

(2) that the owner or owners shall retain a life estate in said property, measured on the life of the sole owner or on the life of any one person among multiple owners (notice of the person so designated to be filed in writing with the Secretary within six months after the taking) or on the life of the survivor in title of any estate held on July 1, 1963, as a tenancy by the entirety. The price in such case shall be diminished by the actuarial fair market value of the life estate retained, determined on the basis of standard actuarial methods;

(3) that the owner or owners shall retain an estate for twenty-five years. The price in this case shall likewise be diminished by the value of the estate retained.

(f) "Improved property" defined

The term "improved property" as used in sections 459e to 459e-9 of this title shall mean any building, the construction of which was begun before July 1, 1963, and such amount of land, not in excess of two acres in the case of a residence or ten acres in the case of a commercial or industrial use, on which the building is situated as the Secretary considers reasonably necessary to the use of the building: *Provided*, That the Secretary may exclude from improved properties any beach or waters, together with so much of the land adjoining such beach or waters as he deems necessary for public access thereto.

(g) Undeveloped tracts and property; suspension of condemnation authority; natural state

The authority of the Secretary to condemn undeveloped tracts within the Dune District as depicted on map entitled "Fire Island National Seashore" numbered OGP-0004 dated May, 1978, is suspended so long as the owner or owners of the undeveloped property therein maintain the property in its natural state. Undeveloped property within the Dune District that is acquired by the Secretary shall remain in its natural state.

(h) Sale of property acquired by condemnation; excepted properties; proceeds available for acquisition of property

(1)(A) The Secretary shall sell any property described in subparagraph (B) of this paragraph acquired by condemnation under sections 459e to 459e-9 of this title to the highest bidder; except that—

(i) no property shall be sold at less than its fair market value; and

(ii) no property shall be sold unless it is sold subject to covenants or other restrictions that will ensure that the use of such property conforms—

(I) to the standards specified in regulations issued under section 459e-2(a) of this title which are in effect at the time of such sale, and

(II) to any approved zoning ordinance or amendment thereof to which such property is subject.

(B) The property referred to in subparagraph (A) of this paragraph is any property within the boundaries of the national seashore as delineated on the map mentioned in section 459e of this title except—

(i) property within the Dune district referred to in subsection (g) of this section;

(ii) beach or waters and adjoining land within the exempt communities referred to in the first sentence of subsection (e) of this section; and¹

(iii) property within the eight-mile area described in the second sentence of subsection (e) of this section; and

(iv) any property acquired prior to October 1, 1982, that the Secretary determines should be retained to further the purpose of sections 459e to 459e-9 of this title.

(2) Notwithstanding any other provision of law, all moneys received from sales under paragraph (1) of this subsection may be retained and shall be available to the Secretary, without further appropriation, only for purposes of acquiring property under sections 459e to 459e-9 of this title.

(i) Injunctive relief; termination

(1) Upon or after the commencement of any action for condemnation with respect to any property under sections 459e to 459e-9 of this title, the Secretary, through the Attorney General of the United States, may apply to the United States District Court for the Eastern District of New York for a temporary restraining order or injunction to prevent any use of, or construction upon, such property that—

(A) fails, or would result in a failure of such property, to conform to the standards specified in regulations issued under section 459e-2(a) of this title in effect at the time such use or construction began; or

(B) in the case of undeveloped tracts in the Dune district referred to in subsection (g) of this section, would result in such undeveloped property not being maintained in its natural state.

(2) Any temporary restraining order or injunction issued pursuant to such an application shall terminate in accordance with the provisions of section 459e-2(g) of this title.

(Pub. L. 88-587, §2, Sept. 11, 1964, 78 Stat. 929; Pub. L. 95-625, title III, §322(b), Nov. 10, 1978, 92 Stat. 3489; Pub. L. 98-482, §2, Oct. 17, 1984, 98 Stat. 2255.)

Editorial Notes

AMENDMENTS

1984—Subsecs. (h), (i). Pub. L. 98-482 added subsecs. (h) and (i).

1978—Subsec. (g). Pub. L. 95-625 added subsec. (g).

§ 459e-2. Zoning regulations

(a) Amendment; standards for approval of ordinances

In order to carry out the provisions of section 459e-1 of this title the Secretary shall issue regulations, which may be amended from time to time, specifying standards that are consistent with the purposes of sections 459e to 459e-9 of this title for zoning ordinances which must meet his approval.

