#36.60 9/22/75

First Supplement to Memorandum 75-73

Subject: Study 36.60 - Relocation Assistance by Private Condemnors

Attached as Exhibits I and II are letters we have received commenting on the tentative recommendation relating to relocation assistance by private condemnors. Also attached is a copy of the relocation assistance law. Exhibit I (green) approves the tentative recommendation. Exhibit II (yellow) also approves the tentative recommendation, but believes that it should go farther in imposing restrictions on private condemnors; the specific problems raised in Exhibit II are discussed below.

Fair Property Acquisition Policies

Among the comments in Exhibit II is that the real property acquisition policies, Government Code Sections 7267-7267.7, should be made applicable to private condemnors. The staff has no serious objections to this proposal, although we do note two considerations: (1) public utilities are not currently subject to the acquisition policies; and (2) the acquisition policies create no rights or liabilities and do not affect the validity of any condemnation (Govt. Code § 7274). Nonetheless, the staff believes the policies are generally salutary, and should be adopted for private condemnors. If the policies are extended to private condemnors, uniformity and equal protection require the inclusion of privately owned public utilities. The staff would amend both Public Utilities Code Section 600 and the Commission's recommendation, to read:

> 600. A public utility acquiring real property by eminent domain shall comply with the fair acquisition policies, provide relocation advisory assistance and ~~shall~~ make any of the payments required of public entities by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

Comment. Section 600 is amended to make clear that the acquisition of property by eminent domain by a public utility is subject to the fair acquisition policies of the Government Code. See Govt. Code §§ 7267 to 7267.7, inclusive.

7276. A person acquiring real property by eminent domain shall comply with the fair acquisition policies, provide relocation advisory assistance and ~~shall~~ make any of the payments required of public entities by this chapter. This section does 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. (Unchanged.)

Supervision of Relocation by Local Public Entity

Exhibit II also indicates that the relevant local public entity should oversee the relocation assistance efforts of the private condemnor: It should require the private condemnor to submit a satisfactory relocation assistance plan as a precondition to approval of the condemnation; it should be required to find that comparable replacement housing is available as required by Government Code Section 7264.5; its administrative rules and regulations relating to relocation assistance under Section 7267.8 should be applicable to private condemnors; and it should hear any administrative appeals under Government Code Section 7266.

While the staff believes there is merit to these suggestions, we are reluctant to burden the local public entities with what are undoubtedly unwanted administrative duties. We could justify adoption of the first two suggestions (a finding by the local public entity that replacement housing is available and that the private condemnor has an adequate relocation assistance plan) since the local public entity is already required under the Eminent Domain Law to review and pass upon the application of the private condemnor; this additional finding would demand relatively little extra time or effort.

However, to require the local public entity to provide an administrative review of relocation disputes seems unwarranted. Relocation efforts of public

utilities are not subject to an administrative review process; the courts are perfectly capable of enforcing the rights of the property owner through judicial review of disputes under the relocation assistance act. Likewise, to apply local administrative rules and regulations to relocation assistance is unnecessary; and it would be unduly burdensome to require a local public entity to adopt rules and regulations where it has not previously done so merely for the benefit of a private condemnor.

The staff suggests the following amendment to the Eminent Domain Law:

> **1245.340.** The resolution required by this article shall contain all of the following:
>
> (a) A general statement of the public use for which the property is to be taken and a reference to the statute that authorizes the quasi-public entity to acquire the property by eminent domain.
>
> (b) A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification.
>
> (c) A declaration that the legislative body has found and determined each of the following:
>
> (1) The public interest and necessity require the proposed project.
>
> (2) The proposed project is planned or located in the manner that will be most compatible with the greatest good and least private injury.
>
> (3) The property described in the resolution is necessary for the proposed project.
>
> (4) The hardship to the quasi-public entity if the acquisition of the property by eminent domain is not permitted outweighs any hardship to the owners of such property.
>
> (5) There is replacement housing, as described in paragraph (3) of subdivision (c) of Section 7261, available to any person required to move from his dwelling because of the acquisition, and the quasi-public entity has submitted comprehensive plans for implementing Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

Comment. Section 1245.340 is amended to implement the relocation assistance provisions as applied to quasi-public condemnors. See Govt. Code § 7276 (relocation assistance provisions applicable to private condemnors).

