



LAND ACQUISITION FOR PUBLIC AIRPORTS

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

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.

Section I. 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 owners written offer to purchase your property.

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.

What Is Title Evidence?

Title evidence is basically a legal record of the title status of a given tract of land. It contains a listing of the restrictive deed covenants, the identification of the owners of record, and a listing of the recorded mortgages, liens, and other instruments encumbering the property.

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.

Section II 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.

A. Displacement from Your Home.

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.

What Assistance Is Available To You?

If it has been determined that you are a displaced person you are entitled to receive timely and accurate information about available relocation benefits and procedures. Federal policy provides that as soon as feasible you will be advised of:

- the availability of relocation payments and assistance;
- the eligibility requirements and procedures for obtaining payments and assistance;
- the procedures for filing an appeal if you are not satisfied with the airport owners consideration of your application for relocation assistance.

How Is Your Eligibility For Relocation Payments Determined When You Move From Your Residence?

If you are displaced and you have occupied your dwelling from 1 to 89 days immediately prior to initiation of negotiations, you are entitled to moving and related expense payments.

If you are displaced and you have occupied your dwelling from 90 to 179 days immediately prior to initiation of negotiations, you are entitled to moving and related expense payments and a payment of up to \$5,250 for renting or purchasing replacement housing.

If you are displaced and you have occupied your dwelling 180 days or more immediately prior to the initiation of negotiations, you are entitled to moving and related expense payments and

- for owners, a relocation housing payment of up to \$22,500 necessary to offset additional costs in the purchase of a replacement dwelling, or a payment of up to \$5,250 for renting replacement housing;
- for renters, a payment of up to \$5,250 for purchasing or renting replacement housing.

The above amounts are in addition to the earlier described "just compensation" that must be paid to you for the acquisition of your property. **The amount of relocation payment will depend on the circumstances particular to your situation. Details regarding its computation will be provided by the airport owner.**

The Three Basic Occupancy Time Periods And Entitlements-Number Of Days Each.

All Occupants

1 to 89 Days. Entitled to moving costs.

Owner Occupants and Tenants

90 to 179 days. Entitled to moving costs and up to \$5,250 to rent or purchase decent, safe and sanitary housing.

Owner Occupants and Tenants

180 days or more. Entitled to moving costs and up to \$22,500 (Owner's), \$5,250 (Renters) to purchase or rent decent, safe and sanitary housing.

Must Comparable Housing Be Available Before You Move From An Airport Project?

Yes. The airport owner cannot require you to move unless comparable replacement housing is available or has been made available to you. The replacement housing must be:

- decent, safe and sanitary;
- functionally equivalent to the dwelling from which you are moving;
- within your financial means;
- adequate in size to accommodate your family needs;
- available without regard to race, color, religion or national origin;
- reasonably accessible to your place of employment;
- in a location not less desirable than the location of your present dwelling with respect to public utilities and commercial and public facilities.

What Does The Term "Decent, Safe and Sanitary" Mean?

A decent, safe and sanitary dwelling is one which meets all of the following requirements:

- conforms to state and local housing codes and ordinances;
- is structurally sound, weathertight and in good repair;
- contains a safe electrical wiring system for lighting and other devices;
- has a heating system adequate to maintain a minimum temperature of 70 F;
- is adequate in size with respect to the number of rooms and area living space needed to accommodate your family needs;

- contains a well lighted and ventilated bathroom providing privacy to the user with sink, bathtub or shower stall, and toilet all in good working order and properly connected to appropriate sources of water and sewage drainage system;
- has a kitchen area with a fully usable sink properly connected to a potable hot and cold water and to a sewage drainage system, with adequate space and utility connections for a stove and refrigerator;
- has unobstructed egress to safe open space at ground level;
- is free of any barriers which prevent the reasonable ingress, egress, or use of the dwelling in the case of a handicapped displaced person.

