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Acquisition Information for Property Owners Guidebook

A primary responsibility of Olmsted County Public Works is the administration, planning, construction, maintenance and safety of the County highway system.

In carrying out this responsibility, the acquisition of privately owned real property is sometimes necessary. The purpose of this brochure is to inform those individuals whose land must be acquired of their rights under Minnesota law and to provide information about the acquisition process. Please review the information carefully to better understand your legal rights as a property owner.

Additional acquisition and relocation information is available on the Federal Highway Administration website at: <http://www.fhwa.dot.gov/realestate/ua/index.htm> or the Minnesota Department of Transportation website at: <http://www.olmweb.dot.state.mn.us/>

How Olmsted County Acquires Property:

Minnesota law allows the State, County and certain other governmental agencies to acquire property for public purposes such as schools, parks, libraries, recreation facilities, airports and highways.

The Constitution of the United States and the State of Minnesota requires a payment of "Just Compensation" to the owner for property being acquired or damaged for public use.

Payment of "Just Compensation" means that the owner is entitled to the fair market value of their property, which is generally defined as the amount the buyer and seller agree upon based on an appraisal of the property.

Early Contact/Prior to Land Acquisition

During the land acquisition process, a survey crew may request permission to enter your land to obtain information for the planning and engineering of the proposed improvement or project. Often times, a public meeting will be held to give you a chance to provide your opinion on certain aspects of the project.

A County Right of Way Agent, or a representative of the County, will contact you to discuss and learn the nature and interest of all persons involved with the property. Interests could include, co-owners, partners, spouses, children, mortgages, unrecorded easements and such.

Determination of Just Compensation

An appraisal of your real property will be made before negotiations are started. (Real property is defined as the rights and interests possessed in land and generally, whatever is erected, or growing upon or affixed to land.)

You, or a representative you designate, will be given an opportunity to accompany the appraiser during his/her inspection. This provides you an opportunity to point out any unusual or hidden features your property may possess.

In preparing the appraisal, the appraiser may not consider an increase or decrease in the value of your property, prior to the date of valuation, which results from the project or the likelihood that your property will be acquired for the project. However, any physical deterioration within your reasonable control will be considered in the valuation of your property.

The appraisal is based primarily on studies of recent sales of property in the vicinity of your property. The completed appraisal will be reviewed by the County or designated review Agency. The review will establish the amount it believes to be just compensation to be offered for the property.

Direct Purchase

The County will make every effort to first acquire your property through the direct purchase procedure. Direct purchase means a County representative will contact you in an attempt to purchase the property based on the estimated market value provided from the appraisal. A written statement will be provided to you, which will include the amount offered and an explanation of the basis for determining this amount, including a copy of the appraisal report. Where only a part of the property is to be acquired, the statement will separate the amount of compensation to be paid for the property being acquired and the amount (if any) for damages to the remainder.

In certain cases, the County will not need to purchase the actual property but will need to purchase certain “rights” from the property. These rights may include highway easements, drainage easements, access or temporary easements, etc.

The County will, at its own expense:

1. furnish all documents necessary to complete the sale or purchase of rights
2. make the necessary examination of title
3. record the documents of conveyance
4. record partial release or satisfaction

After the documents, have been recorded, payment will be processed. If there is a mortgage, the holder of the mortgage may demand all or part of the proceeds from the sale of part of the mortgaged property. In many instances the County will ask for a partial release of mortgage. The partial release is signed by the mortgage holder and releases their interest in the part acquired by the County. The partial release is recorded along with the document of conveyance.

By agreement, you may retain and remove any or all improvements located on your property that may be located within the area being acquired. The removal of such items will be at your own expense and the salvage value of the improvements retained by you will be deducted from the amount of the offer. If the acquisition leaves you with an uneconomic remnant, the County must offer to purchase it.

You will have a minimum of thirty (30) days to consider the County’s offer. To aid in your decision, you may wish to secure your own appraisal. Minnesota Statute 117.036 Subd. (b), provides for reimbursement for reasonable costs of the appraisal up to a maximum of \$1,500 for single-family and two-family residential property and minimum damages acquisitions and up to a maximum of \$5,000 for other types of property, provided that the owner submits to the acquiring authority the information necessary for reimbursement, including a copy of the owner’s appraisal.

The County will not take any action that would coerce you into accepting its offer. Prohibited actions include advancing the time of condemnation, deferring negotiations or condemnation, or postponing the deposit of funds in court for your use.

