lessee, municipal corporations or political subdivisions of the state for lessee's development, improvement or activity in the territory and lessee's occupation of the territory. Minimum limits of liability insurance shall be established by the department and shall contain a clause naming the state of Ohio as additional insured.

(H) Each lease shall be subject to any and all local, state or federal laws or regulations. The issuance of the lease does not release the lessee from obtaining any and all other permits or documents from any local, state or federal agency as required for the use of the territory. Failure to obtain any required permits or documents shall be a violation of the lease and subject to cancellation under the default provisions therein.