

CHAPTER 6 - CABLE COMMUNICATION SYSTEMS

Sec. 6-9. Acquisition by City.

(a) In accordance with Section 627 of the Cable Act, if a renewal of a License held by a Licensee is denied and the City acquires ownership of the Cable System or effects a transfer of ownership of a Cable System to another person, any such acquisition or transfer shall be at fair market value, determined on the basis of the Cable System valued as a going concern but with no value allocated to the License itself. If a License held by a Licensee is revoked for cause and the City acquires ownership of the Cable System or effects a transfer of ownership of the Cable System to another person, any such acquisition or transfer shall be at an equitable price. Under the term "equitable price," such matters as the harm to the community resulting from the Licensee's breach of the License may be considered in determining the appropriate price. No payment shall be made by the City to the Licensee that would include a value attributed to the License itself.

(b) The fair market value of the Cable System shall be determined as follows:

(1) The fair market value of the Cable System shall be determined by an appraisal committee consisting of three appraisers nationally recognized by training and experience as qualified to appraise the fair market value of a large, urban Cable System. No appraiser shall have previously acted in any capacity for either the City or Licensee. The appraisal committee shall function as an arbitration panel and shall conduct its appraisal process in Maricopa County, in accordance with the Center For Public Resources ("CPR") rules for non-administered arbitration of business disputes (the "Rules"), supplemented by the following procedures which shall control to the extent they conflict with the Rules:

(2) Each party shall appoint an appraiser within thirty (30) days after the City sends notice initiating appraisal proceedings. The two appraisers shall select a third appraiser within thirty (30) days after selection of the second appraiser. If the two appraisers are unable to agree on the appointment of a third appraiser within such thirty (30)-day period, either the City or the Licensee may petition the presiding civil judge of the Maricopa County Superior Court, acting in his or her individual capacity, for the selection of a third appraiser.

(3) Each party shall bear the cost of its own appraiser and one-half (1/2) of the cost of appointing the third appraiser and of paying the third appraiser's fee, and of any reasonable expenses incurred by the appraisers in order to carry out the appraisal process.

(4) Within thirty (30) days after selection of the third appraiser, the appraisers shall meet for the purpose of determining the manner in which the parties may present by evidence which may bear upon the appraisal. Within ninety (90) days after such meeting, the appraiser shall receive and consider such evidence and enter an award determining the fair market value of the Cable System consistent with the requirements of this Section 6-9. Such award shall be final and binding upon the parties, and judgment upon the award rendered may be entered by any court having

CHAPTER 6 - CABLE COMMUNICATION SYSTEMS

jurisdiction thereof.

(c) Upon the termination of a License and the rights granted thereunder, whether by expiration or forfeiture, the City Council may direct and require the Licensee as provided in Section 6-52 to remove its wires, cables, fixtures and accessories and appurtenances from the Streets. If directed, the City shall make a claim on the letter of credit as prescribed in Section 6-83.

State law reference(s) -- Fair market value to be paid, A.R.S. § 9-509.
(Ord. No. 95-13, 3/7/95, Enacted)