



Public Roads & Private Property

"No person shall... be deprived of life, liberty, or property without due process of the law; nor shall private property be taken for public use, without just compensation."

Bill of Rights
Fifth Amendment to
The U.S. Constitution

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This booklet is intended to provide general information; it is not intended to set forth all of the details of the legal rights and obligations arising from the acquisition of property.

Accommodations under the Americans with Disabilities Act will be provided to affected property owners, tenants, or their representatives, if requested.

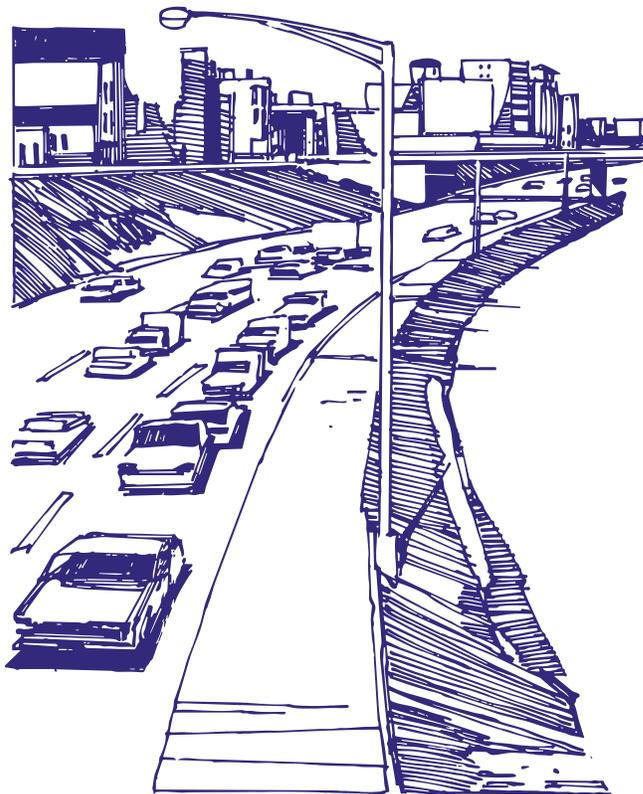
If the information in this booklet is needed in an alternative format, please contact the Michigan Department of Transportation, Development Services Division.

Need for Highway Improvements

Many Michigan highways built years ago have outlived their intended life spans. They are congested with traffic and need continual renovation and improvement. Preserving and improving our highways are top priorities of the Michigan Department of Transportation (MDOT).

Investment in Michigan's transportation increases capacity, improves service, reduces travel time, lowers trip cost, increases business access and mobility, and improves travel time reliability. These improvements translate into greater productivity and better access to labor and markets, for individuals, as well as for businesses.

Freeways and other new and improved highways are an investment in Michigan's future. They provide more jobs, more progress, and more driving pleasure.



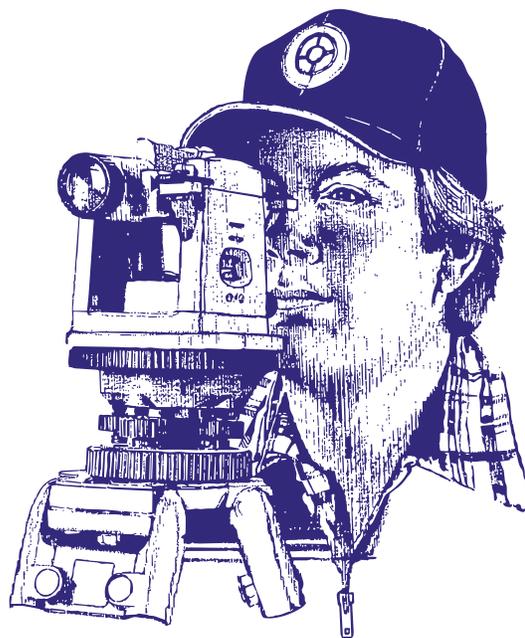
How a Route is Determined

When a need is identified, a project is proposed to satisfy that need. MDOT staff study the type and route that best suit the needs of the community, both now and in the future. They study all land features. Feasible locations are reviewed at the sites and on detailed aerial maps. Traffic survey employees interview thousands of motorists and gather information to pin-point existing traffic flow. The public is given ample opportunity to provide input.

