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

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B-148044

JAN 7 1974

The Honorable George M. White
Architect of the Capitol

Dear Mr. White:

Your letter of November 9, 1973, requests our decision on a matter concerning the propriety of furnishing benefits under the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, approved January 2, 1971, Pub. L. 91-646, 84 Stat. 1894, 42 U.S.C. 4601, et seq. The letter states that you plan to give a notice to vacate to the occupants of a small Government-owned apartment house on Capitol Hill, which was acquired by your office in August, 1970, for the purpose of constructing a Federal project. Most of the present tenants were residing on the property when it was acquired by the Government, but several were permitted to occupy the property as tenants of the Government subsequent to the date of acquisition.

As indicated in your letter, it is clear from the act and our decision of November 20, 1972, B-148044, 52 Comp. Gen. 399 (1972), that tenants residing on property prior to the time it was acquired by the Government for a Federal project are entitled to benefits under the act if they moved from the property on or after January 2, 1971, the effective date of the act, notwithstanding the fact that the Government acquired the property prior to that date. Your question concerns the propriety of providing appropriate relocation benefits, i.e., moving and related expenses under section 202 of the act (42 U.S.C. 4622), and relocation assistance under section 205 of the act (42 U.S.C. 4625), to persons whose tenancy commenced after the property was acquired by the Government.

Section 202 of the act (42 U.S.C. 4622), provides in pertinent part as follows:

> "(a) Whenever the acquisition of real property for a project or program undertaken by a Federal agency in any State will result in the displacement of any person on or after the effective date of this Act, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head for--" (Underscoring supplied.)

[Propriety of Relocation Benefits]

B-091976

Section 205 (42 U.S.C. 4625), provides as follows:

> "(a) Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after the effective date of this section, the head of such agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection (c) of this section. * * *" (Underscoring supplied.)

A "displaced person" is defined by section 101(6) of the act (42 U.S.C. 4601(6)), as,

> "* * * any person who, on or after the effective date of this Act, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, 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 * * *."

As stated in your letter, this definition would appear broad enough to include the tenants in question, since they will move from the property as the result of a written order from your agency to vacate real property for a program or project undertaken by a Federal agency.

However, both section 202 and section 205 begin with the words:

> "Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person * * *."

Hence, not only must a person be a "displaced person" within the quoted definition in order to be eligible for the benefits provided by the act, but the displacement must result from the acquisition of real property for a program or project undertaken by a Federal agency. Obviously, the only persons who can be "displaced" by the acquisition of the property are those who are "placed" (that is, lawfully occupying the property) on the property at the time of or before such acquisition. No one who lawfully moves onto the property subsequent to its acquisition for a project can be said to be "displaced" as the result of the acquisition, notwithstanding that when he does move from the property he may do so as the result of a

written order of the acquiring agency, as provided in the quoted definition. In such circumstances, the person is displaced, not as a result of the acquisition of the property by the agency, but as a result of the determination of the agency to commence construction of the project.

Moreover, as indicated in your letter, Senate Report No. 91-488, accompanying the Senate-approved version of S. 1, 91st Congress, the derivative source of Pub. L. 91-646, stated that section 233 of the bill as then approved by the Senate "would make eligible for relocation relief residents who and businesses which remained on, or moved to, property after it was acquired by a Federal agency * * *." (Page 3 of report.) However, as likewise stated in your letter, section 233 was deleted from the final version of the bill and was replaced by section 219, having limited application to a specified area in New York City. This action on the part of the Congress would appear to indicate an intent that only persons in the specified area would be entitled to the benefits provided by the act if they moved to the property after its acquisition.

Hence, the benefits provided by the act may be furnished only to those lawful tenants of the small apartment house whose tenancy commenced before the acquisition of the property by the Government and who moved from the property subsequent to such acquisition.

Sincerely yours,

R.F.KELLER

Deputy Comptroller General of the United States