The Comment to Government Code Section 7276 should refer to this section.

A comparable change should be made in the tentative recommendation relating to byroads and utility easements.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary

First Supplement to
Memorandum 75-73

EXHIBIT I

SAN DIEGO GAS & ELECTRIC COMPANY
P.O. BOX 1831 SAN DIEGO, CALIFORNIA 92112

FILE NO.
CAA 320

September 11, 1975

California Law Revision Commission
School of Law
Stanford University
Stanford, California 94305

Re: Tentative Recommendation Relating to Relocation Assistance by Private Condemnors, A.B. 278, Proposed New Government Code §7276

Dear Commissioners:

We are writing this letter in support of the above-referenced tentative recommendation concerning the extension of applicability of relocation assistance burdens to private condemnors not currently within the scope of Government Code §§7260-7274 (public entities) or Public Utilities Code §600 (privately owned public utilities).

We view this proposal as a legislative attempt to carry out the major objective of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 by assuring that every condemnee is uniformly treated regardless of whether the condemnor is a public or private entity. Because the right of condemnation is essential to both types of condemnors, with the benefits must come the burdens of providing relocation assistance.

What the new legislation does is to increase the cost of condemnation for private condemnors. A beneficial result that comes from this situation is an additional assurance that the right of condemnation by private as well as public condemnors will be used wisely.

We realize that this new legislation will not directly affect San Diego Gas & Electric Company as we are already subject to relocation assistance payments pursuant to Public Utilities Code §600.

Very truly yours,

Patricia A. Cowett

Patricia A. Cowett
Attorney

PAC:db

First Supplement to

EXHIBIT II

WESTERN CENTER ON LAW AND POVERTY, INC.

3709 WEST 8TH STREET
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 483-1491

DANIEL M. LUEVANO
EXECUTIVE DIRECTOR

ROSALYN M. CHAPMAN
ASSOCIATE DIRECTOR

GORDON B. DIXON
ADMINISTRATOR

September 16, 1975

California Revision Commission
School of Law
Stanford University
Stanford, California 94305

Re: Tentative recommendation relating to relocation assistance by private condemnors

Friends:

I strongly approve the thrust of your tentative recommendation to include private condemnors under the requirements of the California Relocation Assistance law. However, as presently drafted, §7276 would not address issues raised by the existing Government Code §§7264.5, 7266, 7267-7267.7 and 7267.8. None of these sections provide strictly for relocation advisory assistance or payment, and consequently, they would not be included within the purview of §7276. I believe that the restrictions in §7264.5 in regard to the prerequisite of replacement housing should also apply to any condemnor on whom the privilege of using eminent domain is conferred. Section 7264.5 might be implemented in regard to private condemnors by requiring the public entity having jurisdiction over the proposed project to affirmatively find that comparable replacement housing is available; in case that such replacement housing is not available, the private condemnor would have to provide such housing. In connection with §7266, an aggrieved person should also have the opportunity to appeal compliance of the relocation laws by the private condemnor. This provision could be implemented by allowing an aggrieved person the right to appeal to the public entity under whose jurisdiction the proposed project will occur, and by giving that public entity the right to decide upon the competing claims of the parties.

Sections 7267 - 7267.7, relating to encouraging property acquisition by agreement should apply with equal force to private condemnors. I have not had a chance to review AB 278 to determine whether this subject is covered in that legislation. Finally, in regard to §7267.8, the private condemnor should be required to comply with the regulations adopted by the public entity in whose jurisdiction the proposed project will occur.

LEGISLATIVE INFORMATION CENTER: Brian Paddock, Director
1900 K Street, Suite 200 · Sacramento, CA 95814 · (916) 442-0753

In general, it appears that §7276, as presently drafted, is not only underinclusive but is deficient in ensuring an adequate implementation of the provisions of the relocation assistance law. Toward this end, I believe that all public condemnors should be required to submit comprehensive plans for implementing the relocation assistance law to the public entity in whose jurisdiction the proposed project will occur. The public entity should have the responsibility for approving or disapproving such plans, and of monitoring the implementation of those plans by the private condemnor. Approval by the public entity should be a prerequisite to the initiation of any eminent domain proceedings by the private condemnor.

