

## CHAPTER 7

### CLAIMS

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#### 86. General

a. Real estate claims are written demands upon the United States for the payment of a specified sum of money as compensation for alleged damages to the property of the claimant. The latter may be an individual, partnership, association, corporation, country, or political subdivision, but not the United States Government or any of its instrumentalities.

b. Small claims are defined as those which may be settled for \$100 or less. Real estate officers may be granted authority to settle such claims without prior approval from higher headquarters.

c. In determining the compensation due on claims, consideration is given to the provisions of the law in the country concerned, since they determine the liability of the national government under similar circumstances.

#### 87. Responsibilities of Staff Judge Advocate

a. Every staff judge advocate is responsible within the command to which he is assigned for—

- (1) Supervision and administration of claims activities.
- (2) Training of claims adjustment personnel and the continuing inspection of their activities.
- (3) Implementation of claims policies as announced by higher headquarters.

b. The staff judge advocate designates a commissioned officer or qualified civilian of his staff to be in immediate charge of claims activities. Direct communication with respect to claims activities is authorized.

c. A claims service is established in each theater under the supervision of the staff judge advocate. Branch offices are established where required. The claims service is charged with responsibility for investigation, processing, and disposition of claims arising from service-connected accidents or incidents and such other

claims as may be assigned by higher authority. Unit claims officers are employed to the fullest extent permitted by the military situation in the conduct of operations. By mutual agreement, claims concerning real estate may be handled by the engineers.

#### 88. U.S. Claims Legislation

Real estate claims arising in foreign countries should be settled according to the provisions of United States statutes, as listed in AR 25-20.

#### 89. Occupied Areas

a. In an occupied area, claims are not allowed for—

- (1) Damages arising from operations during the time that the area was a combat area.
- (2) The normal deterioration of a building, such as requirements for interior decorating, painting and varnishing, or minor repairs to mechanical and electrical equipment.
- (3) Loss or damage arising from the non-fulfillment or breach of a contract, as for a lease that existed prior to occupation.
- (4) Loss of or damage to property which arises from the execution of reparation or restitution measures, insofar as such loss or damage is suffered by the owner of the property.
- (5) Loss of or damage to property which arises from the execution of authorized measures taken for the liquidation of war potential insofar as such loss or damage is suffered by the owners of the property.
- (6) Loss of or damage to property or loss or damage arising from the requisition or use of property to the enemy government or its agencies, prescribed

political parties, or paramilitary organizations.

b. Claims may be submitted for—

- (1) Rental.
- (2) Utilities charges for water, gas, and electricity.
- (3) Damages over and above fair wear and tear arising from the use and occupancy of lands, bivouac areas, and buildings.

c. Procedures for handling real estate claims are prescribed in theater directives.

- (1) The act or omission upon which a claim can be based must have been such that the claimant would have been entitled to compensation under local laws in effect prior to the occupation.
- (2) Applications for damage claims must be filed within a stipulated period after the act or incident causing the alleged damages has taken place, usually within 90 days, at the designated occupations costs office or similar agency of the central government. In the case of requisitioned property, the date of the act or omission, where not otherwise ascertainable, will be the date that the property was de-requisitioned. In the case of irregular seizure of movables not subsequently requisitioned, and of loss or damage to such movables, the date is when they were first seized.
- (3) Government authorities screen and evaluate the claims, indicate their findings and recommendations, and forward the completed applications to the post or other real estate officer having responsibility for the area. The claims are reviewed by the real estate officer, who determines that the property was utilized by United States forces at the time of the act upon which the claim is based. AR 25-20 governs claims investigation procedures and requirements. The real estate officer retains those claims that are within his authority for settlement and forwards the others to the appropriate area

agency or to the nearest claims service office for processing.

(4) Responsibility for claims investigation and processing may be assigned to services by the theater commander as follows:

- (a) Furniture and furnishings: quartermaster.
- (b) Plumbing, heating, and lighting fixtures, and permanently installed property: engineer.
- (c) Rental of real estate, charges for public utilities, damage to structures or land: engineer.
- (d) Machinery and equipment: using service.
- (e) Claims for loss, damage, or destruction of items not the subject of procurement by any United States forces supply service: judge advocate division claims section.

## 90. Friendly Countries

a. In friendly and allied countries, local laws govern the rights of claimants. Requirements and procedures for handling claims usually are established by the security agreement or treaty. This may provide for each party to waive all claims against the other for damage to any of its property, if the damage was caused by a civilian employee or a member of the armed forces in the performance of official duties.

b. Usually, valid claims against the United States resulting from the use of foreign-owned real estate are settled and paid by the host government in accordance with local laws and regulations. The cost normally is shared by the two governments on terms mutually agreed upon. Periodically, the host government submits a statement of all claims approved or disapproved, the amounts paid, and the sum requested from the United States as reimbursement. Settlement of the gross costs normally becomes a matter of negotiations between the two countries concerned.

c. Each party to such an agreement has a primary right to determine whether its personnel were engaged in the performance of official duty. Such determination should be made as

soon as possible after the claim concerned arises. When the other party disagrees with the result of such determination, the matter is brought before the joint committee or similar negotiating agency for decision. No claims for

damage to or destruction of real estate or other property will be accepted when it is determined that such claims exceed the fair market value of the property prior to the beginning of hostilities.