

LAND ACQUISITION FOR PUBLIC AIRPORTS

How and why your Local Government Acquires Real Property for Public Airports

Source: U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

Introduction

Whenever feasible in constructing or expanding an airport the Federal Aviation Administration (FAA) encourages the airport owner to use its existing owned land. However in the event that additional land is necessary for project purposes private property may be acquired. This brochure provides general information to persons who own or rent real property that is to be acquired for airport development or noise compatibility projects that receive Federal financial assistance. Persons required to move from property due to a project acquisition are considered to be displaced persons and may be eligible for certain benefits and assistance to relocate from acquired property. Section I, Acquiring Your Property, describes your basic rights on the acquisition of your property. Section II, Relocation Assistance, describes the relocation assistance and payment eligibility for displaced persons.

When receiving Federal financial assistance for an airport project the airport owner is obligated to assure its property acquisition and provision of relocation assistance and payments to displaced persons conforms to applicable Federal requirements. For the potential acquisition of your property and/or your relocation the airport owner has agreed to carry out its acquisition and relocation activities consistent with these Federal requirements as described generally in this brochure.

PUBLIC LAW 91-646

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) was signed into law and made effective on January 2, 1971. Amendments to the Act provided for a single government-wide regulation at Title 49 Code of Federal Regulations Part 24, and as of November 1997 denies relocation assistance and payments for persons unlawfully in the United States (see Residency Notice below). This Act (hereafter referred to as the Uniform Act) is the most comprehensive and equitable legislation in our history on land acquisition and the associated relocation of displaced persons. Its main objective is to provide for uniform and equitable treatment of persons displaced from their homes,

businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for such programs. As prescribed under the Uniform Act, persons will not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. Information contained in this brochure applies to federally assisted airport development and noise compatibility projects authorized under current FAA enabling legislation.

You Must be Lawfully Present in the United States

In accordance with the provisions of PL 105-117 amending the Uniform Act, any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child.

Your right to just compensation and the Uniform Act acquisition procedures for the purchase of real property are not affected.

Background

What is FAA's Role in Airports?

The FAA authorizes the expenditure of Federal funds under a grant-in-aid program for airport development or noise compatibility projects only if the Administrator is satisfied that the airport owner has met or will meet requirements that are established by existing and proposed agreements with the United States covering any airport that the airport owner owns or controls.

How Is Funding For Airport Development Determined?

Only airport development at a location included in the current National Plan of Integrated Airport Systems (NPIAS) is eligible for Federal assistance within currently available appropriations and authorizations.

The NPIAS, prepared by the FAA, identifies for a 5 year period the type and estimates of cost of airport planning and development that are necessary to provide a system of public airports adequate to anticipate and meet the needs

of civil aviation, the requirements in support of the national defense as determined by the Secretary of Defense, and the special needs of the Postal Service.

How Is Funding For Noise Compatibility Determined?

Land acquisition for noise compatibility is eligible for federal participation if it is an element of a Noise Compatibility Program prepared by the airport owner and approved by the FAA in accordance with Part 150 of the Federal Aviation Regulations.

How Can Land Be Acquired For The Airport?

The airport owner determines the specific land requirements for a particular airport development or noise compatibility project.

In addition, the airport owner can reduce the adverse effects of incompatible land uses near the airport with the outright purchase of adjacent land (usually those areas adjacent to the ends of the runways, under the approach and climbout paths).

Property can be acquired through several methods, such as purchase of property interests (fee) or through eminent domain (condemnation). It also can be acquired through easements, or by donation or exchange. Unless received through donation, private property is acquired by the airport owner through payment of just compensation to the property owner.

Acquiring Your Property

How Will The Airport Owner Determine The Value of Your Property?

Prior to making an offer to purchase, the airport owner will arrange for a competent, independent, real property appraiser familiar with local property values to appraise your property. The appraiser will inspect your property and set forth an opinion of its current fair market value in a formal appraisal report. This report will be reviewed by a review appraiser for conformance to acceptable appraisal standards and FAA requirements. After the report is approved, it is used as the basis for the airport owner's written offer to purchase your property.

NOTE: Sections of this brochure have been condensed for ease of consumption. For more information please reference the FAA's Policy on Acquiring Land for Airports and Relocation Assistance at:

https://www.faa.gov/airports/environmental/relocation_assistance/

What is Fair Market Value?

Fair market value is usually defined as that amount of money which would normally be paid for a property in a sale between a willing seller, not compelled to sell, and a willing buyer, not compelled to buy. The amount is generally considered by the courts to be "just compensation" under the Fifth Amendment of the Constitution. Fair market value does not take into account intangible elements such as sentimental values, good will, business profits, or any special values that your property may have for you or for the Government, nor does it include costs and expenses in the landowner's relocation. However, as described later in this booklet, provisions in the Uniform Act do provide for the reimbursement of certain relocation expenditures for which you may be eligible.

