

7/30/69

Memorandum 69-86

Subject: Study 36.55 - Condemnation (Arbitration)

At the last meeting, the Commission determined that the Recommendation on Arbitration of Just Compensation should be revised to reflect the changes made at that meeting, sent to each Commissioner, and, after the comments provided by Commissioners were taken into account, sent to the printer.

Commissioners Miller, Sato, and Stanton provided us with comments. The staff also made a number of additional editorial revisions and the recommendation has been sent to the printer. The Commission directed at the last meeting that the recommendation be included on the agenda for the September meeting and any comments from interested persons on the revised recommendation be considered at that time. We sent the revised recommendation to persons and organizations who commented on the earlier draft and will send you any comments received with a supplement to this memorandum.

Attached is a copy of the recommendation as it went to the printer. The following minor editorial changes were made in the attached copy before it was sent to the printer:

- (1) Page 1, first line of paragraph beginning at bottom of page, substitute "these origins" for "the origin."
- (2) Page 3, last line of footnote 10, substitute "award" for "fair market value."
- (3) Page 5, delete "RECOMMENDATION" at top of page.
- (4) Change "attorney fees" to "attorney's fees" on pages 7, 12, 13, and 17.

(5) Change "devoted to a public use" to "appropriated to a public use" in the first line of subdivision (b) on page 9.

(6) Change "occurrence" to "occurrence" in the last line on page 11.

We hope to have galley proofs on this recommendation available for you before the September meeting.

Respectfully submitted,

John H. DeMouly
Executive Secretary

36.55

Revised July 25, 1969

STATE OF CALIFORNIA
CALIFORNIA LAW
REVISION COMMISSION

RECOMMENDATION

relating to

ARBITRATION OF JUST COMPENSATION

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

RECOMMENDATION OF THE CALIFORNIA

LAW REVISION COMMISSION

relating toARBITRATION OF JUST COMPENSATION

Section 14 of Article I of the California Constitution forbids the taking of property for public use "without just compensation having first been made to, or paid into court for, the owner." The section also specifies that the compensation "shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law." When adopted in 1879, this language merely "confirmed" the condemnation procedure already set forth in Title 7 (commencing with Section 1237) of Part 3 of the Code of Civil Procedure. The provisions of the Code, in turn, were not new. They were taken from one of California's earliest "railroad laws" with the sections being "only modified where necessary to give perspicuity, and to make them general or adaptable to all cases of condemnation."¹

The imprint of the origin of California condemnation procedure remains with us. For the most part, the taking of property for public use is still viewed from the rather limited vantage point of the courtroom and, more particularly, of the jury room. This is so much the case that the heart of

1. See the Code Commissioners' Note to Cal. Code Civ. Proc. § 1238.

the matter--compensation--is often discussed solely in terms of jury
behavior and the fortunes and hazards of jury verdicts.²

A specific consequence of California's traditional "jury trial" approach to the law of eminent domain has been a marked lack of experimentation with other methods for determining "just compensation." The only exceptions to jury trial in California law are (a) the little-used procedure for determining the value of public utility property by the Public Utilities Commission,³ (b) provisions for voluntary reference of the issue of compensation to "referees" in a few of the early improvement acts,⁴ (c) the provisions in the Code of Civil Procedure for factual determinations by referees in civil litigation generally,⁵ and (d) trial by court where a jury has been waived. In contrast, other jurisdictions have experimented extensively with alternatives to jury trial. A survey made in 1951 disclosed that, at that time, there were over 300 distinguishable procedures in the United States for assessing compensation in connection with the taking of property.⁶

In recent years, a number of persons have suggested that one practicable alternative to jury trial would be voluntary arbitration of the issue of

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2. For a discussion of the tactical positions of California condemners and condemnees, and of the idiosyncracies of juries, see Recommendation and Study Relating to Evidence in Eminent Domain Proceedings, 3 Cal. L. Revision Comm'n Reports A-1, A-11 (1961).
 3. See Cal. Const., Art. XII, § 23a; Pub. Util. Code §§ 1401-1421.
 4. E.g., The Street Opening Act of 1903 (Sts. & Hwys. Code §§ 4000-4443) and The Park and Playground Act of 1909 (Govt. Code §§ 38000-38213).
 5. Section 1248 of the Code of Civil Procedure refers to the assessment of compensation by the "court, jury, or referee." The mention of "referees" alludes to Sections 638-645 which provide generally for referees and trials by referees.
 6. See the Notes of the Advisory Committee on Rules of Civil Procedure, 28 U.S.C. Appendix (1964).

