

#36.60

9/11/75

Memorandum 75-73

Subject: Study 36.60 - Relocation Assistance by Private Condemnors

Attached is a copy of the tentative recommendation relating to relocation assistance by private condemnors. The tentative recommendation basically requires private and quasi-public condemnors to provide relocation advisory assistance and make relocation payments to the same extent as public entities and public utilities.

The tentative recommendation was distributed for comment this summer, but the Commission received no comments on it. The staff recommends that the tentative recommendation be printed as a final recommendation, with any changes in references made necessary by enactment of the eminent domain bills, and submitted to the Legislature.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

relating to

Relocation Assistance by Private Condemnors

July 1975

CALIFORNIA LAW REVISION COMMISSION
School of Law
Stanford University
Stanford, California 94305

Important Note: This tentative recommendation is being distributed so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be considered when the Commission determines what recommendation, if any, it will make to the California Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you object to the tentative recommendation or that you believe that it needs to be revised. COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE SENT TO THE COMMISSION NOT LATER THAN SEPTEMBER 15, 1975.

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

TENTATIVE RECOMMENDATION

relating to

RELOCATION ASSISTANCE BY PRIVATE CONDEMNORS

California's general relocation assistance statute¹ was enacted in 1971² primarily to implement the requirements imposed on the state by the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970³ and to more adequately compensate persons whose property is taken for public use. One major purpose of the statute was to assure a uniform policy of relocation assistance to all persons in the state regardless of the acquiring entity.⁴

By its terms, the relocation assistance statute applies only to acquisitions by public entities. But, in California, private persons also may exercise the power of eminent domain to acquire private property for public use.⁵

Of the private condemners, only privately owned public utilities acquiring real property by eminent domain must comply with relocation assistance provisions applicable to public entities.⁶ Such private condemners as nonprofit hospitals,⁷ nonprofit colleges,⁸ nonprofit cem-

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1. Govt. Code §§ 7260-7274.
 2. Cal. Stats. 1971, Ch. 1574.
 3. 42 U.S.C. §§ 4601-4655 (1971).
 4. Comment, Relocation Assistance in California: Legislative Response to the Federal Program, 3 Pac. L.J. 114, 118 (1972).
 5. Civil Code § 1001.
 6. Pub. Util. Code § 600.
 7. The authority of nonprofit hospitals to condemn is found in Code of Civil Procedure Section 1238.3 (to be continued by Section 1260 which would be added to the Health and Safety Code by Assembly Bill 278 of the 1975-76 Regular Session [hereinafter referred to as "AB 278"]).
 8. The authority of nonprofit colleges to condemn is found in Civil Code Section 1001 and Code of Civil Procedure Section 1238(2) (to be continued by Section 30051 which would be added to the Education Code by AB 278).

teries,⁹ certain nonprofit housing corporations,¹⁰ and mutual water companies¹¹ are not required to comply with the relocation assistance provisions.

The Law Revision Commission has recommended elsewhere that the condemnation authority of the foregoing private condemners be continued.¹² The Commission further recommends that with the right of condemnation should go the burdens of compensation and that all private condemners be required to comply with the relocation assistance provisions imposed on public entities. This will assure that every person in the state whose property is acquired by eminent domain will be treated fairly and equally.

The Commission's recommendation would be effectuated by enactment of the following measure:

An act to add Section 7276 to the Government Code, relating to relocation assistance by private condemners.

The people of the State of California do enact as follows:

SECTION 1. Section 7276 is added to the Government Code, to read:

7276. A person acquiring real property by eminent domain shall provide relocation advisory assistance and shall make any of the payments required of public entities by this chapter. This section does

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9. The authority of cemeteries to condemn is found in Civil Code Section 1001 and Code of Civil Procedure Section 1238(14) (to be continued by Section 8501 which would be added to the Health and Safety Code by AB 278).
 10. The authority of limited dividend housing corporations to condemn is found in Health and Safety Code Section 34874; the authority of land chest corporations to condemn is found in Civil Code Section 1001 and Code of Civil Procedure Section 1238(21) (to be continued by Section 35167 which would be added to the Health and Safety Code by AB 278).
 11. The authority of mutual water companies to condemn is found in Civil Code Section 1001 and Code of Civil Procedure Section 1238(4) (to be continued by Section 2729 which would be added to the Public Utilities Code by AB 278).
 12. Recommendation Proposing the Eminent Domain Law, 12 Cal. L. Revision Comm'n Reports 1601, 1634-1636 (1974) and Assembly Bill 278 (1975-76 Reg. Sess.) (amended on Commission request to include nonprofit cemeteries).

not apply to public utilities governed by Section 600 of the Public Utilities Code or to public entities governed by Sections 7260 to 7275, inclusive.

Comment. Section 7276 is new. The relocation assistance provisions of Sections 7260-7275 are applicable by their terms only to public entities. Section 7276 extends their application to eminent domain acquisitions by private condemners other than public utilities. Public utilities are covered by Public Utilities Code Section 600. Private condemners that would be covered by Section 7276 include nonprofit hospitals (Health & Saf. Code § 1260), nonprofit colleges (Educ. Code § 30051), nonprofit cemeteries (Health & Saf. Code § 8501), limited dividend housing corporations (Health & Saf. Code § 34874), land chest corporations (Health & Saf. Code § 35167), and mutual water companies (Pub. Util. Code § 2729).

[NOTE: Section references in the Comment assume the enactment of Assembly Bill 278 (1975-76 Reg. Sess.).]