

BOARD RULE NO. 22

Adopted: January 22, 2007

Subject: Real Property Acquisition Policy

Summary: This rule sets forth the general policy of the Corporation concerning acquisition of real property for Corporation projects and delegates authority concerning that acquisition.

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Real Property Acquisition Policy

1. PURPOSE

The Alaska Railroad Corporation (ARRC) is authorized by its governing statutes, AS 42.40.250(7), to acquire interests in land, which may be used for any legitimate corporate purpose under AS 42.40, the Alaska Railroad Corporation Act. ARRC is required by AS 42.40.180 to enact rules to carry out its functions. The purpose of this rule is to adopt principles to guide the corporation in land acquisition and thereby enable corporate staff to efficiently and effectively pursue certain kinds of capital projects, particularly in projects where federal funding is involved.

2. BACKGROUND

From time to time, ARRC may realign or extend its track or expand or relocate operating facilities, for which acquisitions of land corridors and parcels may be necessary. When ARRC acquires property with federal financial assistance, there are certain federal and state statutes and regulations that apply. These include the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (42 U.S.C. §4601 et seq.), regulations promulgated pursuant to that statute (49 C.F.R. Part 24), and Alaska Statutes 34.60.010-.150. In addition, the corporation must determine whether fee simple title, or a lesser interest in land, should be acquired in individual cases.

3. POLICY

In conformance with the above stated federal and state laws and regulations, the policy of the ARRC concerning ARRC projects involving federal financial assistance is:

A. To ensure that owners of real property to be acquired for such projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in ARRC's property acquisitions programs;

B. To ensure that persons displaced as a direct result of such projects are treated fairly, consistently, and equitably so that such displaced persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and

C. To implement ARRC's corridor or "right of way" program in a manner that is efficient and cost effective.

The quality of title to be acquired by the corporation shall be a fee simple estate unless the corporation determines, on a case-by-case basis, that only a lesser estate may be reasonably obtained under the circumstances.

The statement of policy in this section of this rule creates no rights of any kind for landowners, contractors, consultants, or any other persons. Compliance with it is solely within the discretion of the ARRC, may not be enforced in any judicial proceeding, and is not a condition to the exercise of ARRC's power of eminent domain.

4. AUTHORITY FOR ACQUISITIONS

Exercise of the power of ARRC to acquire property for railroad transportation purposes by eminent domain pursuant to AS 42.40.385 may only be authorized by the Board through approval of a decisional document describing that action.

Except for acquisition of real property by eminent domain, the President and Chief Executive Officer or his designee is authorized to implement this policy and acquire real property for federally-funded projects subject to all other applicable corporate limitations including, but not limited to, approved budgets, authorizations for expenditure, the corporation's approval authority guide, and the corporation's program of projects. The President and Chief Executive Officer may, when he deems it appropriate and practical, apply this policy to real property acquisitions by the corporation that do not involve federal financial assistance.

The President and Chief Executive Officer may, on a case-by-case basis, authorize the acquisition of less than a fee simple interest in property if he determines a lesser interest to be appropriate and practical under the circumstances. Factors to be considered may include but are not limited to price, long term intended use, and subsurface resources.