Many projects are the result of numerous public information meetings and hearings, as well as requests by local officials and the public for specific transportation improvements.

MDOT manages a vast scope of projects. Some are simple, others larger and more costly; yet they all fall into three categories: Preserve, Improve, or Expand. "Preserve" projects for roads include resurfacing, construction without widening, and adding lanes of one-half mile or less. "Improve" projects add capacity - in the case of roads or lanes - to existing facilities. "Expand" projects increase the size of the transportation system by adding new improvements.

The project, along with its estimated cost, is compared to other projects. Cost, urgency, and other factors are given consideration. Some projects are accepted, some are returned for further study, and others are simply delayed.



How Property is Purchased

After MDOT staff selects the exact location and design of the project, affected property owners are contacted for a preliminary interview. This interview may occur at a public building or at the owner's home. At the interview, Development Services Division staff verify ownership, location of structures and boundaries, and other pertinent information.

The next step is to determine fair market value of the property being acquired. This is done by one of two methods - a market study or an appraisal.

If the needed right of way is minimal, or if only temporary-use permits are needed, a market study will be used. You may also request an appraisal.

If an appraisal is needed, licensed appraisers will estimate a fair market value for your property by comparing your property with similar properties sold in your area. You or your representative will be given the opportunity to accompany the appraiser on a thorough inspection of your property. In some instances, the appraiser may need to analyze some of your financial information to arrive at a fair market value.

Based upon these inspections and comparisons, the appraiser will provide MDOT with a written opinion of fair market value for your property. This appraisal is then reviewed to ensure that state and federal requirements and acceptable appraisal standards are met.

You will then be contacted by an MDOT negotiator. The negotiator will explain the project, schedules, appraisal, and relocation assistance, and make an offer to purchase that portion of your property needed for the project.

You will have a reasonable length of time to study the offer presented and to ask any questions. If you believe that MDOT has overlooked an item of value, you may submit a written claim to reconsider value within 90 days of the offer. Supporting documentation must be submitted with this claim. On occasion, you may be asked to cooperate with MDOT in seeking a variance to the zoning ordinance.

When an agreement has been reached between yourself and MDOT, and you have signed the appropriate documents, you will receive payment within 60 days. All closing costs for the transaction will be paid by MDOT.

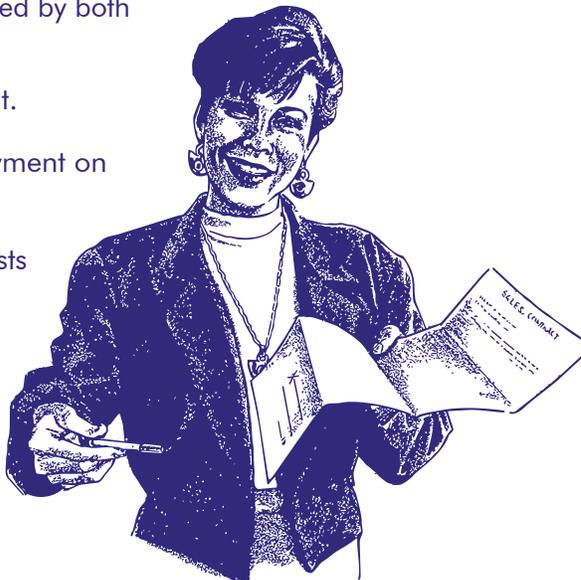
When Your Property is Acquired

MDOT will:

