



THE STATE OF TEXAS LANDOWNER'S BILL OF RIGHTS

This Landowner's Bill of Rights applies to any attempt to condemn your property. The contents of this Bill of Rights are set out by the Texas Legislature in Texas Government Code section 402.031 and chapter 21 of the Texas Property Code. Any entity exercising eminent domain authority must provide a copy of this Bill of Rights to you.

1. You are entitled to receive adequate compensation if your property is condemned.
2. Your property can only be condemned for a public use.
3. Your property can only be condemned by a governmental entity or private entity authorized by law to do so.
4. The entity that wants to acquire your property must notify you that it intends to condemn your property.
5. The entity proposing to acquire your property must provide you with a written appraisal from a certified appraiser detailing the adequate compensation you are owed for your property.
6. If you believe that a registered easement or right-of-way agent acting on behalf of the entity that wants to acquire your property has engaged in misconduct, you may file a written complaint with the Texas Real Estate Commission (TREC) under section 1101.205 of the Texas Occupations Code. The complaint should be signed and may include any supporting evidence.
7. The condemning entity must make a bona fide offer to buy the property before it files a lawsuit to condemn the property—meaning the condemning entity must make a good faith offer that conforms with chapter 21 of the Texas Property Code.
8. You may hire an appraiser or other professional to determine the value of your property or to assist you in any condemnation proceeding.
9. You may hire an attorney to negotiate with the condemning entity and to represent you in any legal proceedings involving the condemnation.
10. Before your property is condemned, you are entitled to a hearing before a court-appointed panel of three special commissioners. The special commissioners must determine the amount of compensation the condemning entity owes for condemning your property. The commissioners must also determine what compensation, if any, you are entitled to receive for any reduction in value of your remaining property.
11. If you are unsatisfied with the compensation awarded by the special commissioners, or if you question whether the condemnation of your property was proper, you have the right to a trial by a judge or jury. You may also appeal the trial court's judgment if you are unsatisfied with the result.



CONDEMNATION PROCEDURE

Eminent domain is the legal authority certain governmental and private entities have to condemn private property for public use in exchange for adequate compensation. Only entities authorized by law to do so may condemn private property. Private property can include land and certain improvements that are on that property.

WHO CAN I HIRE TO HELP ME?

You can hire an appraiser or real estate professional to help you determine the value of your property as well as an attorney to negotiate with a condemning entity or to represent you during condemnation proceedings.

WHAT QUALIFIES AS A PUBLIC PURPOSE OR USE?

Your property may be condemned only for a purpose or use that serves the general public. This could include building or expanding roadways, public utilities, parks, universities, and other infrastructure serving the public. Texas law does not allow condemning authorities to exercise eminent domain for tax revenue or economic development.

WHAT IS ADEQUATE COMPENSATION?

Adequate compensation typically means the market value of the property being condemned. It could also include certain damages if your remaining property's market value is diminished by the condemnation or the public purpose for which it is being condemned.

OTHER THAN ADEQUATE COMPENSATION, WHAT OTHER COMPENSATION COULD I BE OWED?

If you are displaced from your residence or place of business, you may be entitled to reimbursement for reasonable expenses incurred while moving to a new site. However, reimbursement costs may not be available if those expenses are recoverable under another law. Also, reimbursement costs are capped at the market value of the property.

WHAT DOES A CONDEMNOR HAVE TO DO BEFORE CONDEMNING MY PROPERTY?

- ◆ Provide you a copy of this Landowner's Bill of Rights before, or at the same time as, the entity first represents that it possesses eminent domain authority. It is also required to send this Landowner's Bill of Rights to the last known

address of the person listed as the property owner on the most recent tax roll at least seven days before making its final offer to acquire the property.