Very truly yours,

Jonathan Lehrer-Graiwer

JONATHAN LEHRER-GRAIWER
Attorney at Law

JLG:sb
cc: Brian Paddock, Esq.

CHAPTER 16. RELOCATION ASSISTANCE [NEW]

Sec.
7260. Definitions.
7261. Relocation advisory assistance by public entity; local offices.
7261.5 Contracts with private entity for services; use of other governmental entities.
7261.6 Local relocation agency; authority to establish relocation plans of public entity; approval [New].
7262. Compensation for displaced persons; amount.
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7263.5 Lease of condominium deemed purchase [New].
7264. Additional payment to displaced individual or family renters; amount.
7264.5 Comparable replacement housing; use of funds; tax assessment information [New].
7265. Additional payment to contiguous property owner; amount.
7265.3 Payments and advice to person who moves as result of rehabilitation or demolition program [New].
7265.4 Expenses of owner; reimbursement [New].
7266. Review by public entity or relocation appeals board [New].
7267. Guidelines for public entities [New].
7267.1 Acquisition by negotiation; appraisal [New].
7267.2 Just compensation; offer of fair market value; written statement [New].
7267.3 Scheduling construction or development; written notice, time [New].
7267.4 Fair rental value; short-term occupier [New].
7267.5 Coercion to compel agreement on price [New].
7267.6 Condemnation proceedings; institution by public entity instead of by owner [New].
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7267.8 Rules and regulations of public entities, priority of federal law [New].
7268. Guidelines by commission of housing and community development for payments and relocation assistance; assistance to public entities.
7269. Status of payments; income tax and public assistance.
7269.1 Status of payments; general assistance recipients; rent schedules [New].
7270. Existence of damages on date of enactment of chapter.
7271. Severability.
7272. Protection of owner or occupant; law governing [New].
7272.3 Legislative intent; minimum requirements; federal funds [New].
7272.5 Existent elements of damage [New].
7273. Relocation assistance for displaced persons [New].
7274. Construction of sections 7267 to 7267.7 [New].

§ 7260. Definitions

As used in this chapter:

(a) "Public entity" includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state when acquiring real property, or any interest therein, in any city or county for public use.

(b) "Person" means any individual, partnership, corporation, or association.

(c) "Displaced person" means any person who moves from real property, or who moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, by a public entity or by any person having an agreement with or acting on behalf of a public entity, or as the

result of a written order from a public entity to vacate the real property, for public use. This definition shall be construed so that persons displaced as a result of public action receive relocation benefits in cases where they are displaced as a result of an owner participation agreement or an acquisition carried out by a private person for or in connection with a public use where the public entity is otherwise empowered to acquire the property to carry out the public use.

(d) "Business" means any lawful activity, except a farm operation, conducted primarily:

(1) For the purchase, sale, lease, or rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Solely for the purpose of Section 7262 for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display, whether or not such display is located on the premises on which any of the above activities are conducted.

(e) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(f) "Affected property" means any real property which actually declines in fair market value because of acquisition by a public entity for public use of other real property and a change in the use of the real property acquired by the public entity.

(g) "Public use" means a use for which real property may be acquired by eminent domain.

(h) "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

§ 7261. Relocation advisory assistance by public entity; local offices

(a) A public entity shall provide relocation advisory assistance to any person, business, or farm operation displaced because of the acquisition of real property * * * for public use.

(b) In giving such assistance, the public entity may establish local relocation advisory assistance offices to assist in obtaining replacement facilities for persons businesses, and farm operations which find that it is necessary to relocate because of the acquisition of real property by the public entity.

(c) Such advisory assistance shall include:

(1) Determining the need, if any, of displaced persons for relocation assistance

(2) Providing current and continuing information on the availability, prices, and rentals of comparable decent, safe, and sanitary housing for displaced persons. and of comparable commercial properties and locations for displaced businesses.

(3) Assuring that, within a reasonable period of time, prior to displacement, to the extent that it can be reasonably accomplished, there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities, and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment, except that, in the case of a federally funded project, a waiver may be obtained from the federal government.

(4) Assisting a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location.

(5) Supplying information concerning federal and state housing programs, disaster loan programs, and other federal or state programs offering assistance to displaced persons.