1. Pay just compensation in exchange for your property.
 - Just compensation as defined by the courts is the payment of the FAIR MARKET VALUE for the property rights acquired, as if the project had not been contemplated, plus allowable damages to any remaining property.
 - Fair market value is defined as the highest price estimated in terms of money the property would bring if offered for sale in the open market, with a reasonable time allowed to find a buyer, buying with the knowledge of all the uses to which it is adapted and for which it is capable of being used.
 - Per Public Act 367 of 2006, if an individual's principal residence is acquired, the amount of just compensation shall be 125 percent of its fair market value. In addition, per Public Act 439 of 2006, if your principal residence is acquired, you will be reimbursed a property tax exemption, calculated as:

$$\begin{array}{r} \text{State Equalized Value (SEV)} \\ - \text{Taxable Value (TV)} \\ \hline \times \text{ Millage Rate} \\ \times \text{ Number of years in residence (maximum five years)} \end{array}$$

2. Pay closing costs associated with the sale of your property to MDOT.
3. Prorate the general property taxes according to the portion of your land acquired by MDOT.
4. Furnish relocation advisory assistance in accordance with both federal and state laws.
5. Pay reasonable and necessary moving costs of personal property.
6. Pay other eligible benefits as provided by both federal and state laws, including:
 - Replacement housing supplement.
 - Increased interest differential payment on replacement home mortgage.
 - Reasonable incidental closing costs on replacement home.
 - Actual cost or scheduled move payment for residential owners.
 - Actual moving, searching, and re-establishment expenses for businesses, nonprofits, and farms.



Relocation Assistance

MDOT works to assist you in relocating and re-establishing your family, your business, your farm, your nonprofit organization, and your personal property when you are displaced by a highway project. A highway program is designed for the benefit of the public as a whole. It is MDOT's goal to accomplish this in an orderly, timely, equitable, and efficient manner to ensure that you experience minimal hardships. MDOT, through its Development Services Division, will furnish all available assistance to make your relocation as easy as possible.

The available services include: information concerning housing supplements, referrals to housing that will be adequate for your needs and within your financial means, loan information, moving information, referrals to local real estate and governmental agencies, and other types of assistance. Assistance is also available to locate replacement farms or business sites.

As a Michigan citizen, you have the right to purchase, rent, lease or finance housing accommodations and real property without discrimination because of religion, race, color, national origin, age, sex, marital status, familial status, or disability. This is guaranteed by the Michigan Constitution, which provides that the Michigan Civil Rights Commission has authority to protect the rights of Michigan citizens. All referral assistance to individuals and organizations is performed on an equal opportunity basis in compliance with these requirements. Any individual or organization known to be discriminating against relocatees will be reported immediately to the Michigan Civil Rights Commission.



Relocation Benefits

In addition to compensation for land, buildings, or property rights, Public Act No. 31, effective June 16, 1970, as amended, provides for relocation payments to individuals, families, businesses, farms, and nonprofit organizations displaced as a result of a highway acquisition.

Moving Payments

Residential occupants will be reimbursed for a moving payment in one of two ways:

1. By choosing the actual reasonable moving cost based on a paid invoice from a qualified moving firm; or
2. By accepting a flat rate room allowance based on the number of occupied rooms.

Business, farm, and nonprofit organizations will be reimbursed for a moving payment in one of two ways:

1. By choosing the actual reasonable moving cost based on a paid invoice from a qualified moving firm, plus eligible re-establishment expenses; or
2. By accepting a lump sum payment based on an estimate of the cost to move, plus eligible re-establishment expenses. This is intended to cover self-moves.

The owner of a displaced business, farm, or nonprofit organization may be reimbursed for actual reasonable expenses incurred in searching for a replacement site based on documentation of mileage, meals, and time spent searching.

Discontinued or relocated businesses, farms, and nonprofit organizations may be eligible to receive a fixed payment in lieu of moving, searching, and re-establishment expenses. For businesses and farms, this payment is computed on the average annual net earnings of the business or farm. For nonprofit organizations, the fixed payment is calculated on the average annual gross revenue less administrative expenses.

Supplemental Payments

An owner-occupant may receive a replacement housing supplement, as determined by MDOT, when a replacement home is purchased. Provisions can be made if the owner-occupant prefers to rent.

