

Transportation Projects and Your Property

Sometimes it becomes necessary for Local Public Agencies (LPA) to acquire private property to complete these projects. It is unfortunate that a private property owner must be inconvenienced in any way. However, the accomplishment of these transportation projects would not be possible if the land necessary was not first acquired. Property acquisition is a necessary event in the normal course of progress.

The purpose of this brochure is to help you understand methods used by a LPA to acquire the land needed. Hopefully, this will provide the information you need and be a basis for mutual understanding and cooperation.

Valuation Process

Real property shall be appraised before the initiation of negotiations. The owner of a subject tract estimated to be valued in excess of \$10,000 shall be given an opportunity to accompany the appraiser during inspection of the subject property. When the appraiser views your property, it is to your advantage to offer comments concerning your land or business, particularly local peculiarities and operational requirements.

You should advise the appraiser if any of these conditions exist:

- There are other persons who have ownership or interest in the property.
- There are tenants on the property.
- Items of real or personal property that belong to someone else and are located on your property.
- The presence of hazardous material, underground storage or utilities.

The appraiser will inspect your property and note its physical characteristics. He or she will review sales of properties similar to yours in order to compare the facts of those sales with the facts about your property. The appraiser will analyze all elements that affect value.

The appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

The appraisal report will describe your property and the agency will determine a value based on the condition of the property on the day that the appraiser last inspected it, as compared with other similar properties that have sold.

Every appraisal report shall be reviewed by a qualified Review Appraiser. The Just Compensation established by the LPA shall not be less than the approved appraisal report. This is the amount that will be offered for your property.

Exceptions to the Appraisal Requirements

Regulations provide that the appraisal may be waived:

- If you elect to donate the property and release the LPA from the obligation of completing an appraisal.
- If the LPA believes the acquisition of your property is likely to be less than \$10,000 the LPA will prepare a Compensation Estimate to determine your property's fair market value.
- When a Compensation Estimate is prepared, the appraiser is not required to contact the owner.

Procedures Used to Acquire Real Property for Public Use

You will then be contacted by a representative of the LPA who will make a written offer for your property. If only a portion of your property is being acquired, this offer will separate the amount for property acquired and the amount, if any, for damages to the remainder.

If there is a portion of your property which is considered by the LPA to be an uneconomic remainder, you will have the right to receive an offer from the LPA to acquire the remainder.

Appraisals are made for the mutual benefit of property owners and the LPA. The representative does not attempt to bargain or "horse trade" for a lesser amount. The representative is not authorized to go higher than the appraised value unless certain values or damage items have been overlooked in the appraisal. If this is the case, please bring it to the attention of the representative so it can be checked with the appraiser.

The representative will explain the requirements of the LPA and present the written offer. The representative will submit to the owner a contract providing for the payment price offered by the LPA, a deed providing for the conveyance of the necessary property and a payment document. The LPA will give you a reasonable amount of time to consider the offer and ask questions or seek clarification of anything that is not understood.

Upon agreement, the owner will execute these documents and return them to the LPA for approval and signature.

The LPA will pay all closing costs associated with the conveyance of the property being acquired including the following reasonable and necessary costs:

- Recording fees, transfer taxes, documentary stamps, evidence of title, surveys, and similar expenses incidental to this property transaction.
- Penalty costs or charges for prepayment of pre-existing recorded mortgages.
- The pro rata share of real estate taxes allocated to the period after we own the property.

Payment

Upon approval of the documents, payment is then mailed directly to you to complete the transaction.

There are basic administrative tasks which must be performed before the payment can actually be tendered, but every effort is made to insure you receive payment in the most expeditious manner.

The LPA then proceeds with the recording of the deed in the county's record.

What if a price cannot be agreed upon?

If agreement cannot be reached, the eminent domain law must be used. The LPA prepares all the applications and other documents necessary to institute formal condemnation proceedings. They are filed with the office of the County Judge in the county where the land is located.

The prospects of a condemnation should not cause fear or apprehension. The eminent domain law provides a means of settlement of honest

disagreement and protects you as well as the LPA.

With proper notification to you, the County Judge appoints three local property owners as a Board of Appraisers. After viewing your property, the Board of Appraisers listens to your statements (or those of your representative) and those of the LPA. A formal report of their findings of value is filed with the County Judge. This hearing is conducted at no expense to you unless you hire an attorney or other representative.

If you or the LPA are not satisfied with the award of the Board of Appraisers, either may appeal to District Court for determination by a jury.

The award by the Board of Appraisers is paid by the LPA directly to the County Court. You may then secure your payment from the County Court after the specified appeal period has lapsed. In the event either you or the LPA should elect to appeal the award, special arrangements may be made through the LPA's attorneys to withdraw the amount of the LPA's original written offer.

In some extreme and seldom occurring circumstances, you may be eligible for certain expenses if a court decides that we cannot condemn your property, if we abandon a condemnation of your property, or if you are successful in an adverse condemnation action. You may appeal our decision of eligibility for these expenses. Your written appeal must be filed with the LPA within 60 days after the LPA has given you written notice of their original decision. If you are still dissatisfied after their review or your appeal, you may seek judicial review of their final decision.

Donations

A LPA may ask an owner to donate the property required for the project. The LPA must inform the owner of their right to have their property appraised and receive just compensation. The owner may:

- donate for no compensation
- receive compensation for fencing or other compensable items
- donate in exchange for certain beneficial construction features.

Should you wish to donate your property, please discuss this with the LPA.