Will You Have A Chance To Talk With The Appraiser?

Yes. You will be invited to accompany the appraiser during the inspection of your property. You should accompany the appraiser and point out any special features you feel may add to the value of your property and furnish any information that may be requested. If you are unable to meet with the appraiser, you may wish to send a qualified representative who is familiar with your property.

How Much Will The Airport Owner Pay You For Your Property?

After just compensation has been determined for your property, an airport owner's representative will call on you to negotiate for its purchase. The representative will discuss the basis of the offer to buy your property and answer any questions you may have. The written offer will be for no less than the amount of the approved appraisal. You will be given a sufficient period of time to consider the offer. When an agreement on the price is reached, a sales contract will be prepared and submitted for your signature. Upon execution by the airport owner, it becomes a binding agreement. In addition, you may be eligible to receive reimbursement for expenses incidental to the transfer of title to the airport owner.

When Will You Be Paid If You Agree To Accept The Amount Offered?

Payment will be made after you have accepted the airport owner's offer, title to your property has been approved, and a deed has been executed and delivered to the airport owner or an escrow agent. If there are no title problems, contract settlements are scheduled at a mutually acceptable time, generally within 30 days after final signing of the contract. If the title examination reveals that further proof or remedial actions are necessary to establish that you have good title, you can help hasten the payment by

assisting in obtaining such proof.

During Negotiations With The Airport Owner, May You Be Represented By An Attorney Or An Appraiser?

Yes. If you are unfamiliar with real property values and how they are determined, or if you have questions of a legal nature, you may wish to retain the services of a real property appraiser or an attorney, or both, to help in your negotiations. Their fees, however, will be paid by you and are not reimbursable.

Can The Airport Owner Take Only A Part Of Your Property?

Yes. However, if the acquisition of your property reduces the value of the remainder, you will be compensated for such reduction in value. Occasionally, a project or action will increase the value of a remaining parcel. When this occurs, generally no reduction is made from the purchase price of the parcel acquired by the airport owner; however, the determination of damages and/or benefits to the remainder depends on the provision of the State law in which the property is located. If the acquisition of a portion of your property leaves an "uneconomic remnant," the Uniform Act requires that the airport owner offer to acquire the remnant at its fair market value.

What Is An Uneconomic Remnant?

An "uneconomic remnant" is that portion of a property remaining after acquisition, the retention of which provides little utility or economic benefit to the owner. This can result from difficulty of access, a changed highest and best use, remoteness, or other reasons which burden the owner with expenses and responsibilities not commensurate with the benefit of keeping the remaining remnant.

Do You Have To Sell At The Price Offered?

No. If you and the airport owner's representative are unable to reach an agreement on a mutually satisfactory price, you are not obligated to sign an offer to sell. The airport owner, to the greatest extent practicable, will make every reasonable effort to acquire your property by negotiated settlement. But, if unsuccessful in these negotiations, an eminent domain proceeding may be instituted in a court for the judicial district in which the property is located. Eminent domain proceedings are often referred to as condemnation actions and are generally initiated by the filing of a complaint and a declaration of taking in the court. You should then be served with a notice following the filing of these actions.

What Authority Does The Airport Owner Have To Acquire Your Property Through Condemnation?

Power to acquire private property for public use is known as the power of eminent domain. Most airport owners have this power which is an inherent power of the local government derived from its sovereignty, as well as a power implied from Article 1, Section 8, and the Tenth Amendment of the Constitution. However, your right to just compensation for the property taken by condemnation is reserved in the Fifth Amendment to the Constitution.

After The Airport Owner Acquires Fee Title To Your Property, Will You Be Required To Move Immediately?

No. The airport owner will give you or your tenants 90 days written notice prior to its requiring that you move. No person shall be forced to move until comparable "decent, safe and sanitary" housing has been made available. It is essential that before moving and committing yourself to a replacement dwelling, you contact the airport owner to be sure that everything is in proper order so as not to jeopardize any relocation payments (see Section II) for which you may be eligible.

Relocation Assistance

The term "Displaced Person" means any person who moves from the real property or moves his or her personal property from the real property as a direct result of the initiation of negotiations for or the acquisition of such real property in whole in part for a project (49 CFR Part 24.2(g)). Displaced persons are eligible for the relocation assistance and payments as described in the following.

PLEASE NOTE: You should NOT move until you have received the airport's written notice to vacate the property due to the airport's purchase or possession of your property. This notice will be given at least 90 days prior to the actual date you will be required to vacate.

What Kind of Relocation Payments Are You Eligible For?

Families and individuals displaced from their dwellings may be eligible to receive two kinds of relocation payments: one to cover moving and related expenses and one to assist in obtaining a replacement dwelling.

Your Right of Appeal

Any aggrieved person shall have the right to appeal any determination as to eligibility for payment or the amount offered for payment. The procedures for making such an appeal vary according to the specific project.