

1974 WL 27680 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 26, 1974

*1 Mr. S. O. Holstein
Right of Way Engineer
S. C. State Highway Department
Post Office Drawer 191
Columbia, South Carolina 29202

Dear Mr. Holstein:

You have requested that this Office advise you as to what payments are available, pursuant to §§ 25-181, et. seq. and 33-151, et seq. Code of Laws of South Carolina, under the following circumstances:

In the course of the improvement of Route 9 through Chester County, the grade of the existing highway was changed and the access to a retail store located alongside the highway was restricted. Although neither the retail store, nor any of the property belonging to the owner was condemned or otherwise acquired by the South Carolina State Highway Department, the retail store building was, with the consent of the owner and the lessees, moved back approximately forty feet in order to provide better access thereto. The lessees of the retail store have now filed a claim for relocation payments, ostensibly under the above referenced statutes.

It is clear that § 25-18 (supra) which refers to Public Law 91-646, applies only in those instances where there has been an acquisition of real property through condemnation proceedings, § 25-183 (supra). Section 33-15 (supra) applies only to 'displaced persons' meaning,

Any person who moves from real property on or after August 23, 1968, as a result of the acquisition or reasonable expectation of acquisition of such real property, which may have been or subsequently is acquired, in whole or in part, for a State highway, or as the result of the acquisition for a State highway of other real property on which such person conducts a business or farm operation.

Accordingly none of the applicable statutes providing for relocation assistance applies to an individual whose property has not been subjected to condemnation by the Department. It is therefore the opinion of this Office that relocation assistance payments are not available in the factual situation you posed. This conclusion is in record with those general provisions set forth in Modern Federal Practice Digest, Eminent Domain; United States.

I trust this has been sufficient in answering the question which you posed. If we may be of any further assistance to you, please do not hesitate to call or write.

Very truly yours,

Timothy G. Quinn
Senior Assistant Attorney General

1974 WL 27680 (S.C.A.G.)