

ACQUISITION SUMMARY GUIDE

FOR PROPERTY
OWNERS



Dakota
COUNTY
transportation
we get you there

The acquisition of privately owned property is sometimes necessary to administer, plan, construct, maintain and safely operate the County highway system. Under Minnesota law, the County may acquire property, including fee title acquisitions, permanent easements and temporary easements, by direct purchase or eminent domain proceedings (sometimes referred to as condemnation). This guide contains important information about property owner rights under Minnesota law and the acquisition process.



INITIAL CONTACT



Prior to acquiring property, it is necessary to determine if or to what extent property will be impacted by a project. The County will notify you by mail that a survey crew will enter your land to obtain information for the development of the proposed improvement. This allows the County to determine if and to what extent your property may be directly impacted by the project.

DETERMINING COMPENSATION



If your property will be directly impacted by a project, an independent certified appraiser will appraise your property rights before negotiations are started. Property rights appraised include rights and interests possessed in land and generally whatever is erected, or growing upon, or affixed to the land. You, or a representative you designate, may accompany the appraiser on

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the inspection. This provides you an opportunity to point out any unusual or hidden features your property may possess.

The appraisal is generally based on studies of recent sales of property in the vicinity of your property to determine just compensation for the acquired property rights based on fair market value. Just compensation is determined based on constitutional and other legal requirements for public acquisition. The County will review and approve the completed appraisal(s). Based on the approved appraisal(s), the County will establish the amount it believes to be just compensation to be offered for the property interest to be acquired, which will not be less than the value determined by the approved appraisal.

In certain cases, if you must relocate from the property permanently, the amount of compensation payable, at a minimum, must be sufficient for you to purchase a comparable property in the community and not less than the County's approved appraised value.

If your business or trade is destroyed by an acquisition, you may claim compensation for loss of going concern, unless the County establishes any of the following by a preponderance of the evidence:

1. The loss is not caused by the acquisition of the property or the injury to the remainder;
2. The loss can be reasonably prevented by relocating the business or trade in the same or a similar and reasonably suitable location as the property that was acquired, or by taking steps and adopting procedures that a reasonably prudent person of a similar age and under similar conditions as the owner, would take and adopt in preserving the going concern of the business or trade; or
3. Compensation for the loss of going concern will be duplicated in the compensation otherwise awarded in the matter.

A claim for loss of going concern must be made within 60 days after the first court hearing pertaining to the County's petition for eminent domain, which is further discussed below.



BUILDINGS, STRUCTURES & IMPROVEMENTS



When the County obtains an interest in your land, it may need to acquire 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.

The County is required to pay for property as if it were in a single ownership. If you are a tenant who owns a building, structure or improvement on land required for public purposes, the offer made by the County to the landowner will include either the fair market value which your building, structure or improvement contributes to the real property, or the fair market value of removing the building, structure or improvement from the real property, whichever is greater. A tenant may receive a copy of the approved appraisal and participate in negotiations related to the acquisition if the tenant is entitled to eminent domain compensation under a lease.

Please provide a copy of all rent rolls and leases to the County to ensure that all interested parties are included in the acquisition process.

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ACQUISITION BY DIRECT PURCHASE



The County will make an offer to purchase the property for the full amount it has determined to be just compensation. A written statement will be provided to you that will include the amount offered and an explanation of the basis for determining this amount. In cases 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

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being acquired and the amount (if any) for damages to the remaining land. If any acquisition leaves you with an uneconomic remnant, the County must offer to purchase it.

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

You will have a reasonable length of time to consider the offer to purchase.

APPRAISAL REIMBURSEMENT

You will have a reasonable length of time to consider the offer to purchase. To aid in your decision, you may wish to secure your own appraisal. Minnesota law provides for reimbursement of your appraisal costs by the County as follows:

1. The appraisal reimbursement can be up to \$1,500 for acquisitions from any property type appraised by the County's independent certified appraiser at \$25,000 or less, or
2. The appraisal reimbursement can be up to \$1,500 for acquisitions from properties that are single family or two family residential properties, or
3. The appraisal reimbursement can be up to \$5,000 for all other acquisitions not falling within the categories stated in paragraphs 1 and 2.

The County must pay the reimbursement to you or your appraiser within 30 days after receiving a copy of the appraisal and reimbursement information.



