



Ohio Revised Code Section 163.59 Policy for land acquisition.

Effective: September 6, 2002

Legislation: House Bill 426 - 124th General Assembly

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 many state and federally assisted programs, and to promote public confidence in public land acquisition practices, heads of acquiring agencies shall do or ensure the acquisition satisfies all of the following:

(A) The head of an acquiring agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(B) In order for an acquiring agency to acquire real property, the acquisition shall be for a defined public purpose that is to be achieved in a defined and reasonable period of time. An acquisition of real property that complies with section 5501.31 of the Revised Code satisfies the defined public purpose requirement of this division.

(C) Real property to be acquired shall be appraised before the initiation of negotiations, and the owner or the owner's designated representative shall be given a reasonable opportunity to accompany the appraiser during the appraiser's inspection of the property, except that the head of the lead agency may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value. If the appraisal values the property to be acquired at more than ten thousand dollars, the head of the acquiring agency concerned shall make every reasonable effort to provide a copy of the appraisal to the owner. As used in this section, "appraisal" means a written statement independently and impartially prepared by a qualified appraiser, or a written statement prepared by an employee of the acquiring agency who is a qualified appraiser, setting forth an opinion of defined value of an adequately described property as of a specified date, supported by the presentation and analysis of relevant market information.

(D) Before the initiation of negotiations for real property, the head of the acquiring agency concerned shall establish an amount that the head of the acquiring agency believes to be just



compensation for the property and shall make a prompt offer to acquire the property for no less than the full amount so established. In no event shall that amount be less than the agency's approved appraisal of the fair market value of the property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for that improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property.

The head of the acquiring agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount that the head of the acquiring agency established as just compensation. Where appropriate, the just compensation for real property acquired and for damages to remaining real property shall be separately stated.

The owner shall be given a reasonable opportunity to consider the offer of the acquiring agency for the real property, to present material that the owner believes is relevant to determining the fair market value of the property, and to suggest modification in the proposed terms and conditions of the acquisition. The acquiring agency shall consider the owner's presentation and suggestions.

(E) If information presented by the owner or a material change in the character or condition of the real property indicates the need for new appraisal information, or if a period of more than two years has elapsed since the time of the appraisal of the property, the head of the acquiring agency concerned shall have the appraisal updated or obtain a new appraisal. If updated appraisal information or a new appraisal indicates that a change in the acquisition offer is warranted, the head of the acquiring agency shall promptly reestablish the amount of the just compensation for the property and offer that amount to the owner in writing.

(F) No owner shall be required to surrender possession of real property before the acquiring agency concerned pays the agreed purchase price, or deposits with the court for the benefit of the owner an amount not less than the agency's approved appraisal of the fair market value of the property, or the amount of the award of compensation in the condemnation proceeding for the property.

(G) The construction or development of a public improvement shall be so scheduled that no person lawfully occupying real property shall be required to move from a dwelling, or to move the person's



business or farm operation, without at least ninety days' written notice from the head of the acquiring agency concerned of the date by which the move is required.

(H) If the head of an acquiring agency 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 on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(I) In no event shall the head of an acquiring agency 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 real property.

(J) When any interest in real property is acquired by exercise of the power of eminent domain, the head of the acquiring agency concerned shall institute the formal condemnation proceedings. No head of an acquiring agency shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of the owner's real property.

(K) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the head of the acquiring agency concerned shall offer to acquire that remnant. For the purposes of this division, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the head of the agency concerned has determined has little or no value or utility to the owner.

An acquisition of real property may continue while an acquiring agency carries out the requirements of divisions (A) to (K) of this section.

This section applies only when the acquisition of real property may result in an exercise of the power of eminent domain.