When the owner-occupant purchases a replacement home, certain closing costs incidental to the purchase may be reimbursed.

The owner-occupant may also be reimbursed for an increased interest differential payment if they obtain a higher interest rate when financing their replacement home.

A tenant-occupant may receive a replacement rental supplement, as determined by MDOT, to rent a replacement dwelling, or to use as a down payment on the purchase of a replacement dwelling. This payment can also be used as a reimbursement of certain closing costs incidental to the purchase of the replacement dwelling.

For more specific information regarding supplemental payments, refer to the relocation booklet, *Your Rights and Benefits*, or contact your regional MDOT Development Services office.



Act 87, Public Acts of 1980

As Amended - A General Overview

At the conclusion of negotiations, if you do not wish to accept MDOT's 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. You 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 money offered for the property as stated in the Declaration of Taking is placed on deposit with the State Treasurer.
2. The Order for Hearing on Complaint will inform you of the date set for a hearing. You have 21 days following receipt of the Complaint to challenge the necessity of the purchase of your property by filing a motion with the court asking for a review. The statement of Necessity is binding unless you 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, MDOT acquires title to the property as of the date the Complaint was filed, unless the court sets a different date. If you or your attorney do not attend the hearing, the court may be requested to enter an Order of Default.

You have 180 days after the complaint is served to submit a written claim to MDOT if you believe an item of value has been overlooked. You must provide sufficient information and detail about the claim so MDOT can determine the value of the claim and whether it is eligible for payment.

3. At the first hearing, MDOT will request the court to establish the time and terms for surrender of the right of way needed from your property. The court will be requested to order the State Treasurer to pay you the money MDOT has offered for your property. The court will set a date for the pretrial hearing and impaneling of a six-person jury.
4. The court will establish a trial date, and the jury will be charged with the responsibility of determining the amount of just compensation after hearing the evidence. At trial, MDOT will present its case to the jury, justifying the amount it has offered. You will have the opportunity to present evidence to support the value you think the property is worth. The jury's decision may be appealed by the parties of interest or MDOT.

If the jury's award exceeds MDOT's written good faith offer, you will be reimbursed reasonable attorney fees as allowed by law. You 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. This overview does not explain all of the specific or unique aspects of an eminent domain proceeding.

Questions and Answers

1. Q. Why do you want my property and not my neighbor's?

A. All reliable facts and figures show this is the best location for the proposed transportation improvement.

2. Q. What are the advantages of selling my property to the state?

A. • You will receive fair market value established by a licensed appraiser.
• You will receive cash.
• You will not pay a sales commission.*
• You will not pay the real estate transfer tax.
• You will not pay for title insurance or abstract costs.
• MDOT will pay closing costs in connection with the sale of your property.
• You will receive a prorated refund of your most recent year's paid property taxes.

* You may owe a commission if your home is listed with a realtor at the commencement of negotiations.

If You Are Required to Relocate:

- You will receive relocation assistance.
- You are assured of being able to relocate into housing that meets local codes and ordinances.
- You may receive a supplemental payment to relocate into comparable housing.
- You will receive personal property moving costs.
- You may receive an interest differential payment on your replacement mortgage if the interest rate is higher.
- You may be reimbursed for closing costs for the purchase of your replacement dwelling.

3. Q. Will I receive a fair price for my property?

A. You are entitled to receive fair market value, as defined on Page 5. This value is determined by licensed appraisers and carefully reviewed to ensure state and federal requirements and acceptable appraisal standards are met. In addition, if your principle residence is acquired, you will receive 125 percent of its fair market value plus a property tax exemption reimbursement. If you believe MDOT's offer does not include everything for which you are entitled to be paid, you may submit a written claim.

4. Q. How long do I have to make a written claim?

A. Within 90 days after the written good faith offer is made or 180 days after the complaint is served, whichever is later.

