

EXTRACT FROM INSTRUCTIONS FOR THE FIRING. REQU~
AND ACQUISITION OF LANDS & BUILDINGS

CHAPTER -5

METHOD OF DETERMINATION OF COMPENSATION

19. (i) Under sub-section (1) of Section 30 of the Defence of India Act, 1962, the following types of compensation are payable :

- (a) Rental which is commonly known as 'recurring compensation in respect of requisitioned properties. This should not include any liability for which a tenant is generally not liable;
- (b) Compensation to cover expenses, if any, incidental to the change of residence or places of business of the person interested in the property. This is commonly called 'disturbance of requisition of a property, expenses if any, incidental to 'move back' into the property may also be paid provided the same person reoccupies the property within two months of the date of the release for the same purpose for which it was occupied immediately prior to requisition. Such 'move back' expenses shall not exceed the amount of "disturbance claim" paid at the time of requisition.
- (c) Compensation commonly known as 'Initial compensation', due to the damage caused to the property to adopt the same for military use, e.g. compensation for trees felled, huts demolished, tanks filled, crop destroyed and in respect of building demolitions carried out therein, the time of entry into the property or immediately thereafter;
- (d) Compensation due to damage, if any, other than (c) above, caused to the property including fixtures and fittings during the period of occupation less depreciation which might normally have been occasionally by fair wear and tear. This is commonly known as 'terminal compensation'. The basic principle is that the Govt is liable for reinstatement of the property to its condition at the time of requisition, fair wear and tear excepted.
- (e) If, immediately on release, a property requires abnormal repairs due to the damage attributable to Govt occupation, and is unfit for the use of occupation to which it was put immediately prior to its requisition, the person interested may be paid compensation to reimburse him for the loss of beneficial occupation of the property released, commensurate with the time required to repair the damages, subject to a maximum of two months rent paid during the period of requisition.

(ii) For the purpose of fair assessment of compensation, it is necessary that an evaluation of the property, crops, trees, fixtures, fittings etc. as on the date of requisition should be prepared. Such evaluation will be advantageous to negotiate with land owners.

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The valuation of immovable property, is however, not an exact science. The price being constantly varying according to the variation in the supply and demand, the mode of evaluation cannot be covered by any uniform rules and thus, no hard and fast principles can be laid down. Commonly, however, the following factors are kept into consideration :

- (a) The price paid, within a reasonable time, for the property concerned;
- (b) The rents and profits of the property received shortly before requisition and assessing the value by some multiple thereof;
- (c) The price paid for adjacent properties possessing similar advantages; and
- (d) Opinion of valuers or experts.

It is generally necessary to apply two or all of these methods in order to arrive at a correct valuation. Although the price realized in the sale of a similar property in the vicinity gives a fairly correct basis for working out the value, such evidence of former sales, is seldom available as there may be difference in the nature of the property or circumstances of the sale. The MEOs will thus be required to profit by their wide experience in the assessment and scrutiny of acquisition costs.

(iii) Under the Defence of India Rules, properties have been divided into two categories ie Rural and Urban. It is therefore, necessary that in the requisition order, the category of the property under requisition is clearly stated.

(iv) As capitalization of the rented value or profits from a property is one of the methods for determination of its value, similarly, rental value can be ascertained by working the formula conversely. As the rent is the profit or interest derived from the property, it must necessarily bear a certain definite proportions to the capital invested i.e. the price of the property. Normally, the annual rent represents 1/20th of the capital value.

(v) In respect of agricultural lands, the rental will thus, be based on the gross income less the cost of production and marketing. As such lands are not otherwise let out, the record of prevailing rents of lands in the vicinity and of equal facility, will not be available. In respect of urban properties, however, there is very difficulty in ascertaining the rent actually paid where the property was let out just before requisition and if it was not let out, the rent of similar properties in the vicinity could be taken into consideration. Wherever a reasonable rent cannot be otherwise determined, its fixation can be sought from the Rent Restriction authorities under the various Rent Restriction laws. Although municipal assessment of property for purposes of taxation may be used as a guide, such assessment should be taken with caution as it is normally under estimated. .

The situation of the property, its structural condition and the value of amenities and facilities available and those to be procured should form important factors in determining the rental value.