(6) Providing other advisory services to displaced persons in order to minimize hardships to such persons.

(d) The public entity shall coordinate its relocation assistance program with the project work necessitating the displacement and with other planned or proposed activities of other public entities in the community or nearby areas which may affect the implementation of its relocation assistance program.

§ 7261.5 Contracts with private entity for services; use of other governmental entities

In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under this chapter, a public entity may enter into a contract with any individual, firm, association, or corporation for services in connection with such program, or may carry out its functions under this chapter through any federal, state, or local governmental agency having an established organization for conducting relocation assistance programs. Any public entity may, in carrying out its relocation assistance activities, utilize the services of state or local housing agencies or other agencies having experience in the administration or conduct of similar housing assistance activities.

§ 7261.6 Central relocation agency; authority to establish; relocation plans of public entity; approval

Notwithstanding any other provision of this chapter, any city, county, or city and county may establish a central relocation * * * office to coordinate all relocation activities within the jurisdiction of the local agency. A county relocation * * * office shall have jurisdiction only over those relocation activities which take place within the unincorporated areas of the county. Every public entity within the local agency's jurisdiction (required to do so) shall file the relocation rules and regulations, which it is required to adopt pursuant to Section 7267.8, with the central relocation * * * office and shall file annually its relocation plans by June 1st of each year for the subsequent fiscal year. The central relocation * * * office shall approve or disapprove the public entity's relocation plan by July 1 or the plan will automatically become effective.

If the * * * office disapproves the plan or finds that the plan conflicts in the use of relocation resources with those plans filed by other public entities or that adequate resources are not available in places and at times necessary to meet the relocation needs as set forth in one or more of the plans it shall call a meeting of the public entities concerned as soon as possible. At such meeting the * * * office shall try to resolve such conflicts as exist or insure that adequate relocation resources are developed to meet such needs.

The * * * office may direct modifications of a plan in the case of unresolved conflicts and may extend its approval deadline by 30 days to determine whether such modifications affect such relocation plans. Additional extensions may be granted for periods of 30 days with the consent of all affected parties. Where modification to a relocation plan is directed by the * * * office, the public entity may appeal to the relocation appeals board established pursuant to Section 33417.5 of the Health and Safety Code. If no such relocation appeals board has been established, the public entity may appeal to the legislative body creating the central relocation * * * office.

Approval of a relocation plan will constitute a finding by the * * * office that it has reasonable assurance that adequate relocation resources exist within the requirements of law which will be available at the times required by the plan.

The central relocation * * * office shall coordinate the execution of each public entity's relocation plans and shall share with each public entity making a request the relocation information of all other public entities. The central relocation * * * office may contract with adjoining cities or counties to perform relocation and central relocation services.

State agencies, public entities with displacement of less than 5 percent of the local agency's total local annual displacement based on all relocation plans filed, and public utilities regulated by the Public Utilities Commission with displacement of less than 5 percent of the local agency's total local annual displacement based on all relocation plans filed, shall be exempt from the requirement of approval of their relocation plan prior to its execution. Public utilities regulated by the Public Utilities Commission not otherwise exempted by this paragraph shall also be exempt from such requirement where there is an overriding state interest, as determined by the Director of Housing and Community Development.

A public entity may amend its relocation plan during any fiscal year by filing an amended plan with the central relocation * * * office and obtaining its approval. All amended plans must have approval before execution may occur and the central relocation * * * office shall approve or disapprove amended plans within 30 days or approval will be automatic.

Execution of any relocation plan must be in accordance with the approved relocation plan or the public entity may not displace any persons. Failure to file a relocation plan and obtain approval when required, prior to displacement, may subject the public entity to an order from the central relocation * * * office to desist from any displacement.

§ 7262. Compensation for displaced person: amount

(a) As a part of the cost of acquisition of real property for a public use, a public entity shall compensate a displaced person for his:

(1) Actual and reasonable expense in moving himself, family, business, or farm operation, including moving personal property.

(2) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the public entity.

(3) Actual and reasonable expenses in searching for a replacement business or farm.

(b) Any displaced person who moves from a dwelling who elects to accept payments authorized by this subdivision in lieu of the payments authorized by subdivision (a) shall receive a moving expense allowance, determined according to a schedule established by the public entity, not to exceed three hundred dollars ($300), and in addition a dislocation allowance of two hundred dollars ($200).

