



Attorney General

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Phoenix, Arizona 85007

Robert R. Corbin

October 29, 1986

Mr. Robert K. Lane, Commissioner
Arizona State Land Department
1624 West Adams
Phoenix, AZ 85007

Re: I86-107 (R86-135)

Dear Mr. Lane:

You have asked two questions concerning exchanges of public land pursuant to A.R.S. § 37-609:

1. When a parcel is offered for exchange under A.R.S. § 37-609, but only a portion of the property is affected by the land use plan or zoning regulations, can the entire parcel, including the unaffected parcel be exchanged under A.R.S. § 37-609?

2. Does the 1986 amendment to A.R.S. § 37-604, which requires two independent appraisals for private exchanges, apply to exchanges carried out under A.R.S. § 37-609?

The streamlined procedures set forth in A.R.S. § 37-609 provide for the exchange of private land located in an area directly affected by a land use plan or zoning regulations that prohibit development incompatible with the operation of a military airport. The statute has no application to land outside such an area.

A.R.S. § 37-609(A) provides in relevant part:

If a political subdivision adopts or has adopted a land use plan or zoning regulations defining an area subject to regulation or property acquisition to assure development compatible with the continued operation of a military airport pursuant to title 2, chapter 3, article 2, any owner of land who has continuously owned the land from the date on which the land use plan or zoning regulations

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became effective and whose land is wholly or partially within such area directly affected by such plan or zoning regulations may request an exchange of such directly affected land for state land outside such area.

The statute recognizes that particular parcels of land may not lie entirely within an area directly affected by a land use plan or zoning regulation. Thus an owner whose land is wholly or partially within a directly affected area may request a land exchange. However, the statute expressly restricts the exchange to that portion of land which is directly affected by the use restrictions.

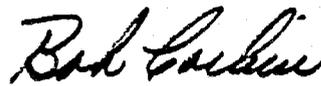
Your second question concerns the application of A.R.S. § 37-604 to military airport compatibility exchanges. A.R.S. § 37-609(F) requires that land exchanges under that section be approved or denied on the same basis as other exchanges pursuant to A.R.S. §§ 37-604 through 37-608. A.R.S. § 37-604(C)(1) states:

C. The exchange of state lands shall be subject to the following requirements:

1. All lands exchanged shall be of substantially equal value as determined by at least two independent appraisals ordered by the commissioner. The commissioner may require the applicant for a state land exchange to pay the cost of the appraisals.

Approval of a land exchange necessarily includes a determination that the lands to be exchanged are of substantially equal value. In addition, the legislature was very specific in stating which provisions of A.R.S. § 37-604 do not apply to military airport compatibility exchanges. A.R.S. § 37-609(A). The provision in question is not among the stated inapplicable provisions. Therefore, the dual appraisal requirement of A.R.S. § 37-604(C)(1) does apply to exchanges undertaken pursuant to A.R.S. § 37-609.

Sincerely,



BOB CORBIN
Attorney General