

Holland & Knight

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June 28, 2023

Via E-mail: thaddeusjj@gmail.com

Mr. Thaddeus Jankowski
27 Franklin Street
Portsmouth, NH 03801

Re: Thomas J. McIntyre Building, Portsmouth, New Hampshire

Dear Mr. Jankowski:

In response to your request that we review the terms of Section 408 of Title IV of the Consolidated Appropriations Act of 2004 (“Act”) to determine its enforceability, we are pleased to provide this response. As you know, Section 408(d) requires the Administrator of the General Services Administration (“GSA”) to:

convey, without consideration, the Thomas J. McIntyre Federal Office Building to the City of Portsmouth, New Hampshire for economic development purposes subject to the following conditions: (i) that all Federal agencies currently occupying the McIntyre Building except the United States Postal Service are completely relocated to the new Federal Building for so long as those agencies have continuing mission needs for that new location; (ii) that the requirements of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411 et seq.) shall not apply to this conveyance; and (iii) that the Administrator may include in the conveyance documents such terms and conditions as the Administrator determines in the best interest of the United States.¹

First, we determined that Section 408 of the Act has not been repealed or superseded by any other legislation and therefore it remains the law.

Secondly, we studied the enforceability of the Act, providing for the conveyance of the Thomas J. McIntyre Federal Office Building (“McIntyre Building”) to the City of Portsmouth and the means to require GSA to comply with the Act. The intent of Section 408 is clear that Congress is authorizing and directing GSA to convey, without consideration (i.e. for free), the McIntyre Building to the City of Portsmouth for economic development purposes. While Section 408 states that GSA is required to relocate the federal tenants in the McIntyre Building into a “new Federal

¹ Consolidated Appropriations Act, 2004, Pub. L. No. 108-199 § 408(d) (2004), *available at* <https://www.congress.gov/108/plaws/publ199/PLAW-108publ199.pdf>.

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Building” and GSA ultimately relocated the federal tenants into existing buildings, we believe that GSA has met the requirements necessary to trigger the conveyance without any cost to the City of Portsmouth, by moving the existing tenants into a “new location” even though that location was not a “new Federal Building.”

We understand the McIntyre Building is currently a vacant building and clearly an excess federal building to the needs of the federal government. After consulting with various members of our firm, including our Public Policy and Regulation group and members of the team familiar with the New Hampshire delegation, we are of the view that with full support of the City of Portsmouth leadership, transfer of title to the City of Portsmouth is feasible. Doing so will uncontrovertibly fulfill the intent of the Act and would enable, as set forth in the Act, for the City of Portsmouth to procure the McIntyre Building for economic development purposes subject to such terms and conditions as the Administrator determines in the best interest of the United States.

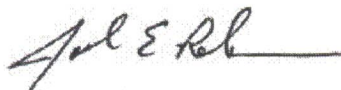
Holland & Knight is consistently ranked as one of the top bipartisan lobbying teams in the country and we have worked on many of the most complex GSA real estate transactions. We would welcome the opportunity to share these conclusions with representatives of the City of Portsmouth or others who may be interested in the benefits of such a conveyance.

Sincerely yours,

HOLLAND & KNIGHT LLP



Robert C MacKichan, Jr.



Joel E. Roberson