



# Public Roads and Private Property

BENEFITS



RELOCATION

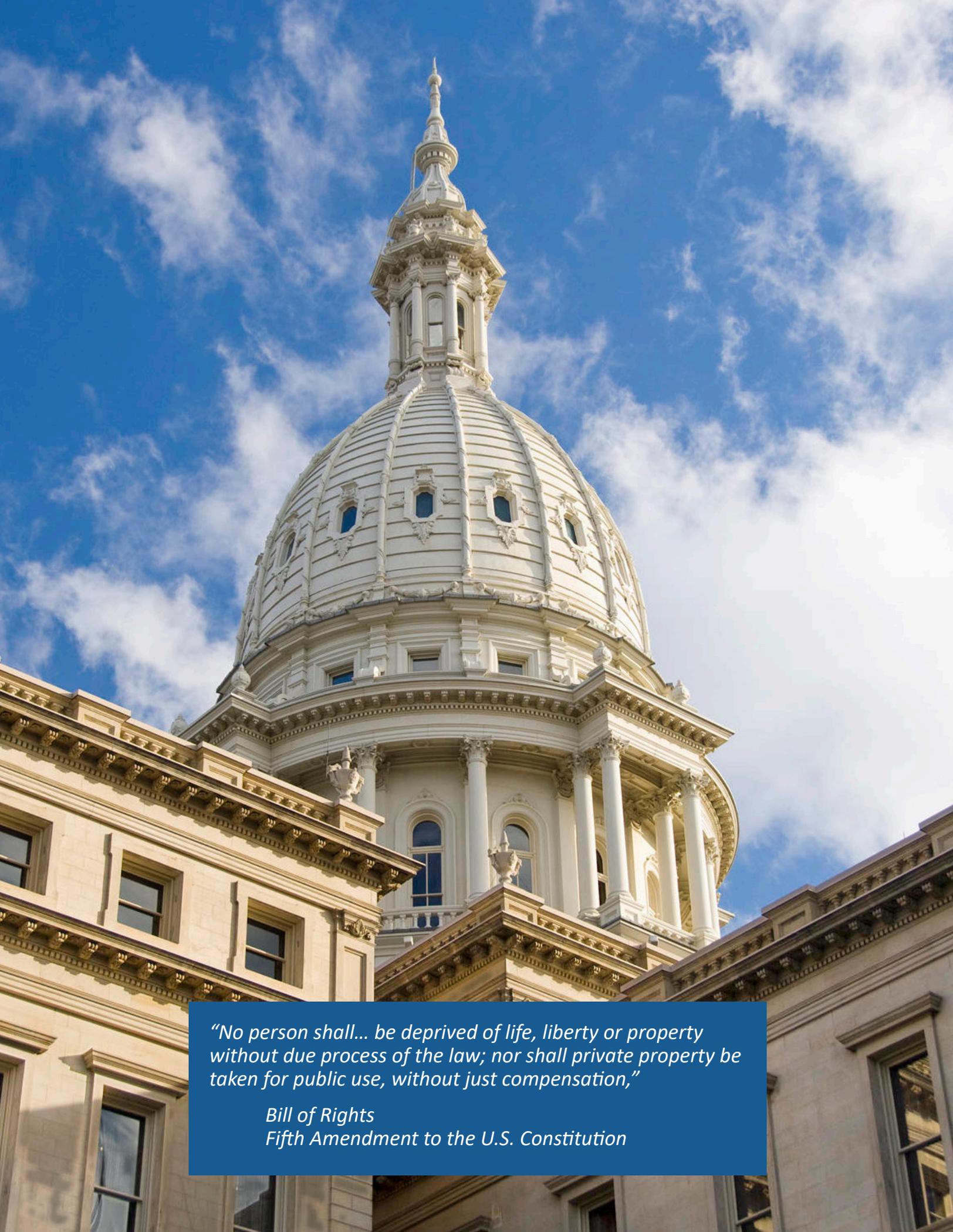


IMPROVEMENTS



Development Services Division  
Real Estate Services Section

Last Updated 2019



*"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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## The Need for Transportation Improvements and Land

Michigan's transportation system provides the backbone for economic activities within the state. The transportation system, including roads, transit, and 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 providing the highest quality integrated transportation services for economic benefit and improved quality of life. MDOT is responsible for all state 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 explains why your property may be needed, the protections you have as a property owner, and provides answers to frequently asked questions when property acquisition is necessary for a transportation project.



