

RESOLUTION NO. 13 HAS NOT BEEN
APPROVED BY THE BOARD

METROPOLITAN SERVICE DISTRICT

L A N D

A C Q U I S I T I O N

P O L I C Y

RESOLUTION NO. 13



ACQUIRING LAND FOR SOLID WASTE FACILITIES
A DESCRIPTION OF THE METROPOLITAN SERVICE DISTRICT'S
LAND ACQUISITION POLICY

The continuing and increasing demand for expanded Solid Waste facilities in the Metropolitan Area imposes upon the Metropolitan Service District the difficult task of acquiring land to meet this need. It is the aim and desire of the District to obtain these necessary land rights with fairness and equity to all.

The District is empowered to acquire private property for public use in order to provide the greatest good for the greatest number. With this power goes the obligation to protect the rights of the individual property owner. The Metropolitan Service District thus has a dual responsibility--recognition and protection of the individuals who are affected by acquisition of land and competent and efficient service to the public.

APPRAISAL PROCEDURE

MSD's appraisal procedures, which are designed to protect both the property owner and the taxpayer's dollar, call for an appraisal of every parcel of land. These appraisals are performed by a staff appraiser, a professional fee appraiser, or both. When business and commercial properties are involved, more appraisers may be assigned. The property owner or his designated representative will be given an opportunity to accompany the appraiser during his inspection of the property.

The appraisers consider every indicator of value. Their differences in findings, if any, are studied and reconciled. The results are checked by the District officials and then approved for acquisition.

This thoroughness, plus the busy work schedules of the professional fee appraisers, explains the occasional delays between the time of the appraisal and the arrival of the Property Agent.

THE RIGHT OF WAY AGENT

The Property Agent who calls on the property owner has studied the appraisal and can illustrate with maps and other data how the property acquisition will affect the property. The Agent has been authorized to recommend a price and obtain a contract to purchase the property, which contract is subject to approval of his supervisors and the Board of Directors. It should be noted that the Agent is unable, under the procedures governing him, to engage in "horse trading"; he is confined to those monetary values indicated by appraisal.

It is desirable to complete acquisition and transfer as soon as possible, but not at the expense of the owner's thoughtful consideration of the Districts proposal.

MARKET VALUE

Before the initiation of negotiations for real property, the MSD will establish an amount which is believed to be just compensation and will make a prompt offer to acquire the property for the full amount so established. In no event will the amount be less than the approved appraisal of the fair cash market value of the property. Fair cash market value may be defined as the price a willing buyer would pay for a property offered by a willing seller, with neither party having any obligation to either buy or sell. This is known as the "willing buyer-willing seller" concept and is the basis for "market value".

In instances in which only a portion of a property is to be acquired, the compensation is based on either the value of the land taken and damages to the remainder, if any, or the "before-and-after" method. This means that the owner's loss is equal to the difference in the market value of his property before the District's acquisition and its market value immediately thereafter.

Any decrease or increase in the fair cash market value of the 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 such 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.

Property damage payments, under Oregon law, can be made only to those persons whose property is actually taken or used by the Metropolitan Service District.

QUESTIONS AND ANSWERS

ACQUISITION

1. What authority does the Property Agent have in acquiring the property?
The Agent has authority to attempt to agree as to price and to submit his recommendation for presentation to the Board of Directors of the MSD.
2. Can the Property Agent make a formal offer for the property?
No, he cannot. Only the Board of Directors has authority to make an offer. The Agent may recommend a price for the necessary parcel.
3. Is earnest money received if contract is signed?
No. If the contract is accepted by the Board of Directors, the amount involved is mailed after the processing of the

option and/or deed to escrow.

4. What course does the property owner have if negotiations fail?
He has the right to have a jury hear the case and make an award.

PAYMENT

1. Who prepares the deed and clears the title?

The MSD office prepares and records most of the documents necessary to convey clear title; however, it is the property owner's obligation to secure signatures on any documents which may be necessary to provide clear title.

2. How does the property owner know the MSD will fulfill its obligation?

The contract is binding even after the deed is signed. The District is bound by this agreement as to its own obligations; and, by the same token, it cannot exceed the authority contained therein.

3. Can the property owner rent or buy buildings?

Unless other specific arrangements are made, buildings will be sold at public auction after proper notification in the newspapers. All sales and rentals are handled by the MSD.

VALUE

1. How does the District arrive at the value of the property?
Real estate appraisals are prepared and submitted by staff or fee appraisers, or both.

A staff appraisal is one which is prepared by an employee of the District who is qualified by education, training, and experience to make property appraisals.

A fee appraisal is one prepared by a professional appraiser who is employed for a particular job. He is not a District employee, but an independent appraiser whose services are generally available to anyone wishing to retain him.

MOVING IMPROVEMENTS

The law states that the property owner is entitled to money for his property. However, if he wishes to have his house or buildings moved, this may be done provided certain conditions are met.

The property owner must agree to such a move, and the total cost to the District must be less than a cash purchase.

The property owner must make his own arrangements for moving the building. The District is not able to undertake the work nor to contract the work for the owner.

PAYMENT

An understanding of the processing of a signed agreement and the payment by check will alleviate some of the concern about a seemingly delayed payment.

The purchase agreement must be approved by the Board of Directors. After approval, the property owner is notified of acceptance and conveyance of the title and payment may proceed. Payment will be made when a warranty deed conveying clear title is recorded in the appropriate County records.

Any encumbrances to the title, such as unpaid taxes, assessments, mortgages, outstanding leases, or the like, must be cleared by releases prior to recordation of the deed. At the time the deed is available for recording, the District or Escrow will prepare a check in payment for the property. Under normal circumstances, in which no cloud obscures the title, about four weeks elapse between the time a contract and/or deed is received from the property owner and the time a check is mailed to him.

Ordinarily, District possession of property will not be required until 30 days after payment is tendered unless the owner has voluntarily agreed to earlier possession. In the event the property owner is unable to convey and clear title satisfactorily to the District or in the event the District and the property owner cannot reach a mutually-satisfactory agreement, a condemnation action will be filed and the amount established by the District as just compensation will be deposited with the court for distribution in accordance with the order of the court.

POSSESSION

At the time negotiations are commenced with a property owner, all tenants on the property as well as the owner will be notified in writing that it is the intent of the District to acquire the property. Both tenant and owner will be advised in writing that it will not be necessary to give up possession of the property as far as the District is concerned during the ensuing 90-day period. The notice in writing will further state that possession may be required by the District at any time after the 90-day period; however, the actual date for vacating the property will be stated in a second written notice.

The District is aware of the need of a reasonable time for relocation. If a property is not needed for several months, continued occupancy may be permitted at a reasonable rental through the District.

EMINENT DOMAIN

The property owner need not accept the District's offer or enter into an agreement he feels to be unfair. A refusal is simply a case of disagreement between the two parties on the value of the property. The MSD, in expenditure of public funds, is restricted to competent appraisals in ascertaining fair cash market value.

Only in the event the parties are unable to agree as to the compensation to be paid, or the owner cannot clear title, will a condemnation suit be filed. Time for an extended discussion on some projects may not be available if the District and the users are to avoid the loss of considerable money due to any delay in a project. Discussions can, of course, continue even after a suit is filed. The filing of the suit permits the District, under Oregon law, to authorize the contractor to enter on the property.

DISTRICT OFFICE

For the service and convenience of those affected, the Metropolitan Service District maintains a fully-staffed office in the following location.

6400 S.W. Canyon Court
Portland, Oregon 97221
Telephone 297-3726

Persons having questions concerning property matters are encouraged to contact this office.