

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 793

An Act to amend and reenact § 25.1-204 of the Code of Virginia, relating to eminent domain; written offer to purchase property.

[S 951]

Approved April 7, 2020

Be it enacted by the General Assembly of Virginia:

1. That § 25.1-204 of the Code of Virginia is amended and reenacted as follows:

§ 25.1-204. Effort to purchase required; prerequisite to effort to purchase or filing certificate.

A. A condemnor shall not institute proceedings to condemn property until a bona fide but ineffectual effort to purchase from the owner the property sought to be condemned has been made. However, such effort shall not be required if the consent cannot be obtained because one or more of the owners (i) is a person under a disability or is otherwise unable to convey legal title to such property, (ii) is unknown, or (iii) cannot with reasonable diligence be found within this Commonwealth.

B. Such bona fide effort shall include delivery of, or attempt to deliver, a written offer to acquire accompanied by a written statement to the owner that explains the factual basis for the condemnor's offer. The written statement shall include a description of the public use ~~that provides the basis for the condemnor's acquisition~~ *for which it is necessary to acquire the owner's property* and shall contain a certification that the acquisition has been reviewed by the condemnor for purposes of complying with § 1-219.1. *The written offer shall be made upon the state agency's letterhead and shall be signed by an authorized employee of such state agency.*

C. If the condemnor obtains an appraisal of the property pursuant to the provisions of § 25.1-417, such written statement shall include a complete copy of the appraisal of the property upon which such offer is based. If the condemnor obtains more than one appraisal, such written statement shall include a copy of all appraisals obtained prior to making an offer to acquire or initiating negotiations for the real property.

D. Notwithstanding any provision of law to the contrary, a condemnor, prior to making an offer to acquire a fee simple interest in property by purchase or filing a certificate of take or certificate of deposit pursuant to Chapter 3 (§ 25.1-300 et seq.) or § 33.2-1019, shall (i) conduct or cause to be conducted an examination of title to the property in order to ascertain the identity of each owner of such property and to determine the nature and extent of such owner's interests in the property and (ii) provide to such owner or owners a copy of the report of status of title.

E. A state agency's acquisition of real property in connection with any programs or projects pursuant to this title or Title 33.2 shall be conducted in accordance with the following provisions:

1. Before making an offer to acquire or initiating any related negotiations for real property, the state agency 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 state agency's approved appraisal of the fair market value of such property, if such an appraisal is required, or the current assessed value of such property for real estate tax purposes, unless the property has physically changed in a material and substantial way since the current assessment date such that the real estate tax assessment no longer represents a fair valuation of the property, when the entire parcel for which the assessment is made is to be acquired, whichever is greater. 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, shall be disregarded in determining the compensation for the property. The state 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, and, if an appraisal is required or obtained, such written statement and summary shall include a complete copy of all appraisals of the real property to be acquired that the state agency obtained prior to making an offer to acquire or initiating negotiations for the real property. *The state agency shall provide its written statement of the amount it established as just compensation on its letterhead, which shall be signed by an authorized employee of such state agency.* Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

2. No owner shall be required to surrender possession of real property before the state agency pays the agreed purchase price, or deposits with the state court in accordance with applicable law, for the benefit of the owner, (i) an amount not less than the state agency's approved appraisal of the fair market value of such property, if such an appraisal is required, or the current assessed value of such property for real estate tax purposes, unless the property has physically changed in a material and substantial way

since the current assessment date such that the real estate tax assessment no longer represents a fair valuation of the property, when the entire parcel for which the assessment is made is to be acquired, whichever is greater, or (ii) the amount of the award of compensation in the condemnation proceeding for such property.

F. Nothing in this section shall make evidence of tax assessments admissible as proof of value in an eminent domain proceeding.