## Transportation Projects

Projects begin with evaluation of the transportation system, establishment of system needs and consideration of statewide priorities. The Michigan Department of Transportation (MDOT) studies the type and route that best suits the needs of the community, both now and in the future. This includes the 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. MDOT manages a vast scope of projects that fall into three categories:

- **Preserve:** Preserve projects include resurfacing, construction without widening and adding lanes of one-half mile or less.
- **Improve:** Improve projects add capacity, including roads or lanes, to existing facilities.
- **Expand:** Expand projects increase the size of the transportation system by adding new improvements.



## How Property is Purchased

After MDOT selects the location and design of a project, property owners are contacted to schedule a preliminary interview with MDOT Real Estate staff. 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, property boundaries, and gather other pertinent information from the property owner.

The next step is to determine the market value of the property being acquired. This is accomplished either through the waiver valuation process or by an appraisal. If the necessary right of way being acquired is minimal or non-complex, a waiver valuation may be used. The property owner is always entitled to establishment of just compensation.

If an appraisal is needed, a licensed appraiser will estimate the market value of your property by comparing it with similar properties sold in your area. 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 fair market value.

The appraiser will provide MDOT a written appraisal report indicating the fair market value of your property. After MDOT has approved the appraisal, a department representative will contact you to make a good faith offer, or voluntary offer, to purchase that portion of your property needed for the project. The department representative will also explain the project, appraisal, and acquisition process, as well as explain the relocation assistance program and benefits for which you may be eligible.

You will be provided a reasonable length of time to review the offer and get answers to any questions you may have about the offer. 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. If necessary, you may be asked to cooperate with MDOT in seeking a variance to the local zoning ordinance.

If an agreement has been reached between you and MDOT, you will need to sign the appropriate documents and can expect to receive payment within 60 days from the date of signature. All eligible and necessary closing costs for the transaction will be paid by MDOT.



# When Your Property is Acquired

Here is some general information regarding MDOT responsibilities when your property is acquired.

## Payment of Just Compensation

MDOT will pay just compensation when acquiring your property. Just compensation is defined as an approved amount that is not less than the fair 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 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 adopted and for which it is capable of being used.

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

**State Equalized Value (SEV)**

- **Taxable Value (TV)**

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X **Millage Rate**

X **Number of years in residence (maximum of five years)**



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## When Your Property is Acquired

### Additional Costs

MDOT will pay closing costs associated with the sale of your property to MDOT.

### Taxes

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

### Relocation Advisory Services

MDOT will provide relocation advisory services and all eligible benefits as required by state and federal laws. Eligible benefits may include:

- **Advisory Services:** Assistance in locating a suitable replacement property.
- **Moving Expenses:** Payment of reasonable and necessary moving costs of personal property.
- **Replacement Housing Supplement or Replacement Rental Supplement/  
Purchase Down Payment.**
- **Incidental Closing Costs:** Payment for the closing expenses when purchasing a replacement dwelling.
- **Increased Interest Differential:** Payment for a higher interest rate on the replacement dwelling than on your existing mortgage.
- **Reestablishment Expense:** Payment for a business, farm or nonprofit to reestablish at a different location.



## Relocation Assistance

MDOT will assist you in relocating you and your personal property when you are displaced by a transportation project. A transportation project is designed to benefit the public and it is MDOT's goal to accomplish your relocation in the most efficient and equitable manner possible. All available assistance and eligible benefits will be provided to you to ensure disruptions are kept to a minimum.

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.

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 with 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 against will be reported immediately to the Civil Rights Commission.



## Relocation Benefits

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.

### Residential Relocation Benefits

A residential owner or tenant may be eligible for the following relocation benefits:

#### Moving:

Residential occupants will be reimbursed to move themselves and/or their personal property from the acquired dwelling to a replacement dwelling. They may choose to move based on the following options:

- **Commercial Move:** The move is performed by a commercial mover and must be supported by an itemized invoice and receipts.
- **Self-move - Fixed-move Cost Schedule:** The move is performed by the displaced person and payment is based on the number of rooms in your dwelling.
- **Self-move - Actual Cost:** The move is performed by the displaced person and payment is based on receipts for labor and equipment.