If any portion of your property is being acquired in fee, it will be necessary that all current and delinquent real estate taxes, as well as all special assessments, be paid in

full. If only a small portion of your property is being acquired, any delinquent taxes must be paid, although in some instances the County may be able to record the conveyance documents notwithstanding current real estate taxes due.

The County will make every reasonable effort to avoid litigation by acquiring your property through direct negotiation.

Donations

You may make a gift or donation of the property, or any part of it or any of the compensation paid for it, to Olmsted County. You have the right to receive just compensation for the acquisition of the property if it is desired. You are also entitled to have an appraisal made of the property along with an offer of just compensation. However, you may release Olmsted County from either or both of these obligations; it is your option.

Condemnation

Eminent domain is a legal process used for acquiring property for public purposes. Eminent domain, also known as condemnation, is used when the price of the property cannot be agreed upon by the seller and buyer or when the title to the property is defective. If agreement cannot be reached on the purchase of your property, pursuant to Minnesota Statute 117, the County will acquire your property by the exercise of the power of eminent domain.

If a situation such as this does occur, the County will file a condemnation petition with the court administrator. A hearing on the petition will be scheduled and notice of this hearing will be served on you in the same manner as any civil action to fulfill the requirements of State law. The notice will inform you of the hearing date, time, place and type of acquisition. The notice also will describe the property being acquired and will contain a list of the names of all parties who are shown to have an interest in the property.

The hearing on the petition is usually held in the courthouse of the county in which the property is located. An attorney will represent the County and will present the petition to the court. A County representative also will be available to answer questions regarding engineering details, design aspects of the project and construction matters.

The court will appoint three qualified and impartial persons to act as commissioners. After the three court-appointed commissioners have taken their oath of office, they will arrange for viewings and hearings with you and other affected property owners. You will be notified of the date and time when a viewing or valuation hearing will be held.

The chairperson of the commission, who presides over the hearings, will likely invite you to express your opinion as to the amount of damages you feel your property has sustained and to furnish such evidence for purposes of assisting the commissioners in determining an award of damages. You may represent yourself at these hearings, or you may choose to be represented by an attorney. Whether you hire an attorney is your decision.

It is important to note that if you are dissatisfied with the commissioner's award, you have the right to appeal to the District Court. The County also has the right to appeal the award. Any appeal must be made within 40 days to the Court Administrator from the date the commissioners file their award. A notice of such appeal must be mailed to all parties of record having an interest in property described in the appeal.

Reimbursement of Incidental Expenses

You are entitled to be reimbursed for fair and reasonable expenses you necessarily incurred for:

1. Recording fees, transfer taxes and similar expenses incidental to conveying your real property to Olmsted County Public Works.
2. Penalty costs for prepayment of any preexisting, recorded mortgage, entered in good faith, encumbering your property.
3. The pro-rata portion of prepaid real property taxes that can be reimbursed in accordance with state law.
4. The cost to update your abstract as it pertains to this conveyance.

When Can Construction Begin

The County may begin to use the property when it obtains title and possession of it. Title and possession is obtained when you are paid for the property or on a date specified in the purchase agreement.

If your property is acquired through eminent domain, title and possession will be obtained when a deposit has been made with the court, for your benefit, in an amount not less than the approved appraisal, or the amount of the award compensation in a condemnation proceeding.

When you grant permission for the County to enter the property and begin construction. This is accomplished by the signing of a "Right of Entry" permit.

Buildings, Structures and Improvements – Single Ownership

When the County obtains an interest in your land, it must acquire at least an equal interest in any buildings, structures or improvements located on the acquired land, if they are required to be removed or if the highway project will adversely affect them.

Tenant-Owned Buildings, Structures and Improvements

The County is required to pay for property as if it were in a single ownership, and the contributory value of a tenant's improvements will be paid. In other words, if you are a tenant who owns a building, structure or improvement on land required for public purposes, the offer made by Olmsted County Public Works to the landowner will include

either the fair market value your building, structure or improvement contributes to the real property, or the fair market value of the building, structure or improvement for removal from the real property, whichever is greater. As a tenant owning any buildings, structures or improvements on real property, you must reach agreement with the landowner as to your share of the settlement.

Summary and Conclusion

The information contained in this booklet is brief and general. It is in no way intended to be a comprehensive presentation of all relevant information. If you desire additional information, it may be found on the State of Minnesota website at:

<http://www.dot.state.mn.us/row/index.html>

All agents of the County are committed to providing better and safer highways for public use. We realize our obligation to all property owners to be respectful of your rights while carrying out the duties of highway construction. We are ready to assist you in any way that we can during this process.

You are encouraged to consult with your own legal counsel at any time.

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