¹ So in original. The word "and" probably should not appear.

(b) Commercial or industrial use prohibition; size, location or use restrictions for commercial, residential, and other structures; reconciliation of population density with protection of natural resources

The standards specified in such regulations shall have the object of (1) prohibiting new commercial or industrial uses, other than commercial or industrial uses which the Secretary considers are consistent with the purposes of sections 459e to 459e-9 of this title, of all property within the national seashore, and (2) promoting the protection and development for purposes of sections 459e to 459e-9 of this title of the land within the national seashore by means of limitations or restrictions on the size, location or use of any commercial, residential, and other structures. In accomplishing these objectives, such standards shall seek to reconcile the population density of the seashore on October 17, 1984, with the protection of the natural resources of the Seashore¹ consistent with the purposes for which it has been established as provided by sections 459e to 459e-9 of this title.

(c) Approval of ordinances

Following issuance of such regulations the Secretary shall approve any zoning ordinance or any amendment to any approved zoning ordinance submitted to him that conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved.

(d) Adverse provisions and absence of notice for variance as requiring disapproval of ordinances

No zoning ordinance or amendment thereof shall be approved by the Secretary which (1) contains any provisions that he considers adverse to the protection and development, in accordance with the purposes of sections 459e to 459e-9 of this title, of the area comprising the national seashore; or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under, or any exception made to, the application of such ordinance or amendment.

(e) Termination of suspension of authority for acquisition by condemnation because of non-conforming variances and uses

In the case of any property, including improved property but excluding undeveloped property in the Dune district referred to in section 459e-1(g) of this title, with respect to which the Secretary's authority to acquire by condemnation has been suspended under sections 459e to 459e-9 of this title if—

(1) such property is, after October 17, 1984, made the subject of a variance under, or becomes for any reason an exception to, any applicable zoning ordinance approved under this section; and

(2) such variance or exception results, or will result, in such property being used in a manner that fails to conform to any applicable standard contained in regulations of the Sec-

retary issued pursuant to this section and in effect at the time such variance or exception took effect;

then the suspension of the Secretary's authority to acquire such property by condemnation shall automatically cease.

(f) Certificate of suspension of authority for acquisition by condemnation

The Secretary shall furnish to any party in interest upon request a certificate indicating the property with respect to which the Secretary's authority to acquire by condemnation is suspended.

(g) Injunctive relief; termination

Notwithstanding any other provision of sections 459e to 459e-9 of this title, the Secretary of the Interior, acting through the Attorney General of the United States, may apply to the United States District Court for the Eastern District of New York for a temporary restraining order or injunction to prohibit the use of, including construction upon, any property within the seashore in a manner that—

(1) will cause or is likely to cause significant harm to the natural resources of the seashore, or

(2) is inconsistent with the purposes for which the seashore was established.

Except to the extent the Court may deem necessary in extraordinary circumstances, no such order or injunction shall continue in effect for more than one hundred and eighty days. During the period of such order or injunction, the Secretary shall diligently and in good faith negotiate with the owner of the property to assure that following termination of the order or injunction, the inconsistent use is abated or the significant harm to the natural resources is mitigated.

(Pub. L. 88-587, §3, Sept. 11, 1964, 78 Stat. 930; Pub. L. 98-482, §§3-5, Oct. 17, 1984, 98 Stat. 2256.)

Editorial Notes

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-482, §4, substituted “by means of limitations or restrictions on the size, location or use of any commercial, residential, and other structures” for “by means of acreage, frontage, and setback requirements” and required that the standards seek to reconcile the population density of the seashore on Oct. 17, 1984, with the protection of the natural resources of the seashore.

Subsec. (e). Pub. L. 98-482, §3, designated part of existing provisions as pars. (1) and (2), made the provisions applicable to any property, and excluded undeveloped property in the Dune district.

Subsec. (g). Pub. L. 98-482, §5, added subsec. (g).

§ 459e-3. Retention by owner of right of use and occupancy of improved property for residential purposes

(a) Time limit; value of reserved right

Owners of improved property acquired by the Secretary may reserve for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a term that is not more than twenty-five years. The value of the

¹ So in original. Probably should not be capitalized.