How Will The Airport Owner Assist You In Finding A Replacement Dwelling?

Displaced people are entitled to assistance in obtaining replacement housing. If you are to be displaced, you will receive:

- continuing and current information on the availability, prices and rentals of comparable decent, safe and sanitary housing;
- information concerning Federal, state and local housing programs, disaster loans, and other programs for displaced persons;
- advisory services to ease the relocation process, such as counseling and referrals for home financing, employment, health, welfare and legal assistance;
- help in completing any required applications and claim forms.

By What Method Can You Be Reimbursed For Moving Your

Personal Property?

If you are displaced from your dwelling you may choose one of two kinds of moving and related expense payments. You may be paid for your actual and reasonable moving and related expenses, or you may elect to receive a fixed payment based on a moving schedule.

1. Payment for Actual Reasonable Moving and Related Expenses

This payment covers reimbursement of your actual and reasonable moving costs up to a maximum of 50 miles. These costs must be supported by receipts and may include payments for:

- moving your furniture and other personal property;
- packing and unpacking of personal property;
- disconnecting, reassembling and reinstalling relocated household appliances and other personal property;
- temporary quarters, if necessary;
- storage of your personal property, if necessary;
- transportation for you and your family;
- moving insurance;
- other moving related expenses.

2. Fixed Payment for Moving Expenses

The schedule payment is based on the number of occupied rooms and the state where the dwelling is located. Separate payment provisions apply to persons occupying dormitory style rooms or with minimal personal possessions.

How Do You Become Eligible For A Replacement Housing Payment?

All displaced persons are entitled to moving and related expense payments. In addition, you, as an owner or tenant, may receive a replacement housing payment depending on the length of time you have lived in the dwelling being acquired.

1. Purchase Payment for Homeowners

When you own your home and are displaced, you may be eligible for a replacement housing payment. To receive this payment:

- you must have owned and occupied your home for not less than 180 days prior to the initiation of negotiations for its acquisition, and
- you must purchase and occupy a decent, safe and sanitary replacement dwelling within a year of the date a comparable replacement dwelling is made available or, if later, from the time you receive final acquisition payment for your home.

The amount of the homeowner's replacement housing payment which you may receive is based on three things:

- the difference between the amount you receive for the property (acquired by the airport owner) and the amount necessary to acquire a comparable replacement dwelling;
- the amount, if any, which is necessary to compensate you for any increased interest and other debt service costs in connection with a mortgage on the replacement dwelling;
- reasonable and necessary expenses incidental to the purchase of the replacement dwelling.

The maximum replacement housing payment, when the above conditions are met, is \$22,500.

2. Rental Housing Payment

When you as a tenant or owner-occupant are displaced from a dwelling and wish to rent a replacement dwelling, you may be eligible to receive a rental assistance payment. To receive this payment:

- you must have occupied the displacement dwelling for not less than 90 days immediately prior to the initiation of negotiations for its acquisition, and
- you must rent and occupy a decent, safe and sanitary replacement dwelling within one year.

The rental housing payment helps you pay the increased costs, if any, which you incur in renting a comparable replacement dwelling. The amount of the rental housing payment may not exceed \$5,250.

3. Downpayment Assistance

When you are a displaced tenant and you have occupied your dwelling for at least 90 days immediately prior to the initiation of negotiations, or if you are a displaced homeowner and you have occupied your dwelling less than 180 days but more than 90 days, you may be eligible to receive an amount toward a downpayment on the purchase of a replacement dwelling. The purpose of this payment is to help pay the downpayment required to purchase a replacement dwelling.

The full amount of the payment for the downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

The maximum down payment assistance payment may not exceed \$5,250.

B. Displacement of your business, farm, or non-profit organization.

What Advisory Services Are Available When Your Business, Farm Or Nonprofit Organization Is Displaced?

