



Development Services Division  
Real Estate Services Section

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# PUBLIC ROADS AND PRIVATE PROPERTY



UPDATED FOR 2025

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

If you require assistance accessing this information or require it in an alternative format, contact the Michigan Department of Transportation's (MDOT) Americans with Disabilities Act (ADA) coordinator at [www.Michigan.gov/MDOT-ADA](http://www.Michigan.gov/MDOT-ADA).



Michigan Department of Transportation

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ভাষা সহায়তার জন্য স্ক্যান করুন

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## THE NEED FOR TRANSPORTATION IMPROVEMENTS AND PROPERTY ACQUISITION

Michigan's transportation system provides the backbone for economic activities within the state. The transportation system, including roads, transit, nonmotorized and intermodal facilities, plays an integral role in supporting the state's economy and the quality of life for Michigan residents.

The Michigan Department of Transportation (MDOT) is committed to serving and connecting people, communities and the economy through transportation and providing people with a safe, future-driven, interconnected multimodal transportation network that ensures equitable options. MDOT is responsible for all trunklines (M, US and I routes) throughout Michigan. This includes highways, railroads, pedestrian bridges, and adjacent infrastructure (i.e., carpool lots, rest areas, noise barriers).

It may be necessary to purchase land to adequately and safely accommodate the needs placed upon our transportation system. This brochure provides explanations why your property may be needed, the protections you have as a property owner, and answers to frequently asked questions when property acquisition is necessary for a transportation project.

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## TRANSPORTATION PROJECTS

Projects begin with evaluation of the transportation system, establishment of system needs, and consideration of statewide priorities. MDOT studies the type and route that best suits the needs of the community, both now and in the future. This includes research of traffic information, study of land features and review of feasible locations.

Many projects are a result of numerous public information meetings and hearings, as well as requests by local officials and the public for specific transportation improvements. Proposed projects, along with estimated costs, urgency and other factors, are reviewed and considered by MDOT. Some projects are accepted, some are reviewed for further study and others are simply delayed.



## HOW PROPERTY IS ACQUIRED

After MDOT selects the location and design of a project, detailed plans are developed to determine the land that needs to be acquired for construction and maintenance of the project. Once the plans are finalized, title research is completed to confirm ownership of the properties needed.

### ***Property Ownership Determination***

Property owners are contacted to discuss the project and MDOT Real Estate staff may meet with them to complete a preliminary interview. The preliminary interview may occur at a public building or at the owner's home or business. During the interview, MDOT Real Estate staff will verify ownership, location of improvements and property boundaries, and gather other pertinent information from the property owner.

### ***Market Value***

The next step is to determine the market value of the property being acquired. MDOT reviews the complexity of the valuation based on the proposed property acquisition and determines if a waiver valuation or appraisal is necessary. A waiver valuation is used for uncomplicated property below a specific amount. If an appraisal is needed, a licensed appraiser either hired or employed by MDOT will estimate the market value of your property by comparing it with similar properties sold. You or your representative will be given the opportunity to accompany the appraiser on an inspection of your property. In some instances, the appraiser may need to analyze your financial information to arrive at the market value.



## ***Just Compensation***

MDOT will pay just compensation when acquiring your property based on the waiver valuation or appraisal. Just compensation is defined as an approved amount that is not less than the market value of the property. Just compensation does not consider any project influences and includes any allowable damages to any property remaining in your ownership.

Under Michigan law, just compensation is defined as the highest price estimated in terms of money the property will bring if exposed for sale in the open market, with a reasonable time allowed to find a purchaser buying with knowledge of all the uses to which it is adapted and for which it is capable of being used.

## ***Written Good Faith Offer or Written Voluntary Offer***

An acquisition agent hired or employed by MDOT will contact you to make a good faith or voluntary offer to purchase that portion of your property needed for the project based on the approved just compensation amount. The acquisition agent understands MDOT procedures, the regulations governing the acquisition, and your rights and benefits under federal and state laws. In addition to providing the offer, they will explain the transportation project, its impact on your property, the method of valuation, the acquisition process, and the relocation assistance program and benefits that may be available to you.

