

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON D. C. 20548

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FILE: B-148044

DATE:

DEC 29 1975

MATTER OF:

Helen C. Hampson - Relocation Assistance

DIGEST:

Tenant who vacated premises subsequent to written purchase offer by Architect of the Capitol qualifies as "displaced person" and is entitled to benefits applicable to displaced tenants under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, since Government made firm offer to purchase property from owner, the tenant moved after this offer, and Government actually acquired property.

This decision is in response to the request by the Architect of the Capitol for our decision as to whether a tenant who vacated certain premises after the Government made a firm written offer to purchase the property but before the contract of sale was executed is eligible for relocation benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Relocation Act), Pub. L. No. 91-646, January 2, 1971, 84 Stat. 1894, 42 U.S.C. § 4601 (1970).

The payment request was received from a tenant, Helen C. Hampson, who vacated premises which were the object of acquisition by the Architect of the Capitol. Congress, by Act of October 31, 1972, Pub. L. 92-607, 86 Stat. 1498, 1510, the Supplemental Appropriation Act, 1973, appropriated funds to enable the Architect of the Capitol to obtain by purchase, condemnation, transfer or otherwise real property located in certain lots contained in Square 724 in the District of Columbia, including lot 838 containing the premises occupied by the claimant tenant. On March 6, 1974, the Architect of the Capitol made a written purchase offer to the owner of the premises. Ms. Hampson vacated the premises on August 15, 1974. Thereafter, a contract with the owner of the property was entered into on September 6, 1974, and title to the property was vested in the United States by a general warranty deed executed on November 6, 1974. On March 31, 1975, the Architect of the Capitol issued a formal notice to the tenants to vacate the premises.

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The tenant states that although she vacated her apartment prior to either actual acquisition of the property by the Government or an order to vacate from the Government, she moved solely because of her knowledge of the Government's impending acquisition of the property. She knew negotiations to acquire this property, pursuant to the Supplemental Appropriations Act, 1973, were underway and that a firm offer to purchase had been made to the property's owner.

The benefits of the Relocation Act extend only to a "displaced person," a term defined in pertinent part by the act to include:

"any person who moves from real property as a result of the acquisition of such real property or as the result of the written order of the acquiring agency to vacate real property for a program or project undertaken by a Federal agency"
Relocation Act. § 101(6).

Inasmuch as the tenant in this case vacated the premises prior to the acquisition or to the issuance of a formal notice to the tenants from the Architect of the Capitol, in order for us to find that the present claimant is entitled to the benefits of the Act, we must determine that she moved as a result of the acquisition of the property.

In a recent decision of this Office, 54 Comp. Gen. 819 (1975), we stated that Relocation Act benefits are not available to persons who vacate property in the "mere anticipation or expectation that there may be an acquisition by the United States." This decision concerned tenants who had vacated leased premises after GSA had made a solicitation for offers from all property owners in the general geographic vicinity. We held that these tenants were not eligible for Relocation Act benefits since the vacating of the premises by the tenant could be characterized as having been made in mere "expectation of acquisition." The decision emphasized the fact that by making a public solicitation for offers, "GSA had not legally committed itself" to acquiring the premises occupied by the claimants. The lack of a "commitment" to acquire by the Government indicated that the movement of the tenants was not a result of the acquisition but merely in expectation of the possibility of such an acquisition.

In the present case, the United States had taken two actions prior to the time that the claimant vacated: (1) Congress had authorized the Architect of the Capitol to condemn or purchase the specific

property in question; and (2) the Architect of the Capitol had made a written purchase offer to the owner of the premises.

The authorization and appropriation of funds to condemn or purchase this property is not, in itself, such a "commitment" by the United States to acquire the land as to entitle tenants vacating thereafter to the benefits of the Relocation Act on the basis that they moved "as a result of the acquisition" of the property. The legislation could have been repealed or modified or the actual acquisition might not have taken place for many years. Cf. Danforth v. United States, 308 U.S. 271, 286 (1939).

However, the additional action of the making of a firm offer can constitute such a commitment by the United States so as to characterize Ms. Hampson and other tenants vacating thereafter as "displaced persons" who moved "as a result of the acquisition" of their property. While it is true that such an offer may be revoked, it creates a legal obligation on the part of the United States to comply with the contract which will be formed if and when the owner-offeree accepts the offer. Thus, some of the Relocation Act's major benefits, as provided by sections 203 and 204 thereof, are available only to those occupying the premises for specified periods prior to the "initiation of negotiations," a phrase widely interpreted by various Government agencies to be the first time a firm offer to acquire is made.

Of course, in order for a claimant to be entitled to the Relocation Act benefits, the acquisition must be completed by purchase or condemnation. A claimant who moves before the acquisition is completed will not be entitled to benefits unless the acquisition is, in fact, completed. Only then can the claimant be said to have "moved as a result of the acquisition" of the property.

In summary, where the United States makes an authorized offer to acquire property, tenants of that property who move after the date of the offer may be said to have moved "as a result of the acquisition of such real property" if the acquisition is subsequently completed. Accordingly, if otherwise eligible, Ms. Hampson may be considered a "displaced person" entitled to the applicable benefits of the Relocation Act.

R.F. KILGORE

Deputy

Comptroller General
of the United States