

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 260

An Act to amend and reenact § 25-248 as it is currently effective and as it shall become effective of the Code of Virginia, relating to eminent domain; appraisal of real property.

[S 1172]

Approved March 15, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 25-248 as it is currently effective and as it shall become effective of the Code of Virginia is amended and reenacted as follows:

§ 25-248. (Effective until July 1, 2002) General rules for conduct of acquisition.

Whenever real property is acquired by a state agency, on or after April 10, 1972, in connection with any programs or projects, such acquisition shall be conducted, to the greatest extent practicable, in accordance with the following provisions:

(a) An agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(c) Before the initiation of negotiations for real property, the state agency concerned shall establish an amount which it believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for the amount it established as just compensation, together with a copy of the agency's approved appraisal of the fair market value of such property upon which the agency has based the amount offered for the property. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(d) No owner shall be required to surrender possession of real property before the agency concerned pays the agreed purchase price, or deposits with the state court in accordance with applicable law, for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

(e) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available), or to move his business or farm operation, without at least ninety days' written notice from the agency concerned, of the date by which such move is required.

(f) If the agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term for a period subject to termination by the state agency on a short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(g) In no event shall the agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

(h) If any interest in real property is to be acquired by exercise of the power of eminent domain, the agency concerned shall institute formal condemnation proceedings. No agency shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(i) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the agency concerned shall offer to acquire the entire property.

The provisions of this section requiring the agency to obtain or rely upon an appraisal shall not apply to the acquisition of real property by a *state agency*, public service corporation, municipal corporation, local governmental unit or political subdivision of the Commonwealth or any department, agency or instrumentality thereof, or two or more of the aforementioned if the official responsible for the acquisition determines that the value of the property being acquired is less than \$10,000, based on assessment records or other objective evidence.

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