

Public Law 90-598

AN ACT

October 17, 1968
[S. 1246]

To authorize the Commissioner of the District of Columbia to enter into leases for the rental of, or to use or permit the use of, the space over and under streets and alleys in the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Public Space Utilization Act".

SEC. 2. As used in this Act—

- (1) The term "Commissioner" means the Commissioner of the District of Columbia.
- (2) The term "District" means the District of Columbia.
- (3) The term "airspace" means the space above and below a street or alley under the jurisdiction of the Commissioner.

SEC. 3. The Commissioner, in conformity with the comprehensive plan for the National Capital prepared under section 4 of the National Capital Planning Act of 1952 (40 U.S.C. 71c), may—

- (1) enter into leases for the use of airspace in the District to an extent not inconsistent with the use, operation, and maintenance of, any street or alley;
- (2) use airspace for such public purposes as are authorized by law;
- (3) enter into agreements with the Federal Government for the purpose of receiving grants or other financial assistance under Federal programs in connection with the construction, use, or operation of any structure in airspace; and
- (4) enter into agreements with the Federal Government to enable the Federal Government to construct Federal buildings in the space above and below any street or alley, title to which is in the District.

SEC. 4. Any lease of airspace entered into under this Act shall provide—

- (1) that such airspace shall not be used to deprive any real property not owned by the lessee of easements of light, air, and access;
- (2) for a clearance of at least fifteen feet between the recorded grade of a street or alley and the lowest portion of any structure (other than supporting columns) constructed over such street or alley;
- (3) that upon the expiration or termination of the lease of airspace the Commissioner may require (at the expense of the lessee or his successor in interest) the removal of any structure constructed or erected in such airspace and the restoration of such airspace to its condition prior to the construction or erection of such structure;
- (4) that all the rights, duties, terms, conditions, agreements, and covenants set forth and contained in such lease shall run with the abutting real property owned by the lessee and shall apply to the lessee, his heirs, legal representatives, successors, and assignees;
- (5) that the lessee shall, at his expense, record a copy of the lease in the Office of the Recorder of Deeds of the District of Columbia;
- (6) for the payment of such rents and fees, and the posting of such bond or such other security, by the lessee, as the Commissioner determines to be necessary or desirable; and
- (7) for such other terms and conditions as the Commissioner determines to be necessary or desirable.

District of
Columbia Public
Space Utilization
Act.
Definitions.

Airspace leases,
etc.
66 Stat. 785.

Private use
provisions.

SEC. 5. The Commissioner may execute a lease of airspace under this Act if—

Conditions.

(1) the lessee of the airspace has a fee simple title to the real property abutting such airspace and the lease is for airspace which lies only within the frontages of such abutting real property which are directly opposite;

(2) the Zoning Commission of the District of Columbia, after public hearing and after securing the advice and recommendations of the National Capital Planning Commission, has determined the use to be permitted in such airspace and has established regulations applicable to the use of such airspace consistent with regulations applicable to the abutting privately owned property, including limitations and requirements respecting the height of any structure to be erected in such airspace, offstreet parking and floor area ratios applicable to such structure, and easements of light, air, and access;

(3) the lessee has submitted to the Commissioner, for his review and approval, plans, elevations, sections, a description of the texture, material, and method of construction of the exterior walls, and a scale model, of any structure to be erected in such airspace;

(4) the Commissioner with respect to any structure proposed to be constructed in an area subject to the Act entitled "An Act to regulate the height, exterior design, and construction of private and semipublic buildings in certain areas of the National Capital", approved May 16, 1930 (D.C. Code, secs. 5-410 and 411), or the Act entitled "An Act to regulate the height, exterior design, and construction of private and semipublic buildings in the Georgetown area of the National Capital", approved September 22, 1950 (D.C. Code, title 5, ch. 8), has submitted to the Commission of Fine Arts for its review and recommendations, plans, elevations, sections, a description of the texture, material, and method of construction of the exterior walls, and a scale model, of any such structure; and

46 Stat. 366.

64 Stat. 903.
D.C. Code 5-801
to 5-807.

(5) the Commissioner, with respect to any structure proposed to be constructed over space utilized or to be utilized for the construction and operation of the subway of the Washington Metropolitan Area Transit Authority, has submitted to the Authority for its review and recommendations the plans, elevations, sections, and a scale model of any such structure.

