

RAILROAD CODE OF 1993 (EXCERPT)
Act 354 of 1993

462.271 Offer to sell certain property; contents of offer; disagreement as to price or other terms; application to state tax commission to resolve disagreement; hearing; decision and order; determination of fair market value; appraisals; applicability of section.

Sec. 271.

(1) If a railroad company, or its trustee or successor in interest, has an interest in real property adjacent to a right-of-way approved for abandonment within this state that is not necessary for the operation of rail services over the right-of-way, which adjacent real property has leasehold improvements upon it, or if a railroad company, or its trustee or successor in interest, seeks to convey under any other circumstances its interest in real property adjacent to a right-of-way, which adjacent real property has leasehold improvements upon it, the railroad company, trustee, or successor in interest first shall extend a written offer to sell that real property at fair market value to a person or entity holding a lease, license, or permit or owning leasehold improvements on that adjacent real property. The offer shall contain the legal description of the property; the real property rights to be conveyed by the seller; and proof of a good and marketable title to those rights, the cost of which shall be paid by the offeror. A person or entity holding a lease, license, or permit or owning leasehold improvements on the real property shall respond to the written offer within 60 days after receipt of the offer to sell. If the person or entity holding a lease, license, or permit or owning leasehold improvements on the adjacent real property also owns leasehold improvements on the right-of-way approved for abandonment, the railroad company or its trustee or successor in interest shall include that portion of the right-of-way which the leasehold improvements are on in its written offer of sale under this subsection, if that portion of the right-of-way is not necessary for the operation of rail services.

(2) If the parties disagree concerning the price or other terms of the sale, either party may apply to the state tax commission to resolve the disagreement. The application shall be made within 60 days after the railroad company, trustee, or successor in interest has received the written response.

(3) The state tax commission shall provide a hearing on the disagreement pursuant to chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws, and subsection (4). Within 90 days after the dispute is filed, the commission shall make a determination of the fair market value of the property and other terms of the sale that were in dispute.

(4) The decision and order of the commission under subsection (3) shall be binding on the parties. The decision and order issued by the commission under this section shall establish just and equitable terms of the sale. In determining the fair market value of the real property, the commission shall obtain 3 independent appraisals as follows:

(a) Each party shall select 1 appraiser and the cost of an appraisal under this subdivision shall be paid by the party for whom the appraisal is prepared.

(b) The commission shall appoint a third appraiser and the cost of this appraisal shall be divided equally between the parties.

(5) This section shall not apply to a railroad company, or its trustee or successor in interest, subject to the jurisdiction of the interstate commerce commission or a successor agency.

History: 1993, Act 354, Imd. Eff. Jan. 14, 1994