- If the condemnor seeks to condemn a right-of-way easement for a pipeline or electric transmission line and is a private entity, the condemnor must also provide you a copy of the Landowner's Bill of Rights addendum.
- The addendum describes the standard terms required in an instrument conveying property rights (such as a deed transferring title or an easement spelling out the easement rights) and what terms you can negotiate.
- ◆ Make a bona fide offer to purchase the property. This process is described more fully in chapter 21 of the Texas Property Code. A "bona fide offer" involves both an initial written offer as well as a final written offer.
 - The initial written offer must include:
 - » a copy of the Landowner's Bill of Rights and addendum (if applicable);
 - » either a large-font, bold-print statement saying whether the offered compensation includes damages to the remainder of your remaining property or a formal appraisal of the property that identifies any damages to the remaining property (if any);
 - » the conveyance instrument (such as an easement or deed); and
 - » the name and telephone number of an employee, affiliate, or legal representative of the condemning entity.
 - The final written offer must be made at least 30 days after the initial written offer and must include, if not previously provided:
 - » compensation equal to or more than the amount listed in a written, certified appraisal that is provided to you;
 - » copies of the conveyance instrument; and
 - » the Landowner's Bill of Rights.
- ◆ Disclose any appraisal reports. When making its initial offer, the condemning entity must share its appraisal reports that relate to the property from the past 10 years. You have the right to discuss the offer with others and to either accept or reject the offer made by the condemning entity.

WHAT IF I DO NOT ACCEPT AN OFFER BY THE CONDEMNING AUTHORITY?

The condemnor must give you at least 14 days to consider the final offer before filing a lawsuit to condemn your property, which begins the legal condemnation process.

HOW DOES THE LEGAL CONDEMNATION PROCESS START?

The condemnor can start the legal condemnation process by filing a lawsuit to acquire your property in the appropriate court of the county where the property is located. When filing the petition, the condemnor must send you a copy of the petition

by certified mail, return receipt requested, and first class mail. It must also send a copy to your attorney if you are represented by counsel.

WHAT DOES THE CONDEMNOR HAVE TO INCLUDE IN THE LAWSUIT FILED WITH THE COURT?

The lawsuit must describe the property being condemned and state the following: the public use; your name; that you and the condemning entity were unable to agree on the value of the property; that the condemning entity gave you the Landowner's Bill of Rights; and that the condemning entity made a bona fide offer to voluntarily purchase the property from you.

SPECIAL COMMISSIONERS' HEARING AND AWARD

No later than 30 days after the condemning entity files a condemnation lawsuit in court, the judge will appoint three local landowners to serve as special commissioners and two alternates. The judge will promptly give the condemnor a signed order appointing the special commissioners and the condemnor must give you, your lawyer, and other parties a copy of the order by certified mail, return receipt requested. The special commissioners will then schedule a condemnation hearing at the earliest practical time and place and to give you written notice of the hearing.



WHAT DO THE SPECIAL COMMISSIONERS DO?

The special commissioners' job is to decide what amount of money is adequate to compensate you for your property. The special commissioners will hold a hearing where you and other interested parties may introduce evidence. Then the special commissioners will determine the amount of money that is adequate compensation and file their written decision, known as an "Award," in the court with notice to all parties. Once the Award is filed, the condemning entity may take possession and start using the property being condemned, even if one or more parties object to the Award of the special commissioners.

ARE THERE LIMITATIONS ON WHAT THE SPECIAL COMMISSIONERS CAN DO?

Yes. The special commissioners are tasked only with determining

monetary compensation for the value of the property condemned and the value of any damages to the remaining property. They do not decide whether the condemnation is necessary or if the public use is proper. Further, the special commissioners do not have the power to alter the terms of an easement, reduce the size of the land acquired, or say what access will be allowed to the property during or after the condemnation. The special commissioners also cannot determine who should receive what portion of the compensation they award. Essentially, the special commissioners are empowered only to say how much money the condemnor should pay for the land or rights being acquired.

WHO CAN BE A SPECIAL COMMISSIONER?

Special commissioners must be landowners and residents in the county where the condemnation proceeding is filed, and they must take an oath to assess the amount of adequate compensation fairly, impartially, and according to the law.

WHAT IF I WANT TO OBJECT TO A SPECIAL COMMISSIONER?

The judge must provide to the parties the names and contact information of the special commissioners and alternates. Each party will have up to 10 days after the date of the order appointing the special commissioners or 20 days after the date the petition was filed, whichever is later, to strike one of the three special commissioners. If a commissioner is struck, an alternate will serve as a replacement. Another party may strike a special commissioner from the resulting panel within three days after the date the initial strike was filed or the date of the initial strike deadline, whichever is later.

WHAT WILL HAPPEN AT THE SPECIAL COMMISSIONERS' HEARING?

The special commissioners will consider any evidence (such as appraisal reports and witness testimony) on the value of your condemned property, the damages or value added to remaining property that is not being condemned, and the condemning entity's proposed use of the property.

WHAT ARE MY RIGHTS AT THE SPECIAL COMMISSIONERS' HEARING?

