

As our cities, towns and state grows, it becomes necessary to make changes and improvements to our roads and highways.

Many of the existing roads and streets are no longer adequate to accommodate the larger trucks and machines necessary for this transition. Therefore, it becomes the responsibility of various governmental subdivisions to provide roads and streets over which travel is made with speed and safety. The task is monumental and seemingly never ending.

To serve this broad public interest, it sometimes becomes necessary to acquire private property to construct new roads or streets, or to improve and modernize the existing ones. The citizens of the State of Nebraska, through their Legislature, have given the State and its political subdivisions statutory permission to acquire private property for this purpose. It is indeed unfortunate that a private property owner must be inconvenienced in any way, however, the accomplishment of modern public works projects would not be possible if the land necessary was not first acquired. There would be no roads, government buildings, airports, military bases, railroads, or public convenience of transportation. Right-of-way acquisition is a necessary event in the normal course of progress.

The purpose of this brochure is to help you understand the methods used to acquire the land needed for necessary improvements and, hopefully, it will provide the basis for mutual understanding and cooperation.

Procedures used to acquire property for right-of-way acquisition.

The first suggestion that your property might be needed may be a newspaper report announcing the prospective road improvement in your neighborhood. Public hearings will be offered where you can express your point of view.

Preliminary studies as to where a road should be located and the amount of land that will be needed are made by the subdivision's engineers or by professional engineering consultants which the subdivision may employ. As part of these studies, the ideas, plans and opinions of local, municipal, county and regional officials are solicited. The public hearings give you a chance to be heard and enter your comments and recommendations for the record.

All of the suggestions made at the hearings are considered from every viewpoint—economic, cultural, aesthetic, safety and service before final design is adopted. Then the design is approved by the Nebraska Department of Roads and the Federal Highway Administration in the best interest and the greatest public benefit.

Real property shall be appraised before the initiation of negotiations, unless the acquiring agency waives the necessity for an appraisal. The criteria for waiving the need for an appraisal is the valuation problem must be uncomplicated and the fair market value is estimated to be \$10,000 or less. For uncomplicated acquisitions, a "compensation estimate" will be prepared to determine "just compensation" for your property.

With the exception of when a "compensation estimate" is used, the owner of a subject tract or owner's designated representative shall be given an opportunity to accompany the appraiser during inspection of the subject property.

The appraiser's report is reviewed and a comparison with similar properties recently sold and considered by the appraiser will be used as value indicators. The reviewer will investigate and check the neighborhood and determine the fair market value which will be offered by the acquiring entity.

After your land has been appraised and the appraisal review completed, you will be contacted by the right-of-way agent who will make an offer for your property. Appraisals are made for the mutual benefit of property owners and the acquiring entity, the agent does not attempt to bargain or "horse trade" for a lesser amount. The agent 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 agent so it can be checked with the appraiser.

After the agent has explained the requirements of the county or city and the offer is extended, most owners understand and accept the settlement. The offer is given in writing and is a firm price which totally excludes any bargaining. In order to protect the interest of the owner and the acquiring entity, the county or city will double check its appraisal in light of any new information.

How is your property acquired?

There are three methods by which your property may be acquired.

Direct sale of the property from the property owner to the county or city.

The agent will submit the contract for the payment price offered by the county or city to the property owner to execute.

The contract will then be returned to the county or city by the agent for approval. The county or city will prepare and transmit to the property owner all necessary documents to effect the conveyance of the property required, including preparation of any necessary releases of mortgage. Generally, a claim to be signed by the property owner accompanies the deed.

When the deed and the claim are signed, they are returned to the county or city. In signing the claim or payment document, your social security number must be included. The payment is then mailed directly to you. The county or city then proceeds with the recording of the deed in the county's record.

Eminent domain procedure.