(c) Any displaced person who moves or discontinues his business or farm operation who elects to accept the payment authorized by this subdivision in lieu of the payment authorized by subdivision (a), shall receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than two thousand five hundred dollars ($2,500) nor more than ten thousand dollars ($10,000). In the case of a business, no payment shall be made under this subdivision, unless the public entity is satisfied that the business cannot be relocated without a substantial loss of patronage and is not a part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business. For purposes of this subdivision, the term "average annual net earnings" means one-half of any net earnings of the business, or farm operation, before federal, state, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property being acquired, or during such other period as the public entity determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such two-year or such other period. To be eligible for the payment authorized by this subdivision, the business or farm operation shall make available its state income tax records, and its financial statements and accounting records, for audit for confidential use to determine the payment authorized by this subdivision. In the case of an outdoor advertising display, the payment shall be limited to the amount necessary to physically move or replace such display.

(d) Whenever the acquisition of real property used for a business or farm operation causes the person conducting the business or farm operation to move from other real property, or to move his personal property from other real property, such person shall receive payments for moving and related expenses under subdivision (a) or (b) and relocation advisory assistance under Section 7261 for moving from such other property.

(e) Whenever a public entity must pay the cost of moving a displaced person under paragraph 1 of subdivision (a), or subdivision (d) of this section:

(1) The costs of such move shall be exempt from regulation by the Public Utilities Commission.

(2) The public entity may solicit competitive bids from qualified bidders for performance of the work. Bids submitted in response to such solicitations shall be exempt from regulation by the Public Utilities Commission.

§ 7263. Additional payment to displaced dwelling owner; amount

(a) In addition to the payments * * * required by * * * Section 7262, the public entity, as a part of the cost of * * * acquisition, shall make a payment to the owner of real property required for public use which is improved with a * * * dwelling actually owned and occupied by the owner for not less than * * * 180 days prior to the * * * initiation of negotiation for the acquisition of such property.

(b) Such payment, not to exceed * * * fifteen thousand dollars ($15,000), shall be based on the following factors:

(1) The amount, if any, which, when added to the acquisition payment, equals the * * * reasonable cost of a comparable replacement dwelling determined, in accordance with standards established by the public entity, to be a decent, safe and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and the * * * displaced person's place of employment and available on the market.

(2) The amount, if any, which will compensate the displaced owner for any increased interest costs which he is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling. The amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(3) Reasonable expenses incurred by the displaced owner for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(c) Such payment shall be made only to a displaced owner who purchases and occupies a replacement dwelling that meets standards established by the public entity within one year subsequent to the date on which he * * * moves from the dwelling acquired by the public entity or the date on which he receives from the public entity final payment of all costs of the dwelling acquired by the public entity, whichever is the later date.

§ 7263.5 Lease of condominium deemed purchase

For purposes of Section 7263, the leasing of a condominium for a 99-year period, or for a term which exceeds the life expectancy of the displaced person as determined from the most recent life tables in Vital Statistics of the United States, as published by the Public Health Service of the Department of Health, Education, and Welfare, shall be deemed a purchase of the condominium.

§ 7264. Additional payment to displaced individual or family renters; amount

(a) In addition to the * * * payments required by * * * Section 7262, as a part of the cost of acquisition, the public entity * * * shall make a payment to any * * * displaced person displaced from any dwelling not eligible to receive a payment under Section 7263 which was actually and lawfully occupied by such * * * person for not less than 90 days prior to the * * * initiation of negotiation by the public entity for the acquisition of such property.

(b) Such payment, not to exceed * * * four thousand dollars ($4,000), shall be the additional amount which is necessary to enable such * * * person to lease or rent for a period not to exceed * * * four years, or to make the downpayment on the purchase of, a decent, safe, and sanitary dwelling of standards adequate to accommodate such * * * person in areas not generally less desirable in regard to public utilities and public and commercial facilities.

(c) If the payment is to be used as a downpayment for the acquisition of a decent, safe, and sanitary dwelling of such standards, the payment shall not exceed two thousand dollars ($2,000), unless the amount in excess thereof is equally matched by such person.