compensation. These persons believe that arbitration can reduce the costs, delays, and ill will frequently associated with judicial proceedings and, at the same time, relieve the overburdened courts of a heavy volume of jury cases.⁷ They point out that voluntary arbitration is a flexible and adaptable procedure eminently suitable for the determination of valuation questions⁸ and provides a practical method whereby owners of property of relatively low value as well as those who are asserting relatively narrow value differences may obtain an impartial determination of fair market value.⁹ It is seldom possible now to obtain an impartial review of the condemnor's offer in this type of case.¹⁰

There appears to be a substantial interest in the use of arbitration in condemnation cases in other parts of the United States. In June 1968, the American Arbitration Association published a set of "Eminent Domain Arbitration Rules" in response to the need for an efficient arbitration procedure adaptable to condemnation cases. In California, however, there

7. See Latin, The Arbitration of Eminent Domain Cases, 14 Right of Way 57 (1967); Hanford, Problems Beyond Our Control, 16 Right of Way 42, 44 (June 1969).

8. See Brundage, The Adaptation of Judicial Procedures to the Arbitral Process, 5 San Diego L. Rev. 1, 3 (1968):

If there is a discernible trend toward greater formalism and legalism in the arbitral process, resulting from judicial and legislative sanction of arbitration, with a disposition to emphasize the reviewing powers of the courts rather than their circumscription, this is indeed an unfortunate turn of events. . . . [T]he arbitral process must remain fluid and flexible since it is consensual in origin and because its survival is dependent upon its effectiveness in serving the needs of the parties.

9. See Hanford, Problems Beyond Our Control, 16 Right of Way 42, 44 (June 1969).

10. Attorneys who specialize in condemnation cases have advised the Commission that normally they must decline to accept a case where the difference between the condemnor's offer and the probable award if the case is tried is less than \$3,000-\$5,000. The reason is that the unrecoverable costs of defending such a case will equal or exceed the potential increment between the offer and the fair market value.

is no statute expressly authorizing a public entity to submit the issue of compensation to arbitration, and it could be argued that the hundreds of California statutes authorizing acquisition of property for public use do not contemplate such a procedure. The typical provision authorizes acquisition by purchase "or by proceedings had under the provisions of Title 7, Part 3, of the Code of Civil Procedure,"¹¹ so that, if authority to agree to arbitration exists, it must be implied from the authority to purchase by negotiation.¹² Perhaps because of this uncertainty, there has been little, if any, use of the arbitral process in condemnation cases in California. However, if enabling legislation were enacted, it seems likely that arbitration will be used--at least on an experimental basis--¹³ as an alternative to judicial proceedings.

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11. See, e.g., Civil Code § 1001. On the other hand, the only California statute that seems definitely to require judicial assessment of compensation is the Property Acquisition Law (Govt. Code §§ 15850-15866) which authorizes the State Public Works Board to acquire property for the general purposes of state agencies. See Govt. Code § 15854. That act, however, permits the board to agree with the owner as to the compensation to be paid and to incorporate that agreed figure in a stipulation in the condemnation proceeding (Govt. Code § 15857).
 12. Before 1961, an additional obstacle to arbitration existed. California judicial decisions had excluded valuations and appraisals from the coverage of the arbitration statute on the general grounds that they did not involve a "controversy" and, additionally, because the parties did not necessarily contemplate either a formal hearing or the taking of evidence. E.g., *Bewick v. Meham*, 26 Cal.2d 92, 156 P.2d 757 (1945). In revising the California Arbitration Act in 1961, the Legislature provided expressly that enforceable arbitration agreements include "agreements providing for valuations, appraisals and similar proceedings." See Code Civ. Proc. § 1280. See also Recommendation and Study Relating to Arbitration, 3 Cal. L. Revision Comm'n Reports, G-1, G-5, G-6, G-34 (1961). This statutory approval of the arbitration of valuation questions did not, however, expressly authorize public condemnors to use this procedure in condemnation cases.
 13. Representatives of some public entities have advised the Commission that such entities might use arbitration on an experimental basis in condemnation cases.