Eminent domain procedure is used when title to the property cannot be conveyed because it is held by a minor, an owner cannot be located, or the acquiring entity and the owner cannot agree on a price. If agreement cannot be reached, the eminent domain law must be used. The county or city prepares all the applications and other

documents necessary to start these proceedings. They are filed with the office of the county judge in the county wherein the land is located.

With proper notification to the landowner, the county judge appoints three local property owners as county appraisers. After viewing the property, the appointed appraisers listen to the statements of the landowner, or his/her representatives, and of the acquiring entity. A formal report of their findings of value is filed with the county judge. This hearing is conducted at no expense to the landowner unless the landowner hires an attorney or other representative.

If the landowner or the acquiring entity is not satisfied with a report of the appraisers appointed by the county judge, either may appeal to the county court for determination by a jury. 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 the landowner as well as the county or city.

Donation of property by civic-minded property owners.

Entire sections of roads have been built on properties, all of which have been donated.

Suppose only a part of my property is needed?

Sometimes only a portion of land may be needed and none of the buildings; or sometimes a dwelling or other buildings and only part of the land. A partial property acquisition is considered as fairly as an entire property purchase in all stages of the acquisition. This is true whether the acquisition is by direct purchase or condemnation. The appraiser estimates the part of the property to be acquired, and any loss in value or utility to the remainder is considered. The circumstances which will apply to your property will be explained by the agent.

May I keep my building and move it?

You may desire to keep a building and move it if possible. The offer to you will be reduced by an amount estimated by the acquiring agency to be the salvage value during negotiations, and you will be given the date by which the property must be vacated and the structure moved. However, you must retain your own mover at your own expense. A building that an owner does not retain is disposed of by the acquiring agency, either by public sale or demolition by a contractor.

When will I be paid?

After you have accepted the agreement of sale, the acquiring agency processes it as soon as possible so that an early payment may be made to you. There are basic administrative tasks which must be performed before the payment can actually be entered, but every effort is made to insure that you receive payment in the most expeditious manner. Where an improvement is to be acquired by the acquiring entity, priority will be given to expedient payment.

In the process of condemnation, the award estimated in the formal report by the court appointed appraisers is paid by the acquiring agency directly to the county judge. You may then secure your payment from the county judge's office after the specified appeal period has lapsed. In the event either you or the acquiring agency should elect to appeal the award, special arrangements will be made through the attorneys for you to receive a partial payment.

Must I pay a capital gain tax or an income tax?

The sale of property to the acquiring agency for public purposes, in most instances, is considered "involuntary conversion" by the U.S. Internal Revenue Service. You may not have to pay a capital gains tax on any profits you make in the sale of your property, provided

you reinvest at least the same amount of money you received in a similar property in accordance with the Internal Revenue code. However, federal tax laws and official interpretations may vary from time to time; thus it is best to check with your tax advisor or the Internal Revenue Service officials.

If my house needs to be acquired, what if I can't find another residence easily?

Help in finding replacement housing is offered by the local pubic agency or qualified consultant to property owners and tenants affected by the federal-aid highway projects. The local public agency or qualified consultant will suggest, or contact public agencies or private organizations which may aid eligible persons if this service is requested. A brochure explaining the relocation will be provided to each affected property owner.

Additive payments are available to either persons or business. The payments and requirements for eligibility are explained in detail in the relocation brochure. Any questions left unanswered by the brochure should be referred to the Local Public Agency or qualified consultant.

At Your Service

From your first notice to the final payment, you will be kept informed of all developments concerning the acquisition of your property. Every representative of the acquiring agency is sincerely interested in cooperating with you, as with every other owner or tenant affected by our road program. We offer you assistance and understanding and will appreciate your confidence and good will.

After all, most of us are property owners, and all of us are stockholders in the State of Nebraska and are joined in a common concern for the best interest of the public.

Right-of-Way Division
Department of Roads
PO Box 94759
Lincoln, NE 68509-4759

Project _____

Tract _____

Persons I have talked to representing the county or city:

Name	Position
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
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Notes

Right-of-Way Acquisition and Your Property

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