

counsel for settlement discussions, or for good cause shown. In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. Where the suspension has continued, or may continue for an inordinate length of time, the Board may, in its discretion, dismiss such appeals from its docket without prejudice to their restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

(ff) *Rule 31, Dismissal or default for failure to prosecute or defend.* Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed or, in the case of a default by the Government, issue an order to show cause why the Board should not act thereon pursuant to Rule 35. If good cause is not shown, the Board may take appropriate action.

(gg) *Rule 32, Remand from court.* Whenever any court remands a case to the Board for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board recommending procedures to be followed so as to comply with the court's order. The Board shall consider the reports and enter special orders governing the handling of the remanded case. To the extent the court's directive and time limitations permit, such orders shall conform to these rules.

(hh) *Rule 33, Time, computation and extensions.* (1) Where possible, procedural actions should be taken in less time than the maximum time allowed. Where appropriate and justified, however, extensions of time will be granted. All requests for extensions of time shall be in writing.

(2) In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

(ii) *Rule 34, Ex parte communications.* No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal, submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members or to ex parte communications concerning the Board's administrative functions or procedures.

(jj) *Rule 35, Sanctions.* If any party fails or refuses to obey an order issued by the Board, the Board may then make such order as it considers necessary to the just and expeditious conduct of the appeal.

(kk) *Rule 36, Effective date.* These rules shall apply: (1) Mandatorily, to all appeals relating to contracts entered into on or after 1 March 1979, and (2) at the contractor's election, to appeals relating to earlier contracts, with respect to claims pending before the contracting officer on 1 March 1979 or initiated thereafter.

[45 FR 19202, Mar. 24, 1980]

PART 211—REAL ESTATE ACTIVITIES OF THE CORPS OF ENGINEERS IN CONNECTION WITH CIVIL WORKS PROJECTS

REAL ESTATE; GENERAL

Sec.

- 211.1 Real estate defined.
- 211.2 Authority to acquire real estate.
- 211.3 Function of Chief of Engineers.
- 211.4 Acquisition of land.

TEMPORARY USE BY OTHERS OF CIVIL WORKS REAL ESTATE

- 211.5 Temporary use; how granted.
- 211.6 Rights which may be granted by the Secretary of the Army in river and harbor and flood control property.
- 211.7 Rights which may be granted by Division and District Engineers.

Corps of Engineers, Dept. of the Army, DoD

§211.2

- 211.8 Limitations on rights which may be granted.
- 211.9 Applications for leases, easements, licenses, and permits.

DISPOSAL OF REAL ESTATE ACQUIRED FOR CIVIL WORKS PURPOSES

- 211.10 Disposition of lands.
- 211.11 Sale or salvage of buildings, improvements, or crops.
- 211.12 Exchange of lands.
- 211.13 Approval of the Office of the Chief of Engineers.

REAL ESTATE CLAIMS

- 211.14 Definition.
- 211.15 Statutory provisions.
- 211.16 Scope and application of Army Regulations.
- 211.17 Authority of Division Engineers, Corps of Engineers to settle claims.
- 211.18 Action by claimant.
- 211.19 Place of filing claims.
- 211.20 Form of claim.
- 211.21 Evidence to be submitted by claimant.
- 211.22 Real estate Claims Officers.
- 211.23 Procedure.
- 211.24 Disposition of claims.

FEDERAL JURISDICTION OVER REAL ESTATE

- 211.25 General considerations in the acquiring of Federal jurisdiction.
- 211.26 Functions in acquiring Federal jurisdiction.
- 211.27 Method of acquiring Federal jurisdiction.
- 211.28 Acceptance of jurisdiction.

SALE OF LANDS IN RESERVOIR AREAS UNDER JURISDICTION OF DEPARTMENT OF THE ARMY FOR COTTAGE SITE DEVELOPMENT AND USE

- 211.71 Statutory provisions.
- 211.72 Definitions.
- 211.73 Determination of land available for sale.
- 211.74 Public notice of the availability of land for sale.
- 211.75 Price.
- 211.76 Costs of surveys.
- 211.77 Sale procedure.
- 211.78 Maintenance and conveyance of access roads.
- 211.79 Contract of sale.
- 211.80 Conveyance.
- 211.81 Reservoir areas.

RECONVEYANCE OF LAND OR INTERESTS THEREIN ACQUIRED FOR GRAPEVINE, GARZA-LITTLE ELM, BENBROOK, BELTON, AND WHITNEY RESERVOIR PROJECTS IN TEXAS AND ALSO FOR THE VERDIGRIS RIVER PORTION OF THE MCCLELLAN-KERR NAVIGATION PROJECT IN OKLAHOMA, TO FORMER OWNERS

- 211.101 Statutory provisions.
- 211.102 Definitions.

- 211.103 Determination of whether land is required for public purposes, including public recreational use.
- 211.104 Notice to former owners of availability of land for reconveyance.
- 211.105 Filing of application.
- 211.106 Filing of objection by abutting owner.
- 211.107 Notice of agreement between former owner and abutting owner.
- 211.108 Determination of price.
- 211.109 Contract of sale.
- 211.110 Conveyance.
- 211.111 Certification terminating rights of former owners.

CONVEYANCES FOR PUBLIC PORT OR INDUSTRIAL FACILITIES

- 211.141 Statutory provisions.
- 211.142 Definitions.
- 211.143 Delegations.
- 211.144 Notice.
- 211.145 Filing of application.
- 211.146 Price.
- 211.147 Conveyance.

AUTHORITY: Sections 211.1 through 211.4 issued under 5 U.S.C. 301, unless otherwise noted.

SOURCE: 13 FR 8747, Dec. 30, 1948, unless otherwise noted.

REAL ESTATE; GENERAL

§211.1 Real estate defined.

The term *real estate* as used in this part includes land; buildings; piers and wharves; office and storage space; rights-of-way or easements, whether temporary or permanent; and any interests which may be acquired or held therein for the use or benefit of the United States by the Department of the Army or any branch thereof.

§211.2 Authority to acquire real estate.

(a) *Congressional authority necessary.* No land shall be acquired on account of the United States except under a law authorizing such acquisition. (See R. S. 3736; 41 U. S. C. 14.)

(b) *Authority of the Secretary.* The authority of the Secretary of the Army to acquire real estate for river and harbor improvements, flood control projects and allied purposes, is based upon enactments of the Congress authorizing the particular projects and appropriating funds therefor. These enactments are generally termed Flood Control Acts and are passed following the submission by the Secretary of the