SEC. 6. The District shall not pay the cost of any removal or relocation of publicly or privately owned facilities in a street or alley in connection with the construction of a structure in airspace leased under this Act. No such facilities may be removed or relocated unless the Commissioner has approved all arrangements for such removal or relocation.

SEC. 7. Zoning laws and regulations and other laws and regulations applicable to the construction, use, and occupancy of buildings and premises, including building, electrical, plumbing, housing, health, and fire regulations, shall be applicable to structures constructed in airspace.

Zoning laws and regulations.

SEC. 8. (a) For the purposes of this Act, airspace and structures constructed or erected in airspace shall be deemed to be real property and shall be liable to assessment, taxation, and water and sewer service charges by the District from the beginning of the term or period of such lease. For the purposes of real property assessments and taxation, the value of airspace, other than any structure constructed or erected

Assessment and taxation.

Exemptions.

in airspace, shall be its fair market value. No tax or assessment shall be levied with respect to airspace or structures in airspace—

(1) occupied exclusively by the Federal Government or the District government, or

(2) occupied and used by one or more organizations which, under section 1 of the Act entitled "An Act to define the real property exemption from taxation in the District of Columbia", approved after December 24, 1942 (D.C. Code, sec. 47-801a), are exempt from real property taxation.

56 Stat. 1089.

Trust fund account.

SEC. 9. (a) Except as provided by subsection (b), all collections, including rents and fees, received by the District under this Act shall be deposited in the Treasury of the United States in a trust fund, from which may be paid, in the same manner as is provided by law for other expenditures of the District, such expenditures as are necessary to carry out the purposes of this Act, including necessary expenses connected with the operation, maintenance, and disposition of property coming into the possession of the District by reason of a default under a lease entered into under this Act. The unobligated balance in such trust fund in excess of \$100,000 as of the end of any fiscal year shall be deposited in the Treasury to the credit of such special funds or the general fund of the District in such proportions as the Commissioner may determine.

(b) Taxes (including payments in lieu of taxes), special assessments, and sanitary sewer and water service charges shall be deposited directly to the respective funds to which such revenues are normally deposited.

Structure removal.

SEC. 10. If, upon the expiration or termination of a lease of airspace under this Act—

(1) the Commissioner determines that any structure constructed or erected in such airspace should be removed or such airspace should be restored to its condition prior to the construction or erection of such structure, and

(2) the lessee or his successor in interest, upon the request of the Commissioner, fails, after a reasonable time, to remove such structure or to restore such airspace to its condition prior to the construction or erection of such structure,

the Commissioner may remove such structure and restore such airspace. The cost of such removal and restoration shall be assessed against the abutting properties as a tax. Such tax shall be collected in the manner prescribed by section 6 of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to remove dangerous or unsafe buildings and parts thereof, and for other purposes", approved March 1, 1899 (D.C. Code, sec. 5-506), for the collection of amounts assessed as a tax under that Act.

78 Stat. 600.

Regulations.

SEC. 11. (a) The District of Columbia Council shall, after public hearing, promulgate such regulations as may be necessary to carry out this Act.

Penalty.

(b) Any regulations promulgated under this Act may provide for the imposition of a fine of not more than \$300, or imprisonment of not more than ninety days, or both, for any violation of such regulations. Prosecution for violations of such regulations shall be conducted in the name of the District by the Corporation Counsel.

Prosecution.

(c) The Commissioner shall—

(1) give any person violating a regulation promulgated under this Act notice of such violation, and

Notice of violation.

(2) set a date by which such person shall comply with such regulation.

Each day after such date during which there is a failure to comply with such regulation shall be a separate offense.

(d) The Commissioner may maintain an action in the United States District Court for the District of Columbia to enjoin the continuing violation of any regulation adopted, under the authority of this Act, by the District of Columbia Council or by the Zoning Commission.

SEC. 12. The Federal Government and District government are each authorized, without regard to the requirements of sections 4 through 11 of this Act, to construct any structure in airspace, subject to the following conditions:

Federal and D.C. structures; conditions for erection.

(1) The government proposing to construct any structure in airspace shall have fee simple title to the real property abutting such real property.

(2) The airspace to be occupied by such structure shall be only within the frontages of the real property abutting such airspace which are directly opposite.

(3) The airspace to be occupied by such structure shall not be used to deprive any real property, not owned by the Federal Government or District government, of its easements of light, air, or access.

