



Condemnation Procedure Explainer

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WHAT IS THIS STEP IN THE EMINENT DOMAIN PROCESS?

Condemnors and landowners are oftentimes required to negotiate for the desired land, but negotiations may stall and fail. One party may not agree to what the other party is offering (either in amount or in terms of the easement), as can be expected when land is at the center of discussion. A condemnor then must file a complaint if negotiations do not result in a sale and purchase of the property.

WHY IS IT IMPORTANT?

It is important to understand why legal proceedings are initiated, what the grounds are for condemnation, and how to ensure fair compensation for landowners—all of which fall within the bounds of condemnation procedure.

DIFFERENCE BETWEEN STATES

Most states require the condemnor to file a complaint within the district or county court of which the property lies. This complaint must identify both parties, the land in contention, and the reasonings behind the public taking, a statement of the estimation to be rendered to the landowner, and the appraisal for which the compensation amount is based. The landowner is then served with the complaint. States vary regarding the amount of time between a complaint served and the start of the proceedings. Indiana requires a ten day waiting period, Montana has a six month waiting period. Like all elements of eminent domain, state legislation varies significantly.

Often, these matters are heard by special commissioners, but some states such as Alaska, Michigan, Illinois, Louisiana, New Hampshire, and Washington allow the parties to request a jury hearing, or as in Michigan, the court may appoint twelve jurors, rather than commissioners, at its discretion. The primary purpose of the special commissioners is to determine the value of the taking, and if they find a decision favorable to the condemning authority, a fair and just compensation. As is common with most judicial proceedings, a landowner unsatisfied with a ruling may appeal. The standard benchmark is a 30 day period to appeal. Possession after a ruling in favor of condemnation sees a great deal of variation amongst state legislation, and on average, possession may occur even if an appeal is filed, but compensation must be paid. Various states, like California, Illinois, and New Mexico, have expedited proceedings that allow for governments to move with speed and ease.