

EMINENT DOMAIN PROCEDURE

The purpose of this statement is to generally outline for the property owner the steps that are taken to acquire property by eminent domain. This statement should not be considered as a complete statement of all laws and procedures governing eminent domain.

When agreement with the landowner cannot be reached, appropriate documents instituting eminent domain proceedings are filed by the Department of Roads with the County Judge in the county where the property is located. The County Judge then appoints three local property owners as appraisers who are familiar with local real property values. After proper notification to the landowner of the time and place of hearing, the appointed board of appraisers view the property and listen to statements of the landowner or his representatives as to their opinion of land value and damages and to statements of the Department of Roads' representatives. The appointed board of appraisers then file a formal report of their findings of value with the County Judge.

While the landowner is not required to attend the hearing, it is to his interest to do so. The landowner may elect to present his own statement to the board of appraisers or may wish to retain an attorney to represent him. Unless the landowner elects to retain an attorney, the above described hearing is conducted at no expense to the landowner.

The State shall deposit with the County Judge and make available to the property owner the amount of the appraiser award before the State shall take physical possession of the property. If neither party appeals to the District Court, the money is available to the landowner after 30 days from the filing of the award by the appraisers. The landowner should make inquiry of the County Judge as to when the award was filed.

If either the landowner or the Department of Roads is not satisfied with the report of the appraisers appointed by the County Judge, either may appeal to the District Court for a determination of value by a Jury. In the event of such an appeal by either party, it is the usual practice of the landowner to retain an attorney to represent him for the jury trial in District Court.

If either party appeals from the award of appraisers, the landowner may by stipulating with the Department of Roads, withdraw a portion of the award in an amount not to exceed 100% of the Department of Roads established fair market value.

It is pointed out that prior to the hearing date, the landowner may accept the Department of Roads' offer, and the eminent domain proceedings will be dismissed by the Department of Roads.