

36.60

3/3/71

Second Supplement to Memorandum 71-14

Subject: Study 36.60 - Condemnation Law and Procedure (Relocation Assistance)

The attached letter from Commissioner Sandstrom was received after we had completed the preparation of Memorandum 71-14 and the attached materials. We believe, however, that you should consider these comments together with the staff materials in reviewing Article 4 of the draft statute.

Respectfully submitted,

Jack I. Horton
Assistant Executive Secretary



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February 25, 1971

Mr. John DeMouly
Executive Secretary
California Law Revision Commission
School of Law - Stanford University
Stanford, California 94305

Dear John:

Following I have some general comments on Relocation Assistance Sections not covered at our last meeting:

1. Section 7300 (a)

I believe that the federal standard "initiation of negotiations" is preferable to using "first written offer". The federal standard is workable and would minimize possible purchases made to take advantage of relocation assistance.

2. Section 7300 (a) (1)

I would recommend that the next to last phrase of this sub-paragraph be amended to read "and as reasonably accessible to public services and places of employment as the acquired property." It seems to me that the replacement housing should be comparable in terms of accessibility, services, and employment similar to that utilized for tenants at least in part by the use of the language "not generally less desirable..." in §7301(a).

3. Section 7300 (a) (2)

This sub-paragraph is loosely written in that:

- a. I am not sure whether "bona fide mortgage" means a good mortgage or one that wasn't put on to take advantage of replacement housing payments.

- b. It is not clear whether the mortgage could not be increased during the 180 days prior to either the first written offer or initiation of negotiations. As it reads now, the test is whether the lien exists and it is not tied to the size of that lien.
- c. Utilizing this or setting up regulations to cover this section, could the Agency take into account the actual experience which shows that most mortgages are paid off within 7 years of the time they are placed on the property?

4. Section (3), Page 46

As I read the explanation language contained in (3), Page 46, it would indicate that an itinerant worker living in an abandoned car or packing crate would be entitled to up to \$15,000 in relocation assistance. The language in this Section seems to cover "any other residential unit..." which is not "a decent, safe, and sanitary dwelling...". That language would be limited by the definition of ownership which appears to be phrased in terms of the dwelling and which contains no clear requirement that the person owned the land. In any event, a person owning the land and having a packing crate house on that land would seem to be covered. While that may be the intent of the law, I would prefer at least clearly limiting it to the ownership of the land situation and define a dwelling as something more substantial than a tent, used car, or packing crate.

5. Section 7301 (a)

This paragraph should be re-written to indicate that the payment is for the increase in the cost of the new rental housing since there appears to be no policy reason for paying moving expenses and in addition paying a rent which has not increased. I would also recommend adding the word "comparable" in front of the word "decent" in the second line of (a) and the word "as" in front of the word "reasonably" on the next to the last line.

6. Section 7302

This section is awfully broad authority and it would appear that some limit should be added. I certainly would not favor permitting

Mr. John DeMouly

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the condemnation of one private home to provide relocation assistance for someone else who has been displaced.

Sincerely yours,



Marc Sandstrom
Vice President - Counsel

MS/hr