



Three Do's and Don'ts if your Property is Subject to Eminent Domain

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You just learned that a new road, waterline, pipeline, etc. will be built through your property. What happens next? What are your rights? What should you be on the lookout for?

In this article we discuss three basic Do's and Don'ts to help you know what to expect.



DO ask for the appraisal that the offer to purchase is based on.

Once the project has progressed from a proposal to a relatively final plan (it is hard for the DOT or other government entity to ever commit 100% to anything), an appraiser and/or a right-of-way agent affiliated with the entity taking your property will likely visit your property. They will prepare an appraisal report to determine the fair market value of your property. This forms the basis of their offer.

There are three primary reasons you want to get a copy of this appraisal which the condemning entity should provide at no cost to you. First, you can at least begin to understand the sort of things the agency is taking into account when valuing your property. This will give you a better understanding of the lay of the land when you talk with the appraiser about value. Second, although the appraisal can be a lengthy document filled with real estate and appraisal jargon, you may be able to identify a few things that the appraiser either overlooked or got wrong with regard to the nature of your

property (i.e.: access, availability of utilities, etc.). Anything you can identify may give you ammunition to go back to the agency and ask for more money. Lastly, if you retain an eminent domain attorney, this will be the first document he or she will need to review to determine if he can help.

DON'T tell the Condemnor how much you think the property is worth.

When the appraiser and/or right-of-way agent visits your property, he or she will attempt to engage in seemingly friendly conversation about the value of your property. Keep your guard up. They are fishing for information.

Do not tell them what you think the value of your property is. This admission can be used against you if you try to get more for your property later. When your property is taken under a right of eminent domain, you are allowed to make assumptions about the highest and best use of the property when valuing it. This can lead to farmland being worth much more than you think if it is suitable for residential or commercial development. It is best to keep any comments on value very general – it is worth a lot!

DO ask about relocation expenses.

Generally, if the condemnation involves the taking of your home or business, you have the right to be compensated for the cost of relocating your things from your current property to another property. This can include reimbursement for packing, transportation and storage. Often, however, this is not something that the entity taking your land voluntarily makes you aware of.

Always ask the other side if you are eligible for relocation expenses and get a written offer for these expenses in addition to their offer for the value of your property. Additionally, relocation expenses generally come from a different funding pool, so if you hit a dead end with negotiations on your property value, the other side may be able to add a bit extra in for relocation expenses to get to an acceptable total settlement.

DON'T feel pressured to take the first offer.

Many people feel compelled to settle quickly with an entity that is taking their property. This usually happens for one of three reasons:

They feel that they do not have the power to fight the government or a large private corporation for more money.

They feel that they need the money quickly in order to finance their purchase of a new home or for other expenses.

They don't feel that they can afford to hire an attorney to help.

However, none of these issues should prevent you from seeking more money.

First, the Constitution guarantees your right to fair compensation when the government or any other entity takes your property. Fair compensation is not just what the other side says it is. You have the right to take the other side to court and let a jury of your peers decide how much you should be paid as fair compensation for your property. However, considering this right can lead to roadblocks number 2 and 3 above.

Fortunately, if you decide to fight the other side in court to get more money for your property, you can get access to the amount of money that they say your property is worth immediately. Once settlement negotiations break down, the entity taking your property will file suit to condemn and take your property. At that time, depending on who is taking

your property, title to your property may immediately transfer to the party condemning the property. However, simultaneously the other side has to deposit with the Clerk of Court the amount they believe your property is worth. You can immediately withdraw those funds from the Clerk of Court and use them to help you relocate or pay expenses, while fighting to get more from the other side.

Finally, you may feel that you cannot afford to pay an attorney out-of-pocket to represent you. While each attorney works on a different fee structure, Young Moore eminent domain attorneys do not require you to pay an hourly rate out-of-pocket. Instead, we will be paid a percentage of the final amount that we are able to recover for you, assuming it exceeds the amount of your initial offer.

DO consult with a knowledgeable Eminent Domain Attorney.

Can an eminent domain attorney really help you get more money for your property? The simple answer is “yes”. In 2015, the North Carolina General Assembly asked this exact question. They studied case results and found that landowners who hired attorneys and let a jury decide what their property was worth received well over double what the government agencies initially offered them.

One reason for this is that the agency’s initial offer is based on the valuation of an appraiser they hired. While the appraiser isn’t technically employed by the government, they get a lot of work from them and, as a result, want to return a valuation number that the agency is happy with. An eminent domain attorney will hire a qualified independent appraiser for the landowner who will properly pursue all of the available avenues to maximize the value of your property. Selection of this appraiser is critical to maximize your recovery. The appraiser must be familiar with the eminent domain process, as there are assumptions that can be made that are different from a traditional real estate valuation. Selecting the right appraiser is the first of many ways that an eminent domain attorney can add real value to your property.

DON'T wait to take action.

As with most legal matters, there are deadlines that must be met or you can lose your right to seek additional compensation from the entity taking your property. With certain eminent domain claims, such as Map Act claims, the governing law is constantly changing, often to the disadvantage of property owners. As a result, it is important to contact an eminent domain attorney early on. If you have been made aware that your property could be impacted by a government project or other taking by a private entity, give us a call. The conversation is free to find out if we can help.

Learn more about our Condemnation & Eminent Domain Practice

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