

Displacement and Life Estates

Determining relocation benefits for life tenants

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One of the most unusual situations that relocation professionals may encounter during their careers occurs when a life estate holder occupies the property being acquired. Determining which specific relocation benefits apply can be challenging because of the unique nature of this partial interest in property. While the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) does not specifically define a life estate, it is simply referred to as a form of ownership under the definition “Owner” (49 CFR §24.2 (a)(20)), having “less-than-full-fee interest in real property” (49 CFR §24.101 (c) (1)).

What It Is

While the concept of the life estate dates back to ancient times, today it is primarily used as an estate planning tool. The use of a life estate can often avoid probate and ensure that the property goes to the persons chosen by the original property owner. For example, the original owner may convey the property to her son but reserve a life estate for herself, thus becoming a life tenant. She may use

and occupy the property while alive, with the rest of the property rights resting with her son, the life estate grantor. Upon her death, the property would go to the son. If, after the end of the life estate, the property goes to someone other than the grantor of the life estate, that person is referred to as a remainderman. A reversion to the life estate grantor may also occur in the event of a breach of duties on the part of the life tenant. Such obligations usually involve the duty to pay expenses like property taxes and utility costs, and to protect the property from any kind of destruction. These responsibilities are often defined under state law.

The original owner might also reserve a life estate for herself while giving up other property rights for financial reasons. For example, if the owner has a large tract of land where oil or minerals are found, she might

convey her property to a mining or oil drilling company but reserve the right to occupy the family home on the property during her lifetime. She would have the benefits of receiving income from the mineral or oil production while remaining on the property. A life estate also includes the right to occupy the property, often exclusively. A life estate frequently includes many other rights associated with ownership, like the right to rent or lease the property for income, or a right to encumber or even convey interest to another. However, all the rights, including those conveyed to others, are extinguished upon the death of the original life tenant.

A life estate can be formed in various ways, but there should always be a written instrument creating it. No specific wording is required as long as the intents

of all parties are clearly stated. It is essential to obtain the documentation pertaining to the creation of a life estate, understand the exact nature and terms of the governing instrument, and to identify and contact all parties to the arrangement. This will ensure that all interests in the parcel are properly terminated prior to conveying the property to the acquiring agency.

How to Proceed

Whenever a life estate property is identified, the acquisition and relocation agents should start by working closely with the appraiser. State law usually dictates the apportionment of acquisition proceeds from the purchase of the subject property between the life estate holder and the other rights holders. For example, under California law, because a life estate is considered property, the acquiring agency must make a determination of just compensation and make a written offer to the life tenant. In California, state law grants the life tenant (and the holder(s) of the reversionary or remainder interest(s)) the ability to convey the property to the acquiring agency.

Equally important is understanding the value placed upon the interest of the life estate holder by the appraiser. Valuing the interest of the life tenant is complex, and the relocation agent should review the appraisal carefully. Knowing the amount of just compensation due to the life tenant is essential for computing replacement housing benefits. However, not all jurisdictions may require an offer of just compensation to a life tenant. If the life tenant's

interest is not separately stated in the appraisal report, parties to the life estate arrangement may reach their own agreement about the value of their shares. A good appraisal report should include a section on life estate valuation, where allowed by state law.

In the next article in this series, we will discuss the Uniform Act's perspective on the life estate holder in terms of determining relocation benefits. We will also explore what benefits the life estate holder should be offered and how they may qualify for both moving and replacement housing payments. ★



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