

No. 71

AN ACT

HB 44

Amending the act of June 22, 1964 (P.L.84, No.6), entitled "An act to codify, amend, revise and consolidate the laws relating to eminent domain," adding all projects to the provision having to do with damages by floods, providing for limited interest takings and defining certain mobile homes as real property.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 602, act of June 22, 1964 (P.L.84, No.6), known as the "Eminent Domain Code," amended September 1, 1972 (Special Session No.1, No.3), is amended to read:

Section 602. Measure of Damages.—(a) Just compensation shall consist of the difference between the fair market value of the condemnee's entire property interest immediately before the condemnation and as unaffected thereby and the fair market value of his property interest remaining immediately after such condemnation and as affected thereby, and such other damages as are provided in this code.

(b) In case of the condemnation of property in connection with any urban development or redevelopment project, which property is damaged by subsidence due to failure of surface support resulting from the existence of mine tunnels or passageways under the said property, or by reason of fires occurring in said mine tunnels or passageways or of burning coal refuse banks, the damage resulting from such subsidence or underground fires or burning coal refuse banks shall be excluded in determining the fair market value of the condemnee's entire property interest therein immediately before the condemnation.

(c) In case of the condemnation of property in connection with any [flood control] *program or project* [or highway project] which property is damaged by floods, the damage resulting therefrom shall be excluded in determining fair market value of the condemnee's entire property interest therein immediately before the condemnation. [provided such damage has occurred within three years of the date of taking and during the ownership of the property by the condemnee. The damage resulting from floods to be excluded shall include only actual physical damage to the property for which the condemnee has not received any compensation or reimbursement.]

(d) *In the case of property which was damaged by the floods of September, 1971 and June, 1972, an acquiring agency may acquire the entire property interest of a condemnee, except any improvements made since the date of the floods, and reconvey to the condemnee a portion of the property interest taken; in which case the damage shall be the difference between the value of the property interest acquired, excluding flood damage, and the value of the property interest reconveyed. For the*

purposes of this act, all mobile homes which were in use as dwellings and were destroyed, demolished or damaged beyond reasonable repair by the natural disasters of September 1971 and June 1972 shall be considered to be real property.

(e) Subsections (c) and (d) are applicable only where the flood damage has occurred within three years prior to the initiation of negotiations for or notice of intent to acquire or order to vacate the property and during the ownership of the property by the condemnee. The flood damage to be excluded shall include only actual physical damage to the property for which the condemnee has not received any compensation or reimbursement.

Section 2. This act shall take effect immediately and shall apply to all programs or projects containing property damaged by the storms and floods of September, 1971, and June, 1972, whether or not property acquisition had commenced prior to September, 1971.

APPROVED—The 27th day of September, A. D. 1973.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 71.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style.

Secretary of the Commonwealth