§ 7264.5 Comparable replacement housing; use of funds; tax assessment information

(a) If comparable replacement housing is not available and the public entity determines that such housing cannot otherwise be made available, the public entity shall use funds authorized for the project for which the real property, or interest thereof, is being acquired to provide such housing.

(b) No person shall be required to move from his dwelling because of its acquisition by a public entity, unless there is replacement housing, as described in paragraph (3) of subdivision (c) of Section 7261, available to him.

(c) For purposes of determining the applicability of subdivision (a), the public entity is hereby designated as a duly authorized administrative body of the state for the purposes of subdivision (c) of Section 408 of the Revenue and Taxation Code.

§ 7265. Additional payment to contiguous property owner; amount

(a) In addition to the * * * payments required by * * * Section 7262, as a cost of acquisition, the public entity * * * shall make a payment to any affected property owner meeting the requirements of this section.

(b) Such affected property is immediately contiguous to property acquired for airport purposes and the owner shall have owned the property affected by acquisition by the public entity not less than * * * 180 days prior to the * * * initiation of negotiation for acquisition of the acquired property.

(c) Such payment, not to exceed * * * fifteen thousand dollars ($15,000), shall be the amount, if any, which equals the actual decline in the fair market value of the property of the affected property owner caused by the acquisition by the public entity for airport purposes of other real property and a change in the use of such property.

(d) The amount, if any, of actual decline in fair market value of affected property shall be determined according to rules and regulations adopted by the public entity pursuant to this chapter. Such rules and regulations shall limit payment under this section only to such circumstances in which the decline in fair market value of affected property is reasonably related to objective physical change in the use of acquired property.

§ 7265.3 Payments and advice to person who moves as result of rehabilitation or demolition program

A public entity may make payments in the amounts prescribed in this chapter, and may provide advisory assistance under this chapter, to a person who moves from a dwelling, or who moves or discontinues his business, as a result of a rehabilitation or demolition program, or enforcement of building codes, by the public entity.

§ 7265.4 Expenses of owner; reimbursement

In addition to the payments required by Section 7262, as a cost of acquisition, the public entity, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the public entity deems fair and reasonable, for expenses the owner necessarily incurred for recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the public entity.

§ 7266. Review by public entity or relocation appeals board

(a) If a relocation appeals board has been established pursuant to Section 33417.5 of the Health and Safety Code, a city by ordinance may designate the board to hear appeals from all public entities, except those state agencies which have an appeal process, on the eligibility for, or the amount of, a payment authorized by this chapter.

(b) Any person aggrieved by a determination as to eligibility for, or the amount of, a payment authorized by this chapter may have the application reviewed by the public entity or by the relocation appeals board if authorized under subdivision (a). The review of a determination by a community redevelopment agency may only be made by a relocation appeals board established pursuant to Section 33417.5 of the Health and Safety Code.

§ 7267. Guidelines for public entities

In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the public programs, and to promote public confidence in public land acquisition practices, public entities shall, to the greatest extent practicable, be guided by the provisions of Sections 7267.1 to 7267.7, inclusive.

§ 7267.1 Acquisition by negotiation; appraisal

(a) The public entity shall make every reasonable effort to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner, or his designated representative, shall be given an opportunity to accompany the appraiser during his inspection of the property.

§ 7267.2 Just compensation; offer of fair market value; written statement

Before the initiation of negotiations for real property, the public entity shall establish an amount which it believes to be just compensation therefor, and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the public entity's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property to be acquired prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant, will be disregarded in determining the compensation for the property. The public entity shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

§ 7267.3 Scheduling construction or development; written notice; time

The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling, assuming a replacement dwelling will be available, or to move his business or farm operation, without at least 90 days' written notice from the public entity of the date by which such move is required.

§ 7267.4 Fair rental value; short-term occupier

If the public entity permits an owner or tenant to occupy the real property acquired on a rental basis for a short term, or for a period subject to termination by the public entity on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

§ 7267.5 Coercion to compel agreement on price

In no event shall the public entity either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

§ 7267.6 Condemnation proceedings; institution by public entity instead of by owner

If any interest in real property is to be acquired by exercise of the power of eminent domain, the public entity shall institute formal condemnation proceedings. No public entity shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

§ 7267.7 Acquisition of entire property; avoidance of uneconomic remnant

If the acquisition of only a portion of a property would leave the remaining portion in such a shape or condition as to constitute an uneconomic remnant, the public entity shall offer to and may acquire the entire property if the owner so desires.