5. Q. How does MDOT determine fair market value?

A. MDOT appraisers or contracted appraisers make a thorough study of the surrounding neighborhood and of local and general economic facts. They consider the highest and best use of the property. The value is based on comparison of your property with other properties recently sold in your area. In some instances, it may be necessary to obtain from you certain financial information to help the appraiser determine fair market value. If this financial information is obtained, it will remain confidential, except to the extent that it is utilized in determining just compensation, in legal proceedings, or as provided by court order. You will be reimbursed actual and reasonable copying costs, plus up to \$1,000 in other actual and reasonable costs incurred in responding to MDOT's information request.

6. Q. What if MDOT's project renders my remaining property nonconforming with local zoning ordinances?

A. You may be asked to cooperate with MDOT in seeking a zoning variance. If a variance cannot be obtained, this fact will be considered in determining the compensation to be paid.

7. Q. Are improvements considered in the appraisal?

A. Yes. You should inform the appraiser of all improvements to your property.

8. Q. Will I have to pay income tax on my sale to the state?

A. This is a highly technical question. You should contact the Internal Revenue Service or a tax consultant for specific details.

9. Q. What about VA loans?

A. The Veterans Administration recognizes that the sale of your property to the state is not one of your choosing. Your VA loan privileges continue and are available for coverage on another property.

10. Q. Do I have to pay the prepayment penalty if such a clause exists in my mortgage?

A. As a general rule, no. Since the negotiated sale of your property to MDOT is considered an involuntary sale, mortgage loan companies will usually waive the prepayment penalty when you pay your loan in full as a result of the state's purchase of your property. If you do have to pay a penalty, it is reimbursable by MDOT.

11. Q. Who is eligible to receive payment to recover the cost of moving personal property?

A. Any owner or tenant whose personal property must be moved because of a transportation project is eligible for a reimbursement of moving costs.

12. Q. Who is eligible to receive a supplemental housing payment?

- A. An owner who has owned and occupied the dwelling for at least 180 days prior to the beginning of negotiations may qualify for a replacement housing payment. An owner or tenant who has occupied the dwelling for at least 90 days prior to the beginning of negotiations may qualify for a replacement rental payment or purchase down payment.

13. Q. How soon must I occupy a replacement dwelling in order to receive all of my relocation benefits, and can this date be extended?

- A. Owners must occupy a decent, safe, and sanitary replacement dwelling within one year of the date that final payment is received for the state-acquired property or, in a condemnation case, one year after the estimate of just compensation is deposited. Tenants must occupy a decent, safe, and sanitary replacement dwelling within one year of the date that they move from the state-acquired dwelling. This time period may be extended for just cause.

14. Q. How long do I have to claim my supplemental housing payment?

- A. Owners must file their claims within 18 months of either the date they move or the date of final payment for the state-acquired dwelling, whichever is later. Tenants must file all claims within 18 months of the date they move from the state-acquired property.

15. Q. Will the court consider the supplemental housing payment in the condemnation proceedings?

- A. A housing supplement is not covered in the property condemnation law and cannot be litigated under this law.

16. Q. Can I be sure that suitable replacement housing will be available to me before I must move from my present home?

- A. Yes. The Uniform Relocation Act provides that MDOT must offer you suitable replacement housing before it can issue you a notice to vacate.

17. Q. Who is entitled to receive a purchase down payment?

- A. A tenant-occupant of more than 90 days, or an owner-occupant of more than 90 days but less than 180 days prior to the first written offer, who purchases a replacement home. The money must be spent on the replacement house. Homeowners who have lived in their homes 180 days or more are not eligible for this payment, since they are eligible for a replacement housing supplement.

18. Q. How much supplemental housing payment will I receive?

- A. A written determination of your maximum supplemental payment will be provided by MDOT's acquisition agent. It is based on comparable homes available for purchase on the open market.

19. Q. May I appeal my housing supplement if I disagree?

- A. Yes. You may appear in person or appeal in writing to the region real estate agent. Further, you may appeal to the MDOT Director if you still disagree with the regional determination.

