

Act 87, Public Acts of 1980 As Amended - An Overview of Condemnation Procedures

At the conclusion of negotiations, if the property owner does not wish to accept the Good Faith Offer, eminent domain proceedings are initiated in circuit court under Act 295, Public Acts of 1966, as amended, pursuant to the provisions of Public Act 87 of 1980, as amended.

A brief summary of the steps under Act 87, as amended, are:

1) The property owner will receive several legal documents. These will consist of a Complaint, Order for Hearing on Complaint, Statement of Necessity, and Declaration of Taking. The full amount of the money offered for the property as stated in the Declaration of Taking is placed on deposit in an escrow account set up by the condemning authority.

2) The Order for Hearing on Complaint will inform the property owner of the date set for a hearing. If personally served, the property owner has 21 days following receipt of the Complaint to challenge the necessity of the purchase of the property by filing a motion with the court asking for a review. If served by mail, the property owner has 28 days following receipt of the Complaint to challenge the necessity of the purchase of the property by filing a motion with the court asking for a review. The Statement of Necessity is binding unless the property owner can show fraud, error of law, or abuse of discretion. When the necessity for the taking is not challenged, or the challenge has been denied, the condemning authority acquires title to the property as of the date the Complaint was filed, unless the court sets a different date. If the property owner or their attorney does not attend the hearing, the court may be requested to enter an Order of Default. The property owner will have 180 days from the date of filing to submit a written claim to the condemning agency if the property owner believes an item of value has been overlooked. The property owner must provide sufficient information and detail about the claim so the condemning authority can determine the value of the claim and whether it is eligible for payment.

3) At the first hearing, the condemning authority will request the court to establish the time and terms for surrender of the property rights needed from the subject property. The court will be requested to order the monies on deposit in the approved escrow account to be paid to the property owner which represents the Good Faith Offer amount the condemning authority has offered for the property rights needed for the project. The court will establish a scheduling order for the progression of the lawsuit including discovery deadlines and alternative dispute resolution short of an actual trial.

4) The court will establish a trial date, at which time a six-person jury will be impaneled and charged with the responsibility of determining the amount of just compensation after hearing the evidence. At trial, the condemning authority will present its case to the jury, justifying the amount it has offered. The property owner will have the opportunity to present evidence to support the value they think the property is worth. The jury's decision may be appealed by the parties of interest or the condemning authority. If the jury's award exceeds the condemning authority's written good faith offer, the property owner will be reimbursed reasonable attorney fees as allowed by law. The property owner may also be reimbursed certain reasonable expert witness fees for preparation and trial. The court may be called upon to determine the reasonableness of fees.

This is a brief description of the typical steps taken in an eminent domain proceeding for information purposes only. This overview should not be construed as legal advice and does not explain all of the specific or unique aspects of an eminent domain proceeding. Consult your attorney to discuss eminent domain law and required processes.