You have the right to appear or not appear at the hearing. If you do appear, you can question witnesses or offer your own evidence on the value of the property. The condemning entity must give you all existing appraisal reports regarding your property used to determine an opinion of value at least three days before the hearing. If you intend to use appraisal reports to support your claim about adequate compensation, you must provide them to the condemning entity 10 days after you receive them or three business days before the hearing, whichever is earlier.

DO I HAVE TO PAY FOR THE SPECIAL COMMISSIONERS' HEARING?

If the special commissioners' award is less than or equal to the amount the condemning entity offered to pay before the proceedings began, then you may be financially responsible for the cost of the condemnation proceedings. But, if the award is more than the condemning entity offered to pay before the proceedings began, then the condemning entity will be responsible for the costs.

WHAT DOES THE CONDEMNOR NEED TO DO TO TAKE POSSESSION OF THE PROPERTY?

Once the condemning entity either pays the amount of the award to you or deposits it into the court's registry, the entity may take possession of the property and put the property to public use. Non-governmental condemning authorities may also be required to post bonds in addition to the award amount. You have the right to withdraw funds that are deposited into the registry of the court, but when you withdraw the money, you can no longer challenge whether the eminent domain action is valid—only whether the amount of compensation is adequate.

OBJECTING TO THE SPECIAL COMMISSIONERS' AWARD

If you, the condemning entity, or any other party is unsatisfied with the amount of the award, that party can formally object. The objection must be filed in writing with the court and is due by the first Monday following the 20th day after the clerk gives notice that the commissioners have filed their award with the court. If no party timely objects to the special commissioners' award, the court will adopt the award amount as the final compensation due and issue a final judgment in absence of objection.

WHAT HAPPENS AFTER I OBJECT TO THE SPECIAL COMMISSIONERS' AWARD?

If a party timely objects, the court will hear the case just like other civil lawsuits. Any party who objects to the award has the

right to a trial and can elect whether to have the case decided by a judge or jury.

WHO PAYS FOR TRIAL?

If the verdict amount at trial is greater than the amount of the special commissioners' award, the condemnor may be ordered to pay costs. If the verdict at trial is equal to or less than the amount the condemnor originally offered, you may be ordered to pay costs.

IS THE TRIAL VERDICT THE FINAL DECISION?

Not necessarily. After trial any party may appeal the judgment entered by the court.



DISMISSAL OF THE CONDEMNATION ACTION

A condemnation action may be dismissed by either the condemning authority itself or on a motion by the landowner.

WHAT HAPPENS IF THE CONDEMNING AUTHORITY NO LONGER WANTS TO CONDEMN MY PROPERTY?

If a condemning entity decides it no longer needs your condemned property, it can file a motion to dismiss the condemnation proceeding. If the court grants the motion to dismiss, the case is over, and you can recover reasonable and necessary fees for attorneys, appraisers, photographers, and for other expenses up to that date.

WHAT IF I DO NOT THINK THE CONDEMNING ENTITY HAS THE RIGHT TO CONDEMN MY PROPERTY?

You can challenge the right to condemn your property by filing a motion to dismiss the condemnation proceeding. For example, a landowner could challenge the condemning entity's claim that it seeks to condemn the property for a public use. If

the court grants the landowner's motion, the court may award the landowner reasonable and necessary fees and expenses incurred to that date.

CAN I GET MY PROPERTY BACK IF IT IS CONDEMNED BUT NEVER PUT TO A PUBLIC USE?

You may have the right to repurchase your property if your property is acquired through eminent domain and:

- ◆ the public use for which the property was acquired is canceled before that property is put to that use,
- ◆ no actual progress is made toward the public use within 10 years, or
- ◆ the property becomes unnecessary for public use within 10 years.

The repurchase price is the price you were paid at the time of the condemnation.

ADDITIONAL RESOURCES AND ADDENDA

For more information about the procedures, timelines, and requirements outlined in this document, see chapter 21 of the Texas Property Code. An addenda discussing the terms required for an instrument of conveyance under Property Code section 21.0114(c), and the conveyance terms that a property owner may negotiate under Property Code section 21.0114(d), is attached to this statement.

The information in this statement is intended to be a summary of the applicable portions of Texas state law as required by HB 1495, enacted by the 80th Texas Legislature, Regular Session, and HB 2730, enacted by the 87th Texas Legislature, Regular Session. This statement is not legal advice and is not a substitute for legal counsel.