RECOMMENDATION

The Commission believes that voluntary arbitration of the amount of compensation can become a useful alternative to the determination of that issue by jury trial.¹⁴ Certainly, there is nothing sacrosanct about jury-determined valuation figures or the process by which they are reached. Inasmuch as "value" is determined solely from the opinions expressed by expert witnesses and the owner, the amounts determined by professional arbitrators might be considered more reliable and might even prove more satisfactory in the long run to both condemnors and condemnees.

Moreover, the arbitration procedure can be adapted to suit the particular type of case and the amount in controversy. For example, where a homeowner is offered \$3,000 less than what he claims is the fair market value of his home, he and the acquiring agency could select a disinterested appraiser as the arbitrator and agree to be bound by the value fixed by his appraisal.¹⁵ A formal hearing and the taking of evidence could be eliminated. Thus, time-consuming procedures which increase the cost to the homeowner of legal and expert assistance could be avoided, while still providing the parties

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14. The Commission recognizes that voluntary arbitration is not "the answer" to the need for improvements in California condemnation procedure. Indeed, both condemning agencies and property owners may continue to display their traditional preference for jury assessment of compensation however clearly arbitration may be authorized and however practicable the arbitration process may be made to appear. Nonetheless, as long as resort to arbitration is authorized on a purely voluntary basis and the content of the arbitration agreement is left to the parties, arbitration might prove to be a valuable alternative to judicial proceedings notwithstanding the substantial changes that may subsequently be made in both the substantive and procedural aspects of California's condemnation law as a result of the Commission's study of this field of law. In short, the parties can be expected to adapt the terms upon which they are willing to arbitrate, and the particular content of their arbitration agreement, in accordance with those changes.
 15. In 1961, the California arbitration statute was broadened to include appraisals and valuations where the parties have agreed to dispense with a formal hearing and the taking of evidence. Code Civ. Proc. § 1282.2.

with an impartial third-party determination of fair market value. In such a case, the relative economy and speed of the arbitral process would outweigh any possible advantage of a court determination of the value issue and may provide the homeowner with the only practical remedy short of accepting the condemnor's final offer.¹⁶ The acquiring agency might also find that arbitration is desirable in this type of case. The Commission is advised that it is becoming more common for property owners to defend condemnation actions without the assistance of an attorney, and the cost to the acquiring agency of trying such cases can be significantly greater than the cost of arbitration would be. In addition, the speed of the arbitral process would permit an acquiring agency that does not have the right of "immediate possession"¹⁷ to obtain possession of the property within a relatively short time.

Arbitration might also be a desirable alternative in a complex valuation case involving a substantial amount of money. In such a case, a formal arbitration hearing procedure with the parties offering expert evidence could provide the parties with a determination of value by a highly regarded, disinterested, and expert arbitrator. The delay in final resolution of the controversy that otherwise would occur because of court congestion could be avoided. The presentation of valuation evidence at the hearing would be more expeditious than at a trial because the arbitrator would be an expert in conducting such hearings and the hearing would not need to be conducted with the formality of a jury trial. Thus, significant savings in time and expense to both sides could be realized.

16. See note 10, supra.

17. See generally Tentative Recommendation and a Study Relating to Condemnation Law and Procedure: Number 1--Possession Prior to Final Judgment and Related Problems, 8 Cal. L. Revision Comm'n Reports 1101 (1967).

The Commission therefore recommends enactment of a statute explicitly authorizing condemnors to submit the issue of compensation to arbitration. Public entities and agencies from whom property is taken should be given a similar authority. The legislation should:

(1) Impose on the condemnor the expense of the arbitration proceeding, excluding the condemnee's attorney fees, expert witness fees, and other expenses incurred for his own benefit.

(2) Provide that agreements to arbitrate the amount of just compensation are subject to, and enforceable under, the California Arbitration Act.

(3) Anticipate and resolve questions that might arise as to the effect of an agreement to arbitrate upon the condemnor's power to file an eminent domain proceeding, to abandon the acquisition, and the like.

(4) Authorize recordation of notice of the pending arbitration as a means of giving notice of the arbitration proceedings to subsequent purchasers or encumbrancers.

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

An act to add Chapter 3 (commencing with Section 1273.01) to Title 7 of Part 3 of the Code of Civil Procedure, and to amend Section 15854 of the Government Code, relating to the acquisition of property for public use.

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

Section 1. Chapter 3 (commencing with Section 1273.01) is added to Title 7 of Part 3 of the Code of Civil Procedure, to read:

CHAPTER 3. ARBITRATION OF COMPENSATION IN
ACQUISITIONS OF PROPERTY FOR PUBLIC USE

Section 1273.01. "Public entity" defined

1273.01. As used in this chapter, "public entity" includes the state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state.