When your business, farm or nonprofit organization is displaced, you will receive:

- assistance in obtaining and becoming established in a suitable replacement location;
- information on availability, purchase price and rental costs of suitable replacement properties;
- information on Federal, state and local programs offering further assistance, particularly through loans and other aid administered by the Small Business Administration;
- assistance in making application for loans and other aid;
- assistance in completing any required applications and claim forms.

Is Your Business, Farm Or Nonprofit Organization Eligible

To Receive Relocation Payments?

Yes. Relocation payments may be made to cover the expenses you incur in searching for a new location (up to \$2500), in moving your personal property to a new location, actual reasonable reestablishment expenses (up to \$10,000), and for actual direct loss of tangible personal property which you do not move.

In lieu of the above, you may be qualified to receive a fixed payment based on the average net earnings of the business or farm operation, or the average gross revenues (less administrative expenses) of a non-profit organization. (at least \$1000 and no more than \$20,000)

What Must You Do To Be Eligible To Receive A Business, Farm Or Nonprofit Organization Relocation Payment?

To be eligible to receive relocation payments, a business, farm or nonprofit organization must move from real property:

- as a result of the acquisition of that real property for an airport project, or
- as a result of a written notice of intent to acquire.

1. Payment for Moving and Related Expenses

Displaced businesses, farms and nonprofit organizations may receive moving and related expense payments to cover their:

- actual reasonable moving costs;
- storage of personal tangible property not to exceed twelve months;
- actual direct losses of personal property; and
- actual reasonable expenses incurred in searching for a replacement property up to \$2,500.

2. Payment for Reestablishment Expenses

A displaced small business, farm, or nonprofit organization may receive a payment, not to exceed \$10,000, for actual reasonable reestablishment expenses such as:

- repairs, improvements or modifications to the replacement

property required by law, code or ordinance, or to accommodate

- the business operation;
- providing utilities from nearby right-of-way as well as one time assessments or impact fees for heavy utility usage;
- increased cost of operations, for certain items, during the first two years of relocation;
- advertising of replacement location and installation of exterior advertising.

3. Fixed Payment in Lieu of Moving and Related Expenses and Actual Reestablishment Expenses

A displaced business, farm, or nonprofit organization may receive a fixed payment instead of a payment for moving and related expenses and actual reestablishment expenses if:

- it cannot be relocated without a substantial loss of its existing patronage;
- it is not part of an enterprise having more than three other entities, which are not being acquired, and which are under the same ownership and engaged in the same or similar business or activity;
- and the business contributed materially to the income of the displaced person during the two taxable years prior to displacement.

The amount of the fixed payment is based on the average annual net earnings of the displaced business, farm or nonprofit organization, but may not be less than \$1,000 nor more than \$20,000. If a nonprofit organization has not had any earnings, the minimum \$1,000 payment may be made. Displaced businesses and farms, however, must meet qualifying criteria and certain minimum income requirements before receiving a fixed payment.

ANOTHER IMPORTANT RELOCATION BENEFIT FOR YOUR CONSIDERATION.

Must You Pay Taxes On The Relocation Payments That You Receive?

No. Relocation payments received under this law are not considered as income for tax purposes or for the purpose of determining eligibility for assistance under the Social Security Act or any other Federal law, except for any Federal law providing low income housing assistance.

YOUR RIGHT OF APPEAL.

What If You Consider The Relocation Payment Determination To Be Unsatisfactory?

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.

An appeal in most situations would be initiated with the airport owner. Appeals procedures are generally designed to insure that:

- Any person making an appeal shall be given an opportunity to be heard.
- Any decision will be reached promptly on the basis of evidence submitted and the aggrieved person notified in writing and provided with a full explanation of the decision.
- The result reached will be supported by the necessary computations and rationale and documented in the parcel file maintained by the airport owner.

NOTES

FOR MORE INFORMATION

If you have questions regarding any of the information contained in this brochure or at any time throughout the acquisition and relocation process please contact the airport owner or their representative for assistance.