



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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OFFICE OF GENERAL COUNSEL

IN REPLY
REFER TO:

B-165511

MAR 21 1978

The Honorable Martha Keys
House of Representatives

Dear Ms. Keys:

This is in response to your letters of January 10 and 31, 1978, relating to the Federal Government's disposal of real property originally acquired by eminent domain. You asked for our views concerning the rights of persons whose land was taken by eminent domain to repurchase the land from the Government when it is no longer needed for the purpose for which it was taken.

The Federal Government's authority to acquire any interest in land by eminent domain proceedings is codified in various provisions of the United States Code. See for example 40 U.S.C. 490(c) and 10 U.S.C. 2663. When, pursuant to one of these provisions, the Government takes total ownership of the land, the original owner retains no residual rights in the property. Therefore, when the Government disposes of the property at a later time, the fact that a person originally owned the property does not give that person any greater right to purchase the land than any other member of the public would have.

The disposal of such property is provided for in the Federal Property and Administrative Services Act of 1949, as amended, and its implementing regulations. These regulations require the property first to be screened against the needs of other Federal agencies. Property excess to the needs of all Federal agencies is considered surplus and disposed of outside the Government. Surplus property may be offered to State and local governments or to other users for purposes that serve the public welfare before being offered for sale to the public. If the property is offered for sale to the public, 40 U.S.C. 484 requires, as a general rule, public advertising for bids, with sale to the highest bidder. The original owner, of course, would have the same right as anyone else to bid at such a sale.

40 USC 471 (1970)

One circumstance in which the original owner would have the right to repurchase the excess land from the Government would be if Congress passes a law providing the former owner with the right to repurchase prior to its being offered for sale to the public if the land is not needed by another Federal agency or State or local government. An example of such a law is enclosed. Another situation in which the original owner would have a right to repurchase would be where the deed transferring the property from the original owner provides the original owner with the right of repurchase. It is our understanding that GSA does not currently enter into this type of deed.

Sincerely yours,

Paul G. Dembling

Paul G. Dembling
General Counsel

Enclosure