Comment. Section 1273.01 uses the same language as Government Code Section 811.2, which defines "public entity" for the purposes of the governmental liability statute.

Section 1273.02. Arbitration of amount of compensation authorized

1273.02. (a) Any person authorized to acquire property for public use may enter into an agreement to submit, and submit to arbitration in accordance with the agreement, any controversy as to the compensation to be made in connection with the acquisition of the property.

(b) Where property is already devoted to a public use, the person authorized to compromise or settle the claim arising from a taking or damaging of such property for another public use may enter into an agreement to submit, and submit to arbitration in accordance with the agreement, any controversy as to the compensation to be made in connection with such taking or damaging.

(c) For the purposes of this section, in the case of a public entity, "person" refers to the particular department, officer, commission, board, or governing body authorized to acquire property on behalf of the public entity or to compromise or settle a claim arising from the taking or damaging of the entity's property.

Comment. Section 1273.02 authorizes arbitration in connection with the acquisition of property for public use.

The phrase "compensation to be made in connection with the acquisition of the property" is intended to encompass any amounts that may be assessed or awarded in a condemnation proceeding and, specifically, to include severance or other damages.

The term "controversy" is defined, for purposes of arbitration, in subdivision (c) of Section 1280.

The enactment of this chapter does not imply that public entities authorized to purchase, but not to condemn, property are not authorized to agree to arbitration.

This chapter contains no provisions comparable to Code of Civil Procedure Sections 1244, 1246, and 1246.1, which require that all persons having an interest in the property be named as defendants in the condemnation complaint, permit any unnamed interest holder to intervene in the proceeding, and provide for allocation of the award among holders of various interests. The chapter assumes that prudence on the part of the acquiring agency will assure that it agrees to arbitrate with the person who owns the interest it seeks to acquire. Also, the interests of persons other than parties to the arbitration would be unaffected by the arbitration agreement or the carrying out of that agreement. In short, unlike the in rem character of an eminent domain proceeding, an arbitration operates only as a contract and conveyance between the parties to the particular agreement.

Subdivision (a)

Subdivision (a) authorizes any acquirer of property for public use to agree to arbitrate the question of compensation and to act in accordance with the agreement. The subdivision does not imply that the public entity must have complied with the formalities (such as the adoption of a formal condemnation resolution) commonly prescribed as conditions precedent to the commencement of an eminent domain proceeding. Rather, the subdivision contemplates that the question of compensation may be submitted to arbitration

§ 1273.02

whenever acquisition is authorized in the manner followed by the particular entity or agency in authorizing purchases of property. As the arbitration agreement ordinarily would commit the public entity to purchase the property at the amount of the award (see Section 1273.05), the agreement should be approved and executed in the same manner as a contract to purchase property.

Subdivision (b)

Subdivision (b) authorizes "persons" who own, hold, or control public property that may be taken by eminent domain proceedings to agree to arbitrate the amount of compensation. Public property may be taken by eminent domain proceedings whether or not it is already "appropriated to a public use" (see Sections 1240 and 1241), and condemnation by one public entity of property already devoted to a public use by another public entity is a fairly common occurrence.

Section 1273.03. Expenses of arbitration

1273.03. (a) Notwithstanding Sections 1283.2 and 1284.2, the party acquiring the property shall pay all of the expenses and fees of the neutral arbitrator and the statutory fees and mileage of all witnesses subpoenaed in the arbitration, together with other expenses of the arbitration incurred or approved by the neutral arbitrator, not including attorney fees or expert witness fees or other expenses incurred by other parties for their own benefit.

(b) An agreement authorized by this chapter may require that the party acquiring the property pay reasonable attorney fees or expert witness fees, or both, to any other party to the arbitration. If the agreement requires the payment of such fees, the amount of the fees is a matter to be determined in the arbitration proceeding unless the agreement prescribes otherwise.

(c) The party acquiring the property may pay the expenses and fees referred to in subdivisions (a) and (b) from funds available for the acquisition of the property or other funds available for the purpose.

Comment. Subdivision (a) of Section 1273.03 is consistent with the rule applicable to eminent domain proceedings that the condemnee is entitled to recover all "taxable costs." See City of Oakland v. Pacific Coast Lumber & Mill Co., 172 Cal. 332, 156 P. 468 (1916); City & County of San Francisco v. Collins, 98 Cal. 259, 33 P. 56 (1893). Subdivision (a) precludes the parties by agreement from imposing costs of this nature

on the party from whom the property is being acquired.