ACCEPTING THE OFFER

If you elect to accept the offer, you will be asked to sign documents granting the County the required interest in your property. The County will, at its own expense, furnish all documents necessary to complete the conveyance, make the necessary examination of title, and record the documents at the County Recorder or Registrar of Titles' Office, whichever is applicable.

Payment will be processed within a reasonable time after all the required documents have been signed...

Payment will be processed within a reasonable time after all the required documents have been signed by you and others who may have a legal interest in the fee title. If there is a mortgage, contract for deed, or other recorded lien

on the property being acquired, the holder of that lien will be named as a payee on the check. The check can be made payable to you if the lien holder provides the County a written statement allowing the check to be made payable to you only. If all of your property interest is being acquired, all current and delinquent property taxes, as well as all special assessments, must be paid in full. The County will advise you on payment of property taxes due.

ACQUISITION CONCERNS

The County will make every reasonable effort to avoid litigation by acquiring your required property interest through direct purchase. The County encourages you to raise issues and concerns related to the acquisition during this negotiation process to allow time to reach a mutually agreeable resolution of the negotiations.



RELOCATION



If you must move because your home has been acquired, or if you must relocate your business or farm operation because of the acquisition of your property, you will be given at least 90 days advance written notice of the date by which you are required to move. If you must relocate, you will be provided additional information from a relocation advisor explaining the relocation benefits and reimbursements for which you may be eligible. If you have to move from your home, a decent, safe and sanitary replacement dwelling must be available to you prior to your displacement.

You are not required to surrender possession of your property until:

1. You have been paid the agreed purchase price,
or
2. A deposit has been made with the court, for your benefit, in an amount not less than the County approved appraisal or the amount of the award of compensation in an eminent domain proceeding.

Once the County has acquired your property, it may decide to rent it prior to relocation, subject to termination on short notice. The amount of rent charged you or another tenant will not exceed the fair rental price value of the property to a short-term occupier.

ACQUISITION BY EMINENT DOMAIN



If agreement cannot be reached on the purchase of your property, the County may acquire the required property interest through the power of eminent domain. If this situation occurs, the County will institute the formal eminent domain proceedings.

An eminent domain proceeding involves the County filing a petition with the district court describing the property to be acquired. You will be served a copy of the petition and notice of hearing. The court will conduct a hearing to determine if the County has a public need and purpose for the property. If the petition

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satisfies those requirements, the court will appoint three impartial commissioners with knowledge of eminent domain procedures and real estate values in the market area to determine the amount of just compensation due if you and the County cannot reach an agreement. The commissioners will view the property and conduct valuation hearings to make their just compensation determination. You will be provided notice of the viewing and any hearings related to your property.

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At the conclusion of a valuation hearing, the commissioners will deliberate and issue an award concerning their determination of just compensation for the property. If either you or the County are dissatisfied with the award, the just compensation determination can be appealed to district court by filing an appeal within 40 days of the commissioners' award. Upon appeal to the district court, just compensation may be determined by trial to the judge or jury.



EXPENSE REIMBURSEMENT



LITIGATION COSTS

If one of the following conditions occur, the County must reimburse you for your reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees which you have actually incurred. Such litigation expenses are reimbursable only under these conditions:

1. If the County starts an eminent domain action, but the court decides that the County does not have the authority to acquire your property by condemnation, or
2. If the County starts an eminent domain action and abandons it, or
3. If the final judgment or award for damages, as determined at any level in an eminent domain process, exceeds \$25,000 and is more than 40 percent greater than the last written offer of compensation made by the County prior to filing an eminent domain petition, a court must award reasonable attorney fees, litigation expenses, appraisal fees, other experts fees, and other related costs, or

4. If the final judgment or award for damages, as determined at any level in an eminent domain process, is more than \$25,000 and is at least 20 percent but not more than 40 percent greater than the last written offer, a court may, in its discretion award reasonable attorney fees, expenses, and other costs and fees.

INCIDENTAL COSTS

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 the County.
2. The pro-rata portion of prepaid real property taxes that can be reimbursed in accordance with the state law.



DISCLAIMER



This summary guide is intended to be an informative guide of the general acquisition procedures. It is not intended to be legally binding and the applicable federal and state laws and regulations shall control.

This guide does not offer any legal advice. You have the right to consult with an attorney and/or tax advisor of your choice at any time during the acquisition process.

Additional acquisition information is available from a Dakota County right of way specialist.



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