

(3) The appeal must be submitted within 60 days after the displaced person receives written notification of the Postal Service's original determination concerning the displacee's claim. The Postal Service may extend this time limit for good cause.

(k) *Right of Representation.* A displaced person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

(l) *Review of Files by Appellant.* The Postal Service must permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are confidential. Such inspection will be permitted as allowed under the Freedom of Information Act, 39 CFR Part 265.

(m) *Scope of Review.* In deciding an appeal, the Postal Service must consider all pertinent justification and other material submitted by the displaced person and all other available information that is needed to ensure a fair and full review of the appeal.

(n) *Determination and Notification After Appeal.* Promptly after receipt of all supporting information submitted by the appellant, the General Manager, Real Estate Division, must make a written determination on the appeal, including the basis on which the decision was made, and furnish the appellant a copy. If the full relief requested is not granted at the Service Center level, the General Manager, Real Estate Division, must advise the person of his or her right to appeal the decision to the Director, Office of Real Estate. The rules stated here for appeals to the General Manager apply as well as to appeals to the Director, Office of Real Estate.

[51 FR 6983, Feb. 27, 1986, as amended at 54 FR 10668, Mar. 15, 1989]

### Subpart C—Acquisition

#### § 777.31 Acquisition procedures.

(a) *Policy; Application of Section.* The Postal Service, as a matter of policy, acquires interests in real property through voluntary agreements with owners. Only under unusual and compelling circumstances, and on a case-by-case basis, does the Postal Service

acquire real property through the exercise or the threat of the exercise of eminent domain. This policy does not, however, prevent the Postal Service from occasionally entering into mutually agreeable condemnation proceedings with an owner, where price is not an issue, and for such purposes as to clear title or to acquire property from certain elected officials. For the purposes of this section, the Postal Service does not consider such voluntary and mutually agreeable uses of condemnation proceedings as the exercise or the threat of the exercise of eminent domain. The following regulations apply only to acquisitions by the exercise or the threat of the exercise of eminent domain:

(1) *Notice to Owner.* As soon as feasible after deciding to acquire a specific property through the exercise of eminent domain, the Postal Service must notify the owner of its intent to acquire the property.

(2) *Expeditious Negotiations.* The Postal Service must make every reasonable effort to acquire real property expeditiously by negotiation.

(3) *Appraisal and Invitation to Owner.* Before the initiation of negotiations, the real property shall be appraised in accordance with Postal Service appraisal standards as outlined in RE-1 and the owner or the owner's designated agent shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(4) *Establishment of Offer of Just Compensation.* Prior to the initiation of negotiations (see § 777.13(k) for definition) the Postal Service must establish an amount which it believes is just compensation for the real property rights to be acquired. The amount must not be less than the approved appraisal of the fair market value, including damages or benefits to the remaining property. Appraisers shall not give consideration to, or include in their real property appraisals, any allowances for the benefits provided by title II of the Act.

(5) *Summary Statement.* Promptly after determining fair market value, the Postal Service shall make a written offer to acquire the property for the full amount believed to be just compensation. Along with the written

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purchase offer, the owner must be given a written statement of the basis for the offer of just compensation. This statement must include:

(i) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, must be separately stated.

(ii) The location and description of the real property and the interest(s) to be acquired.

(iii) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify and separately held ownership interest in the improvement(s), for example, a tenant-owned improvement.

(6) *Basic Negotiation Procedures.* The Postal Service must make every reasonable effort to contact the owner or the owner's representative and:

(i) Discuss the Postal Service's offer to purchase the property including the basis for the offer of just compensation, and;

(ii) Explain Postal Service acquisition policies and procedures including the provisions for the payment of incidental expenses as described under § 777.33.

(7) *Opportunity to Consider Offer.* The owner must be given a reasonable opportunity to consider the Postal Service's offer, to present material which he or she believes is relevant to determining the value of the property, and to suggest modification in the proposed terms and conditions of the purchase. The Postal Service must consider the owner's presentation.

(8) *Updating Offer of Just Compensation.* If the information presented by the owner or a material change in the character or condition of the property indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Postal Service must have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase

offer is warranted, the Postal Service must promptly reestablish just compensation and offer the revised amount to the owner in writing.

(9) *Contracts and Options.* Contracts to purchase shall cover only those items related to the acquisition of the property, and not incorporate provisions for making payments for relocation costs or related costs under title II of these regulations.

(10) *Title II Benefits Not To Be Considered.* In the event of condemnation, estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under title II.

(11) *Coercive Action.* The Postal Service shall not advance the time of condemnation, or defer negotiations or condemnation, or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(12) *Inverse Condemnation.* If the Postal Service intends to acquire any interest in real property by exercise of the power of eminent domain, it must institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute proceedings to prove the fact of the taking of the real property.

(13) *Payment Before Taking Possession.* Before requiring the owner to surrender possession of the real property, the Postal Service must either:

(i) Pay the agreed purchase price to the owner; or

(ii) In the case of a condemnation proceeding, deposit with the court for the benefit of the owner an amount not less than the amount of the approved appraised value of the property or the amount of the award of compensation in the condemnation proceeding for the property.

(14) *Right-of-Entry.* With the prior approval of the owner, the Postal Service may obtain a right-of-entry before making payment to the owner.

### § 777.32 Acquisition of tenant-owned improvements.

(a) *Acquisition of Improvements.* When acquiring any interest in real property,