The acquisition agent may request information from you related to mortgages, liens, assessments, taxes and tenants. If necessary, you may be asked to cooperate with MDOT in seeking a variance to the local zoning ordinance.

You will be given a reasonable length of time to review the offer and get answers to your questions. In most cases, an agreement on the acquisition price is reached through negotiation; however, if you believe that MDOT has overlooked an item of value, you may submit a written claim to reconsider value. Supporting documentation must be submitted with this claim.

When an agreement is reached, the acquisition agent will have the necessary documents prepared for your signature and you can expect to receive payment within 60 days from the date of signature. All eligible and necessary closing costs for the property acquisition will be paid by MDOT.

## ***If MDOT Needs to Acquire Your Principal Residence***

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.

Additionally, per Public Act 439 of 2006, if your principal residence is acquired, you will be reimbursed a property tax exemption, calculated as:

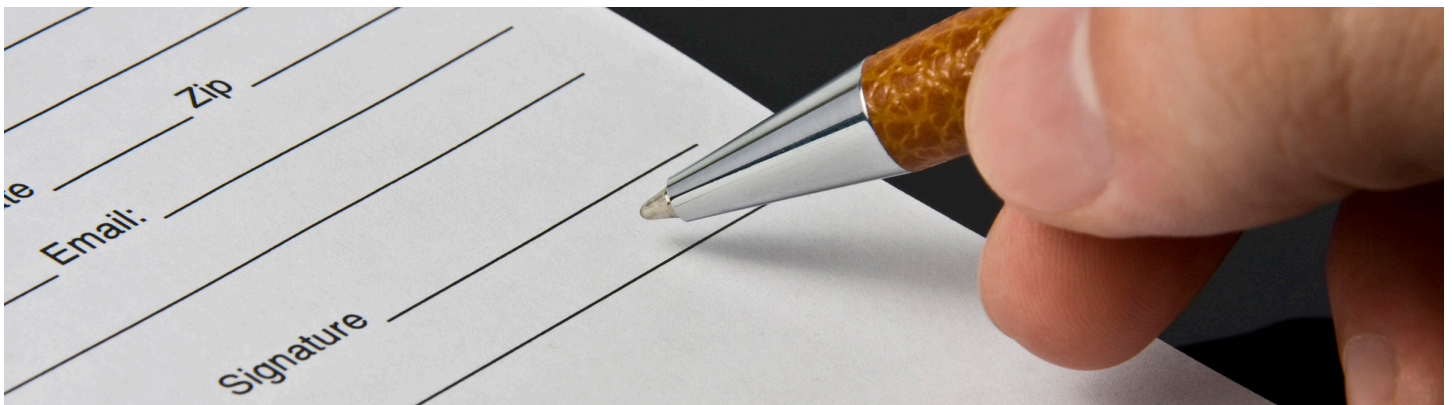
$$\begin{array}{r} \text{State Equalized Value (SEV)} \\ - \text{Taxable Value (TV)} \\ \hline \text{X Millage Rate} \\ \text{X Number of Years in Residence (Maximum of Five Years)} \end{array}$$

## ***Additional Costs***

MDOT will pay closing costs associated with MDOT's acquisition of your property.

## ***Taxes***

MDOT will prorate the general property taxes according to the portion of your land acquired by MDOT.



## RELOCATION ASSISTANCE

In addition to compensation for land, building or property rights, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 et seq.) (Uniform Act), provides for relocation payments to individuals, families, businesses, farms and nonprofit organizations displaced as a result of a transportation project.

The Elliott Larsen Civil Rights Act prohibits discrimination based on religion, race, color, national origin, age, sex, height, weight, familial status or marital status. As a citizen of the State of Michigan, 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 Constitution of the State of Michigan, which provides the Michigan Civil Rights Commission the 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 will be reported immediately to the Civil Rights Commission.

***See MDOT's Your Rights and Benefits Booklet for additional relocation information.***



## EMINENT DOMAIN (CONDEMNATION) - AN OVERVIEW

Eminent domain is the legal term used to describe MDOT's inherent authority to use private property for public purposes. Federal and state laws and rules protect the interests of each citizen, as well as the interests of the state in serving the general public.