(4) The construction of any such structure by the District government across a street or alley, the title to which is in the United States, shall be in accordance with an agreement between the Commissioner and the Attorney General of the United States, subject to such terms and conditions as the Attorney General and the Commissioner agree to include in the agreement.

(5) Section 16 of the Act entitled "An Act providing for the zoning of the District of Columbia and regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes", approved June 20, 1938 (D.C. Code, sec. 5-428), shall apply to the construction of any structure in such airspace by the Federal Government and, to the extent required by subsection (c) of section 5 of the National Capital Planning Act of 1952 (40 U.S.C. 71d(c)), to the construction of any structure in such airspace by the District government.

52 Stat. 802.

66 Stat. 787.

(6) Plans for the construction of any structure in such airspace by the Federal Government or the District government shall be subject to review by the National Capital Planning Commission in accordance with section 5 of the National Capital Planning Act of 1952 (40 U.S.C. 71d).

(7) The construction of any such structure by the Federal Government or the District government shall be subject to the recommendations of the Commission of Fine Arts to the extent required by the Act entitled "An Act to regulate the height, exterior design, and construction of private and semipublic buildings in certain areas of the National Capital", approved May 16, 1930 (D.C. Code, secs. 5-410 and 411), or the Act entitled "An Act to regulate the height, exterior design, and construction of private and semipublic buildings in the Georgetown area of the National Capital", approved September 22, 1950 (D.C. Code, title 5, chapter 8).

46 Stat. 366.

64 Stat. 903.
D.C. Code 5-801
to 5-807.

Condemned
space.

SEC. 13. If the Federal Government or the District government brings an action to recover the use of airspace leased under this Act, the government having title to the street or alley over or under which such airspace is located shall pay to the lessee of such airspace the fair market value of the remainder of his leasehold interest in such airspace. If the Federal Government recovers the use of airspace over or under a street to which it has title, the District government shall pay to the Federal Government an amount equal to the rents and fees received by the District government for the rental of such airspace or an amount equal to the fair market value of the remainder of the leasehold interest in such airspace, whichever is smaller.

Capitol Grounds
area, exemption.

SEC. 14. This Act shall not apply to airspace within the area in the District bounded on the north by G Street Northeast and Northwest, on the south by G Street Southeast and Southwest, on the east by Eleventh Street Northeast and Southeast, and on the west by Third Street Southwest and Northwest.

Approved October 17, 1968.

Public Law 90-599

AN ACT

October 17, 1968
[S. 3615]

To authorize the Secretary of the Army to convey to the port of Cascade Locks, Oregon, a certain interest in lands in the State of Oregon for municipal purposes.

Port of Cascade
Locks, Oreg.
Land convey-
ance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is authorized and directed to convey by quitclaim deed or other appropriate means to the port of Cascade Locks, Oregon, so much of the right, title, and interest remaining in the United States in and to the following described property as may be necessary to enable the port of Cascade Locks to convey such described property to the city of Cascade Locks, Oregon, for use by such city as a sewage treatment plant site, such property being a part of a tract of land conveyed to the port of Cascade Locks pursuant to the Act of May 28, 1940 (54 Stat. 225), on the condition that such tract be used for municipal park and dock purposes:

Beginning at the center of section 12, township 2 north, range 7 east, Willamette meridian, in Hood River County, in the State of Oregon;

thence from said center of section north 1,206.3 feet to a point;

thence east 125 feet to a point;

thence south 203.5 feet to a point;

thence south 41 degrees 15 minutes west 578.6 feet to a point;

thence south 29 degrees 30 minutes east 60 feet to a point;

thence south 29 degrees 45 minutes west 75 feet to a point;

thence south 29 degrees 13 minutes west 58.51 feet to a point;

thence south 40 degrees 00 minutes west 135.5 feet to a point;

thence south 37 degrees 30 minutes west 100 feet to a point;

thence south 34 degrees 15 minutes west 101 feet to a point;

thence south 31 degrees 50 minutes west 100 feet to a point;

thence south 30 degrees 20 minutes west 100 feet to a point;

thence south 30 degrees 10 minutes west 1,090.8 feet to a point;

thence north 59 degrees 50 minutes west 130.0 feet to the true point of beginning of the parcel of land herein described, said point being also north 30 degrees 10 minutes east 499.30 feet and north 59 degrees 50 minutes west 130.0 feet from a brass cap mark-