Subdivision (b), on the other hand, does permit the parties to provide in the arbitration agreement that the party acquiring the property will pay reasonable attorney fees or expert witness fees incurred by other parties to the agreement. Absent such provision in the agreement, the party from whom the property is being acquired must pay his own attorney fees and expert witness fees.

Section 1273.04. Effect and enforceability of agreements

1273.04. (a) Except as specifically provided in this chapter, agreements authorized by this chapter are subject to Title 9 (commencing with Section 1280) of this part.

(b) An agreement authorized by this chapter may be made whether or not an eminent domain proceeding has been commenced to acquire the property. If an eminent domain proceeding has been commenced or is commenced, any petition or response relating to the arbitration shall be filed and determined in the eminent domain proceeding.

(c) Notwithstanding Section 1281.4, an agreement authorized by this chapter does not waive or restrict the power of any person to commence and prosecute an eminent domain proceeding, including the taking of possession prior to judgment, except that upon motion of a party to the eminent domain proceeding, the court shall stay the determination of compensation until any petition for an order to arbitrate is determined and, if arbitration is ordered, until arbitration is had in accordance with the order.

(d) The effect and enforceability of an agreement authorized by this chapter is not defeated or impaired by contention or proof by any party to the agreement that the party acquiring the property pursuant to the agreement lacks the power or capacity to take the property by eminent domain proceedings.

(e) Notwithstanding the rules as to venue provided by Sections 1292 and 1292.2, any petition relating to arbitration authorized by this chapter shall be filed in the superior court in the county in which the property, or any portion of the property, is located.

Comment. Although Section 1273.04 provides that arbitration under this chapter is governed by the general arbitration statute (Sections 1280-1294.2), a few minor modifications in the procedure provided by the general statute are desirable when arbitration is used to determine the compensation for property acquired for public use.

Subdivision (a). Subdivision (a) makes clear that, in general, agreements to arbitrate under this chapter are subject to the general arbitration statute. See, in particular, Sections 1285-1288.8 (enforcement of the award) and 1290-1294.2 (judicial proceedings relating to the arbitration or the award).

Subdivision (b). Subdivision (b) makes clear that it is not necessary to commence an eminent domain proceeding in order to arbitrate under this chapter and also provides a special rule concerning the court in which any petition or response relating to the arbitration shall be filed and determined when an eminent domain proceeding is pending.

Subdivision (c). Subdivision (c) makes clear that an eminent domain proceeding may be begun and prosecuted notwithstanding an agreement to arbitrate the question of compensation and that such an agreement does not impair the condemnor's power to take "immediate possession."

There is, of course, nothing to preclude the parties from including a provision in the arbitration agreement that permits the condemnor to take possession of the property prior to the award in the arbitration proceeding. Subdivision (c) also provides for staying the determination of compensation in an eminent domain proceeding pending an agreed arbitration--a practice provided for as to other arbitrations by Section 1281.4. Subdivision (c) contemplates that, if an eminent domain proceeding is pending, the arbitration award, whether confirmed or not (see Section 1287.4), may be entered as the amount of compensation in the judgment of condemnation. See Cary v. Long, 181 Cal. 443, 184 P. 857 (1919); In re Silliman, 159 Cal. 155, 113 P. 135 (1911).

Subdivision (d). Subdivision (d) makes clear that an agreement to arbitrate and to purchase and sell at the amount of the award does not require, and is not impaired by the acquirer's lack of, power to take the property by eminent domain. Cf. People v. Nyrin, 256 Cal. App.2d 288, 63 Cal. Rptr. 905 (1967); Beistline v. City of San Diego, 256 F.2d 421 (9th Cir. 1958).

Subdivision (e). Subdivision (e) requires that petitions relating to arbitration be filed in the county in which the property lies. The venue provided by this subdivision corresponds with the rule as to venue for eminent domain proceedings. See Section 1243.

Section 1273.05. Abandonment of acquisition

1273.05. (a) Except as provided in subdivision (b), an agreement authorized by this chapter may specify the terms and conditions under which the party acquiring the property may abandon the acquisition, the arbitration proceeding, and any eminent domain proceeding that may have been, or may be, filed. Unless the agreement provides that the acquisition may not be abandoned, the party acquiring the property may abandon the acquisition, the arbitration proceeding, and any eminent domain proceeding at any time not later than the time for filing and serving a petition or response to vacate an arbitration award under Sections 1288 and 1288.2.

