

a public improvement be treated fairly, and be compensated justly. Clearly, he should be no worse off after the taking of his home than before. Equity and justice demand that the homeowner should be made whole in his social and economic affairs to the fullest extent practicable and legal.

The council considers the relocation assistance provisions of title VIII desirable and beneficial. Since any money received is subject to Federal income tax, unless exempted by statute, it is suggested that S. 698 contain an express tax exemption provision. This is to assure that the assistance which title VIII provides will be fully available for its intended purposes.

The council's chief concern is with section 902 which provides that "the fair market value * * * shall" be paid as compensation for properties purchased or condemned for public use.

The council believes that to make the fair market value the sole standard of compensation is unrealistic and unfair as applied to all homes. One of the basic rights under our Government is the right of private property. It is one of the most important rights guaranteed by the Constitution. The last clause of the fifth amendment reads: "* * * nor shall private property be taken for public use, without just compensation."

The council considers that the fair market value is but one of the indicators of just compensation, and should be weighed along with other evidences when determining just compensation.

The fair market value is an appraisal concept, determined by appraisers, and geared to the marketplace. It is arrived at upon the assumption that the particular home property is on the market. But an owner who does not want to sell his home, does not have his home on the market. This is not a situation of determining the amount a willing seller is justified in accepting and a willing buyer is justified in paying for a property on the market. There is no warrant to substitute an appraisal concept of fair market value as the constitutional equivalent of just compensation.

Since the fair market value is a technical appraisal valuation, the services of a real property appraiser must necessarily be engaged. The council observes that the practical operating effect of section 902 would be to place in the hands of appraisers the function of determining the compensation to be paid for all future properties purchased or condemned by all Federal agencies. The unique social and economic circumstances and affairs of a given family in a particular home represent values which appraisers do not include in their limited and technical formulation of fair market value. Many home owners will suffer losses and hardships beyond the assistance provisions of title VIII if the fair market value becomes the maximum compensation for the acquisition. Rather than constituting the maximum, the fair market value should be the minimum, for no one should have his property taken for less than its fair value if such property were on the market.

The council suggests that section 902 be amended to read as follows:

SEC. 902. If the head of any federal agency acquires real property for public use in any State or the District of Columbia, by purchase or condemnation, the amount paid therefor shall be a just compensation as the head determines to be legal and proper so that those whose property is acquired shall not be worse off in their social and economic affairs than they were before the property is acquired.