

CHAPTER 1

LAND ACQUISITION

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43 PC 1-101. Application of chapter.

This chapter shall be applicable to the acquisition of real property under the laws of the state of Pohnpei for use in any project or program of the Pohnpei Government or local governments or the agencies created by the above enumerated governmental divisions hereinafter referred to as “government.”

Source: P.L. No. 6-71 §1; 67 TTC §451 (1980)

43 PC 1-102. Procedures generally.

(1) In acquiring real property the government will, to the greatest extent practicable:

(a) Make every reasonable effort to acquire real property expeditiously through negotiation;

(b) Before the initiation of negotiations, have the real property appraised and give the owner or his representative an opportunity to accompany the appraiser during the inspection of the property;

(c) Before the initiation of negotiations, establish an amount that is believed to be just compensation for the real property, and make a prompt written offer to acquire the property for that amount. In no event will the just compensation offered be less than the government’s approved appraisal of the fair market value of such property. At the time the government makes an offer to purchase real property, the owner of that property will be provided with a written statement of the basis for the amount estimated to be just compensation.

(i) In determining just compensation for the property any increase or decrease of the fair market value caused by the public improvement for which the property is acquired prior to the date of valuation will be disregarded (other than that caused by physical deterioration).

(d) Before requiring any owner to surrender possession of any real property, government will:

(i) Pay the agreed purchase price; or

(ii) Deposit with the court, for the benefit of the owner, an amount not less than the government's approved appraisal of the fair market value of the property; or

(iii) Pay the amount of the award of compensation in condemnation proceedings for the property.

(e) If interest in the real property is to be acquired by exercise of power of eminent domain, institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of this real property; and

(f) If the acquisition of only part of the property will leave its owner with an uneconomic remnant, offer to acquire that remnant.

(2) In acquiring real property, to the greatest extent practicable the government will not:

(a) Schedule a construction or development of the public improvement that will require any person lawfully occupying real property to move from a dwelling, or move his business or farm operation, without giving that person at least 90 days written notice of the date he is required to move;

(b) If acquired property is rented to the former owner or tenant for a short term or subject to termination by the government on short notice, charge a rent that is more than the fair rental value of the property to a short term occupant;

(c) Advance the time of condemnation;

(d) Defer negotiations, condemnation or deposit of funds in court for use of the owner; or

(e) Take any course of action to compel an owner to agree to a price for his property.

(3) Should a court determine condemnation was unauthorized or should the property owner obtain a judgment in the nature of inverse condemnation, then the owner shall be reimbursed for reasonable expenses of litigation, in line with Section 304 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(4) Nothing in this section should be construed to preclude a donation by an owner after his property has been appraised and the full amount of the estimated just compensation has been tendered to him.

Source: P.L. No. 6-71 §1; 67 TTC §452 (1980)

43 PC 1-103. Interest in improvements.

In acquiring any interest in real property the government will acquire at least an equal interest in all building structures or other improvements located on that real property which will be removed or which will be adversely affected by the completed project.

Source: P.L. No. 6-71 §1; 67 TTC §453 (1980)

43 PC 1-104. Payments for improvements by tenants.

(1) In the case of the building structure or other improvements owned by the tenant on real property acquired for a project to which this chapter applies the government will, subject to Subsection (2) of this section, pay the tenant the larger of:

(a) The fair market value of the improvement (as established by the government's appraiser), assuming its removal from the property; or

(b) The enhancement to the fair market value of the real property.

(2) Payments will also be made for improvements that are damaged as well as those that must be removed.

(3) A payment may not be made to a tenant under Subsection (1) of this section unless

(a) The tenant, in consideration for the payment, assigns, transfers, and releases to the government all his rights, title, and interest in the improvements;

(b) The owner of the land involved disclaims any interest in the improvements; or

(c) The payment is not duplicated by any payment otherwise authorized by law or regulation.

Source: P.L. No. 6-71 §1; 67 TTC §454 (1980)

43 PC 1-105. Expenses incidental to transfer of title.

As soon as possible after real property has been acquired, the government shall reimburse the owner for:

(1) Recording fees, taxes, and similar expenses incidental to conveying the real property to the agency; and

(2) The penalty cost for prepayment of any pre-existing recorded mortgage entered into in good faith and encumbering the real property.

Source: P.L. No. 6-71 §1; 67 TTC §455 (1980)

43 PC 1-106. Authority of Governor to promulgate regulations.

The Governor shall have authority to issue regulations to implement this chapter.

Source: P.L. No. 6-71 §1; 67 TTC §456 (1980)