20. Q. May I receive benefits if I go out of business?

- A. Yes. You may be eligible to receive a payment, based on your net income (or gross revenue less administrative costs for nonprofit organizations), in lieu of all other moving allowances.

21. Q. May I keep my home or other buildings?

- A. Yes, providing arrangements are made at the time the Option to Purchase Land is signed. A salvage value will be determined for the structure you wish to keep, and this amount will be held out of the compensation.

22. Q. How long will I have to remove these buildings?

- A. Buildings must be removed within 30 to 90 days after closing with MDOT, unless other terms are specifically agreed upon.

23. Q. What will happen to my buildings if I do not retain them?

- A. They may be advertised and sold at public sale.

24. Q. What about outstanding loans on my property?

- A. You are responsible for these obligations. They will be deducted from the compensation from MDOT.

25. Q. How far in advance will I know that my property is needed?

- A. MDOT will advise you well in advance of actual negotiations, through public hearings and personal visits. Do not act on *rumors*. Be sure you have the facts from MDOT.

26. Q. When will MDOT take possession of my property?

- A. This usually occurs within 30 to 90 days after your check has been delivered and the deed is executed.

27. Q. Will you reimburse me if I hire my own experts to evaluate your offer?

- A. Reasonable costs and fees may be reimbursed, as provided by law.

28. Q. *If my property is condemned and the state takes possession of it before the case is settled in court, can I receive my payments to relocate?*

A. Yes. You will receive the amount of the state's offer at the time the state takes possession of your property and your relocation payments after you move into your replacement site.

29. Q. *If my property is enrolled in The Farmland and Open Space Program (P.A. 116), will I be penalized?*

A. If the release is granted as a public necessity for a transportation project, the property owner will not be required to pay a penalty.

30. Q. *I haven't done anything to pollute, so why does MDOT want to examine my property for environmental contamination?*

A. MDOT is required by state law to investigate all properties that it acquires for possible contamination. This does not mean that your property is suspected of being contaminated. It merely means that MDOT is fulfilling its obligation under state law.

31. Q. *What happens if my property is found to be contaminated? Will I be forced to pay for cleaning up the pollution?*

A. This is a complicated question. The answer depends upon specific circumstances. In general, under state law, if you did not cause the contamination, you are not liable for it.

32. Q. *If I allow MDOT to test my property, will MDOT guarantee that I won't be liable for any contamination that is found?*

A. No. The question of your liability for contamination is governed by state and federal environmental laws.

33. Q. *If contamination is found, will MDOT notify the Michigan Department of Environmental Quality (MDEQ)?*

A. The property owner is required by law to report contamination to MDEQ. If contamination is found by MDOT, the property owner will be supplied complete information. MDOT will allow the property owner time to make notification to MDEQ. If notification is not made by the property owner, MDOT will notify MDEQ of its findings.

34. Q. *If I refuse to allow MDOT to test my property, what happens?*

A. MDOT may seek a court order under Act 87 to conduct an environmental inspection on the property.



MDOT Region Offices

MDOT has real estate agents in each of its seven region offices.

SUPERIOR REGION

1818 Third Ave. North
Escanaba, MI 49829
Phone: 906-786-1800
Fax: 906-789-9775

BAY REGION

5859 Sherman Road
Saginaw, MI 48604
Phone: 989-754-7443
Fax: 989-754-8122

UNIVERSITY REGION

4701 W. Michigan Ave.
Jackson, MI 49201
Phone: 517-750-0401
Fax: 517-750-4397

NORTH REGION

1088 M-32 East
Gaylord, MI 49735
Phone: 989-731-5090
Fax: 989-731-0536

SOUTHWEST REGION

1501 East Kilgore Road
Kalamazoo, MI 49001
Phone: 269-337-3900
Fax: 269-337-3916

METRO REGION

18101 W. Nine Mile Road
Southfield, MI 48075
Phone: 248-483-5100
Fax: 248-569-3103

GRAND REGION

1420 Front Ave., N.W.
Grand Rapids, MI 49504
Phone: 616-451-3091
Fax: 616-451-0707