(b) If the proceeding to acquire the property is abandoned after the arbitration agreement is executed, the party from whom the property was to be acquired is entitled to recover (1) all expenses reasonably and necessarily incurred (i) in preparing for the arbitration proceeding and for any judicial proceedings in connection with the acquisition of the property, (ii) during the arbitration proceeding and during any judicial proceedings in connection with the acquisition, and (iii) in any subsequent judicial proceedings in connection with the acquisition and (2) reasonable attorney fees, appraisal fees, and fees for the services of other experts where such fees were reasonably and necessarily incurred to protect his interests in connection with the acquisition of the property. Unless the agreement otherwise provides, the amount of such expenses and fees shall be determined by arbitration in accordance with the agreement.

§ 1273.05

Comment. Subdivision (a) of Section 1273.05 permits the parties to the agreement to provide whether and under what conditions the acquirer may abandon the acquisition. If the agreement does not so provide, the party who was to have acquired the property may abandon the acquisition within the time within which a petition or response to vacate an arbitration award may be filed and served. Generally, this period is 100 days after service of the award or 10 days after service of a petition to confirm an award. See Sections 1288-1288.4. See also Coordinated Constr., Inc. v. Canoga Big "A," Inc., 238 Cal. App.2d 313, 47 Cal. Rptr. 749 (1965). Subdivision (b)--which makes clear that the right of the "condemnee" to recover certain expenses is not subject to modification under the arbitration agreement--is consistent with Section 1255a which prescribes the rule governing abandonment of a judicial condemnation action.

Section 1273.06. Recordation of agreements

1273.06. (a) An agreement authorized by this chapter may be acknowledged and recorded, and rerecorded, in the same manner and with the same effect as a conveyance of real property except that two years after the date the agreement is recorded, or rerecorded, the record ceases to be notice to any person for any purpose.

(b) In lieu of recording the agreement, there may be recorded a memorandum thereof, executed by the parties to the agreement, containing at least the following information: the names of the parties to the agreement, a description of the property, and a statement that an arbitration agreement affecting such property has been entered into pursuant to this chapter. Such memorandum when acknowledged and recorded, or rerecorded, in the same manner as a conveyance of real property has the same effect as if the agreement itself were recorded or rerecorded.

Comment. Section 1273.06 permits an agreement authorized by this chapter, or a memorandum thereof, to be acknowledged and recorded to afford "constructive notice" to subsequent purchasers and lienors. Arbitration rules may provide for the escrowing of an instrument of transfer (see, e.g., Sections 1, 44, and 45 of the Eminent Domain Arbitration Rules of the American Arbitration Association (June 1, 1968)), but such an escrow would not, of itself, protect the "condemnor" against subsequent transferees. Section 1273.06 provides a means for obtaining such protection (see Civil Code Sections 1213-1220) and is calculated to make unnecessary the filing of an eminent domain proceeding for no purpose other than to obtain the effect of a lis pendens.

Conforming amendment

Sec. 2. Section 15854 of the Government Code is amended to read:

15854. Property shall be acquired pursuant to this part by condemnation in the manner provided in Title 7 of Part 3 of the Code of Civil Procedure, and all money paid from any appropriation made pursuant to this part shall be expended only in accordance with a judgment in condemnation or with a verdict of the jury or determination by the trial court fixing the amount of compensation to be paid. This requirement shall not apply to any of the following:

(a) Any acquisitions from the federal government or its agencies.

(b) Any acquisitions from the University of California or other state agencies.

(c) The acquisitions of parcels of property, or lesser estates or interests therein, for less than five thousand dollars (\$5,000), unless part of an area made up of more than one parcel which in total would cost more than five thousand dollars (\$5,000) which the board by resolution exempts from this requirement.

(d) Any acquisition as to which the owner and the State have agreed to the price and the State Public Works Board by unanimous vote determines that such price is fair and reasonable and acquisition by condemnation is not necessary.

(e) Any acquisition as to which the owner and the State Public Works Board have agreed to arbitrate the amount of the compensation to be paid in accordance with Chapter 3 (commencing with Section 1273.01) of Title 7 of Part 3 of the Code of Civil Procedure.