

MAINE STATE LEGISLATURE

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Seed Potato Board
7 M.R.S.A. § 2151
7 M.R.S.A. § 2154

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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

November 28, 1978

To: Joseph L. Harrington, Department of Agriculture
From: Sarah Redfield, Assistant Attorney General
Re: Lease of Maine State Seed Board Land.

This is in response to your request of November 7, 1978, for an opinion as to whether or not the Seed Potato Board of the State of Maine has the authority to lease a portion of its real estate in Masardis to an Ashland sportsmen's group for a club house and shooting range. You have also asked whether the State Seed Potato Board has the authority to exchange part of the land it owns for land of equal value now owned by the Town of Masardis in order to allow the Department to acquire a portion of the road leading to the State's Seed Potato Farm for the purpose of erecting a gate for additional protection of the area. The Seed Potato Board has the authority to exchange property for security purposes as indicated, but does not have the authority to lease a portion of its real estate to a sportsmen's group for their use as indicated.

The Seed Potato Board is established pursuant to Title 7 M.R.S.A. § 2151. Title 7 M.R.S.A. § 2151 provides in pertinent part as follows:

"The Seed Potato Board shall have the power and authority to produce or cause to be produced through contract or otherwise, such varieties as it may from time to time determine for distribution and sale to the potato growers of this State.

* * * *

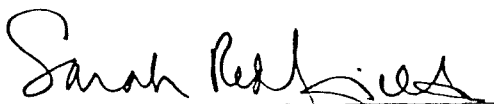
Said Board shall have authority to purchase, own or otherwise acquire farm real estate and farm equipment if necessary for the

purpose of producing acreages of foundation seed potatoes or providing for the testing thereof, and any saleable material resulting from such ownership or operation may be sold to the best advantage of the Board. The Board shall have authority to sell or otherwise convey farm real estate and farm equipment no longer required for the purposes of this chapter."

The purpose of the Board is clear from its legislative creation. See, generally, Title 7 M.R.S.A. §2151, et seq. The Board is to develop and test seed potatoes and is authorized to purchase or otherwise acquire real estate as it may be necessary for these purposes. You indicate that the real estate which you propose to lease to a sportsmen's group is necessary to the Board in order to maintain the Board's farm land in isolation to protect the quality of the seed potatoes. As long as this land remains necessary, it does not appear that it would be within the language of Section 2154 as quoted above; that is, that the Board has authority to sell or otherwise convey real estate "no longer required for the purposes of this chapter."

Your second question raises the issue of whether or not it is proper for the Board to exchange property it now owns for property of equal value owned by the Town of Masardis. I assume that you intend to transfer to Masardis property which is, as indicated above, "no longer required for the purposes of this chapter." Section 2154 provides you with the authority to purchase, own or otherwise acquire farm real estate and farm equipment. The exchange which you propose would be within the scope of § 2154. The only limiting factor is that the acquired property be necessary for the purpose of producing acreages of foundation seed potatoes or providing for the testing thereof. It is my understanding from discussions with you and with Paul Eastman that it is necessary to the process of growing and testing seed potatoes that such potatoes be sufficiently separate from other farming operations as to be free to the fullest extent possible from contamination. It appears that the erection of a gate to limit access to the Seed Board's farms would be consistent with this need for protection from contamination and that it is thus necessary for the purpose set out by statute.

If you should have any further questions, please feel free to contact me.


SARAH REDFIELD
Assistant Attorney General

SR/ec

cc: Joseph Williams