§ 7267.8 Rules and regulations of public entities; priority of federal law

* * * (a) All public entities shall adopt rules and regulations to implement payments and to administer relocation assistance under the provisions of this chapter * * *. Such rules and regulations shall be in conformity with the guidelines adopted by the Commission of Housing and Community Development pursuant to Section 7268. Such rules and regulations shall, to the fullest extent possible, also be consistent as to federal and nonfederal projects.

(b) Notwithstanding the provisions of subdivision (a), with respect to a federally funded project, a public entity shall make relocation assistance payments and provide relocation advisory assistance as required under federal law.

§ 7268. Guidelines by commission of housing and community development for payments and relocation assistance; assistance to public entities

* * * (a) The Commission of Housing and Community Development shall adopt guidelines for the implementation of payments under this chapter and for the uniform administration of relocation assistance by public entities carrying out the provisions of this chapter.

(b) The Commission of Housing and Community Development shall, to the fullest extent possible, conform such guidelines to the Presidential Guidelines promulgated by the executive office of the President of the United States, Office of Management and Budget, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646),[1] and the rules and regulations promulgated pursuant thereto.

(c) Such guidelines shall provide that the payments and assistance required of a public entity under this chapter shall be administered in a manner that is fair and reasonable and as uniform as practicable. The guidelines shall also provide that the payments shall be made as promptly as possible or, in hardship cases, in advance. In addition, such guidelines shall provide a reasonable mileage limitation in determining the actual and reasonable expense in moving a business for purposes of Section 7262.

(d) In adopting such guidelines the Commission of Housing and Community Development shall consult with the public entities carrying out the provisions of this chapter.

(e) The Department of Housing and Community Development shall provide consulting and technical assistance to public entities in drafting and amending rules and regulations to implement payments and to administer relocation assistance under this chapter.

§ 7269. Status of payments; income tax and public assistance

No payment received by any person under this chapter shall be considered as income for the purposes of the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, nor shall such payments be considered as income or resources to any recipient of public assistance and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under * * * any other provisions of law.

§ 7269.1 Status of payments; general assistance recipients; rent schedules

Where a recipient of relocation benefits payments under federal or state law is also a general assistance recipient under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code and two or more rent schedules apply to the recipient, the highest shall prevail and any excess amount over lower rent schedule shall not be counted as income or resources for general assistance purposes under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

§ 7270. Existence of damages on date of enactment of chapter

Nothing contained in this chapter shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of damages not in existence on the date of enactment of this chapter.

§ 7271. Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

§ 7272. Protection of owner or occupant; law governing

If under any other provision of law of this state the owner or occupant of real property acquired by a public entity for public use is given greater protection than is provided by sections 7267.2 to 7267.6, inclusive, the public entity shall also comply with such other provision of law.

§ 7272.3 Legislative intent; minimum requirements; federal funds

It is the intent of the Legislature by this chapter, to establish minimum requirements for relocation assistance payments by public entities. This chapter shall not be construed to limit any other authority which a public entity may have to make other relocation assistance payments, or to make any relocation assistance payment in an amount which exceeds the maximum amount for such payment authorized by this chapter.

Any public entity may, also, make any other relocation assistance payment, or may make any relocation assistance payment in an amount which exceeds the maximum amount for such payment authorized by this chapter, if the making of such payment, or the payment in such amount, is required under federal law to secure federal funds.

§ 7272.5 Existent elements of damage

Nothing contained in this article shall be construed as creating in any condemnation proceeding brought under the power of eminent domain, any element of damages not in existence on the date the public entity commences to make payments under the provisions of this article as amended by the act which enacted this section at the 1971 Regular Session of the Legislature.

§ 7273. Relocation assistance for displaced persons

Funds received pursuant to Sections 2106 and 2107 of the Streets and Highways Code may be expended by * * * any city to * * * provide relocation advisory assistance, and to make relocation assistance payments, to displaced persons * * * displaced because of the construction of city highways or streets. . . .

§ 7274. Construction of sections 7267 to 7267.7

Sections 7267 to 7267.7, inclusive, create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.