If an owner and MDOT do not reach an agreement for the acquisition of the property, eminent domain proceedings may be 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. Below is a brief description of the typical steps taken in an eminent domain proceeding under Public Act 87 of 1980, as amended. This overview does not explain all the specific or unique aspects of an eminent domain proceeding.

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 Michigan Department of Treasury.
2. The Order for Hearing on Complaint will inform you of the date set for a hearing. You have 21 days (if served in person) or 28 days (if served by mail) 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 up to 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 enough 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 Department of Treasury 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.



## QUESTIONS AND ANSWERS

### ***Why do you want my property and not my neighbor's?***

Before selecting a location for a proposed transportation improvement, MDOT evaluates a wide variety of factors, including:

- Terrain,
- Congestion,
- Population and patterns of development,
- Projected traffic patterns,
- Economic impact,
- Wetlands and environmental impact, and
- Relation to the other transportation corridors and the overall system.

Based on our studies and reliable facts, we select the best location for the proposed transportation improvement.

### ***When will I know if my property is needed?***

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.

### ***Will I receive a fair price for my property?***

You are entitled to receive just compensation. Just compensation is determined through the waiver valuation process or by an appraisal that studies the property being acquired and the surrounding neighborhood and local and general economic facts. The fair market value is based on comparison of your property with other similar properties recently sold in your market area. The result is carefully reviewed to ensure that it meets state and federal requirements and acceptable appraisal standards.

In addition, if your principal residence structure is acquired, you will receive 125 percent of its fair market value, plus a property tax exemption reimbursement.

### ***Are improvements considered in the appraisal?***

Yes. You should inform the appraiser of all improvements to your property that are within the proposed property being acquired.

### ***What if I don't agree with MDOT's offer to purchase my property?***

If you feel that MDOT missed anything that you believe to be significant to the amount of money you should be paid, please let MDOT know in writing. MDOT will review the items you identify in your written response and let you know if we will make any changes.

### ***Will you reimburse me if I hire my own experts to evaluate your offer?***

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

### ***Will I have to pay income tax on my sale to the state?***

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

### ***What about outstanding loans on my property?***

You remain responsible for these obligations. They will be deducted from the compensation you receive from the department.

### ***What if the project renders my remaining property nonconforming with local zoning ordinances?***

MDOT is required to offer to purchase any uneconomic remainders, and the property owner has the right to retain any remainders.

***If my mortgage includes a prepayment penalty clause, must I pay the penalty?***

Generally, no. Since the negotiated sale of your property to MDOT is considered an involuntary sale, mortgage companies will usually waive the penalty for paying your loan in full as a result of the sale. If you do have to pay a penalty, it is reimbursable by MDOT.

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

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

***May I keep any of my buildings or structures and remove them from the site?***

Yes, providing arrangements are made at the time the Written Good Faith Offer or Voluntary Offer is signed. A salvage value will be determined for the structure you wish to keep; this amount will be deducted from the compensation. Additionally, a site clearance deposit will be held out of the just compensation until the buildings are removed by you and all provisions of the Written Good Faith Offer or Voluntary Offer are met.

***Why must MDOT examine my property for environmental contamination? What if contamination is found?***

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

If contamination is found, the property owner is required by law to report it to the Michigan Department of Environment, Great Lakes, and Energy (EGLE). MDOT will supply the property owner with complete information and allow the property owner time to notify EGLE. If the property owner does not contact EGLE, MDOT will notify EGLE of its findings.

***If contamination is found, will I be forced to pay for clean-up?***

This is a complicated question. The question of your liability for contamination is governed by state and federal environmental laws. In general, under state law, if you did not cause the contamination, you are not liable for it.

***What if I refuse to allow MDOT to test my property?***

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





## Serving and Connecting People, Communities, and the Economy Through Transportation.

Individuals with disabilities may contact the Michigan Department of Transportation's (MDOT) Americans with Disabilities Act (ADA) coordinator to request an alternative format to these materials. Please visit [www.Michigan.gov/ADA](http://www.Michigan.gov/ADA) for a list of state ADA coordinators.

