

(b) The interest of the claimant in the property and the interest that others may have in the property.

(c) Date and circumstances under which occupation of premises occurred and date of vacation. If under a lease, the lease number and date of lease.

(d) Inspection of the premises and determination of the amount of damages.

(e) If claim is for rental without formal lease or agreement, data as to the market and rental value of the property.

(f) Any other pertinent evidence the particular facts of the case require.

The above obligations of the Claims Officer does not relieve the claimant from the burden of proving his claim and it is the duty and obligation of the claimant to furnish such evidence within his particular knowledge as the Claims Officer may require.

Upon completion of his investigation the Claims Officer prepares a report setting forth completely but briefly the nature and amount of the claim, all pertinent facts necessary to determine the rights and liabilities of the claimant and the Government, and the Claims Officer's conclusions and recommendations as to allowance or disallowance of the claim in whole or in part and reasons therefor, including citations to any laws, statutes, or other decisions which it is believed will substantiate his recommendation.

§ 211.24 Disposition of claims.

(a) *Real estate claims for damages.* Real estate claims for damages not exceeding \$1,000 may be settled by the Division Engineer. If the Division Engineer allows the claim in toto it is transmitted to the local Disbursing Officer who transmits a check to claimant in payment of the claim. Where the claim is disallowed by the Division Engineer, in whole or in part, the claimant is so advised and in the event that he is unwilling to accept the decision of the Division Engineer, he may appeal within 30 days after receipt of such notice, through the Division Engineer's Office, to the Secretary of the Army. This appeal should state in full reasons for not accepting the Division Engineer's award.

(b) *Claims for damages in excess of \$1,000.* Claims for damages in excess of

\$1,000 arising out of the use and occupancy of real estate under an agreement, express or implied, or otherwise, are forwarded to the General Accounting Office for settlement.

(c) *Claims for rent or other payments.* Claims for rent or other payments of a contractual nature regardless of amount arising out of the use and occupancy of real estate under an agreement, express or implied, or otherwise, are forwarded to the General Accounting Office.

(d) *Mixed claims for rental and damages.* When a claim arising from the use and occupancy of real estate has been received, the elements of the claim are first determined. If the claim is for damages not in excess of \$1,000 and rental, these elements are if practicable, separated and the damages settled under AR 25-25, otherwise the claims are forwarded to the General Accounting Office for direct settlement.

FEDERAL JURISDICTION OVER REAL ESTATE

AUTHORITY: Sections 211.25 through 211.28 issued under R.S. 161; 5 U.S.C. 301.

SOURCE: 13 FR 8751, Dec. 30, 1948, unless otherwise noted.

§ 211.25 General considerations in the acquiring of Federal jurisdiction.

(a) *Laws governing the acquisition of Federal jurisdiction—(1) Constitution of the United States.* By Article 1, Section 8, Clause 17, of the Constitution, Congress has the power to exercise exclusive legislation in all cases in the District of Columbia and to exercise like authority over all land acquired by the United States with the consent of the legislature of the State in which the land is located for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

(2) *Section 355, Revised Statutes of the United States.* Under this section as amended by the acts of Congress approved February 1, 1940 (54 Stat. 19) and October 9, 1940 (54 Stat. 1083; 40 U.S.C. 255), jurisdiction over lands acquired by the Department of the Army does not vest until the Secretary of the Army has indicated acceptance of such jurisdiction by filing a notice of acceptance

§211.26

with the Governor of the State or in such manner as may be prescribed by the laws of the State where the land is situated.

(3) *State laws.* The laws of the various States indicate the type of jurisdiction ceded or to be ceded, and prescribe the requirements, if any, to be complied with prior to the vesting of jurisdiction in the United States.

§211.26 Functions in acquiring Federal jurisdiction.

(a) *The Division Engineer.* Upon determination that Federal jurisdiction is desired over a Civil Works Project, the Office of the Division Engineer concerned prepares such maps and descriptions of the lands involved as may be required and forwards them to the Office of the Chief of Engineers with any further information called for by the laws of the State where the lands are located.

(b) *Chief of Engineers.* All letters and other papers required to procure cessions of jurisdiction and all notices of acceptance are prepared in the Office of the Chief of Engineers.

§211.27 Method of acquiring Federal jurisdiction.

Jurisdiction is acquired in accordance with the laws of the various States.

§211.28 Acceptance of jurisdiction.

The jurisdiction ceded by the State laws, by deeds of cession and by the enactment of special legislation shall be accepted in accordance with section 355, Revised Statutes, as amended, in order to establish Federal jurisdiction. This is accomplished by a letter from the Secretary of the Army addressed to the Governor of the State concerned or by an indorsement on the deed of cession giving notice of such acceptance.

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

AUTHORITY: Sections 211.71 through 211.81 issued under sec. 2, 70 Stat. 1065; 16 U.S.C. 460f.

SOURCE: 28 FR 3450, Apr. 9, 1963, unless otherwise noted.

33 CFR Ch. II (7-1-04 Edition)

§211.71 Statutory provisions.

The Act of Congress approved August 6, 1956 (70 Stat. 1065).

§211.72 Definitions.

(a) *The Act.* The Act of Congress approved 6 August 1956 (70 Stat. 1065; Pub. L. 999, 84th Congress).

(b) *Cottage site.* Cottage site as used in §§211.71 through 211.80, includes:

(1) *Individual cottage site.* A parcel of land developed or to be developed by the construction of a private cottage thereon and used, or to be used, for private recreational purposes.

(2) *Group cottage site.* A parcel of land containing multiple cottage sites developed or to be developed individually by members of an organization to which the land is currently leased by the construction on each site of a private cottage owned individually and used, or to be used, for private recreational purposes.

(3) *Colony cottage site.* A parcel of land containing (i) multiple cottage sites developed or to be developed individually by members of an organization to which the land is currently leased by the construction on each site of a private cottage owned individually and used or to be used for private recreational purposes, and (ii) a site or sites developed or to be developed by the lessee by construction of community recreational facilities for joint use by all members of the lessee organization incident to occupancy of their privately owned cottages on the leased premises and/or an area of land to be preserved in an undeveloped state for such joint use by all members of the lessee organization.

§211.73 Determination of land available for sale.

The Chief of Engineers or the Director of Civil Works (Assistant to the Chief of Engineers for Civil Works) is hereby delegated authority to determine that lands in reservoir areas under the jurisdiction of the Department of the Army, other than lands withdrawn or reserved from the public domain, (a) are not required for project purposes or for public recreational use, and (b) are being used for or are available for cottage site development and use, and to determine that such lands