#### Housing Supplement:

A homeowner may be eligible to receive a replacement housing supplement when a replacement home is purchased. Provisions can be made if a homeowner prefers to rent.

#### Rental Supplement/Purchase Down Payment:

A tenant may be eligible to receive a rental supplement when a replacement rental is located. Tenants may use the rental supplement as a purchase down payment if desired.

#### Incidental Closing Costs:

A homeowner may be reimbursed for the incidental expenses of purchasing a replacement dwelling.



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## Relocation Benefits

### Increased Interest Differential:

A homeowner may be reimbursed for the extra cost if they are required to pay a higher interest rate on the replacement dwelling than they were paying on their existing mortgage.

### **Business, Farm, Nonprofit Relocation Benefits**

A business, farm or nonprofit may be eligible for the following relocation benefits:

#### Moving:

A business, farm or nonprofit will be reimbursed to move themselves and/or their personal property from the acquired business, farm or nonprofit. They may choose to move based on the following options:

- **Commercial Move:** The move is performed by a commercial mover and is based on the lower of two bids or estimates prepared by a commercial mover.
- **Self-move - Actual Cost:** The move is performed by the displaced business, farm or nonprofit and must be supported by receipts for labor and equipment.
- **Self-move - Estimated Cost:** The move is performed by the displaced business, farm or nonprofit and is based on the lower of two bids or estimates prepared by a commercial mover.

#### Reestablishment:

This payment is designed to help small businesses and landlords reestablish at a different location. Expenses must be incurred in relocating and reestablishing at a replacement site. The total amount of expenses must not exceed \$25,000.

#### Fixed Payment:

A business, farm or nonprofit may receive a fixed payment in lieu of moving and reestablishment expenses. Payment for businesses and farms is based on the average annual net earnings of the business or farm. Payment for nonprofits is based on the average annual gross revenue less administrative expenses. A fixed payment must not exceed \$40,000.

For more specific information regarding relocation benefits, please refer to MDOT's Your Rights and Benefits booklet or contact a MDOT Real Estate office.



## Act 87, Public Acts of 1980, as Amended – An 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. 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.



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## **Act 87, Public Acts of 1980, as Amended – An Overview**

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

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

**Answer:** 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.

## 2. When will I know if my property is needed?

**Answer:** 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. MDOT will usually take possession within 30 to 90 days after your check has been delivered and the deed is executed.

## 3. What are the advantages of selling my property to the state?

**Answer:**

- You will receive fair market value established by a licensed appraiser.
- You will receive just compensation
- You will not pay a sales commission. You may owe a commission if your home is listed with a Realtor at the commencement of negotiations.
- 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.



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## Questions and Answers

### **If you are required to relocate:**

- You will receive relocation advisory services.
- 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.

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

**Answer:** 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 properties recently sold in your 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.

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

**Answer:** Yes. You should inform the appraiser of all improvements to your property.

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

**Answer:** 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.



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## Questions and Answers

### **Information requests from MDOT**

It may be necessary to obtain from you certain financial information to help the appraiser determine fair market value. This information will remain confidential, except to the extent that it is used 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 the MDOT request.

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

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

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

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

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

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

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

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

#### **11. What if I have a Veterans Administration (VA) loan?**

**Answer:** The VA recognizes that the sale of your property to the state is not of your choosing. Your VA loan privileges continue and can be applied to another property.



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## Questions and Answers

### 12. If my mortgage includes a prepayment penalty clause, must I pay the penalty?

**Answer:** 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.

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

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

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

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

### 15. Who is eligible to receive relocation payments?

**Answer:** There are several types of relocation benefits for which you may be eligible. See the Relocation Benefits section of this booklet for additional information regarding residential and business/farm/nonprofit relocation payments.

### 16. How soon must I occupy a replacement dwelling in order to receive my relocation benefits?

**Answer:** 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.



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## Questions and Answers

### 17. How long do I have to claim my replacement housing payment and how much will I receive? May I appeal if I disagree?

**Answer:** 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.

MDOT will provide a written determination of your maximum payment. It is based on comparable homes available for purchase on the open market. If you disagree with the information, you may appeal in person or in writing to the MDOT region real estate agent.

### 18. Will the court consider the replacement housing payment in the condemnation proceedings?

**Answer:** Unless otherwise ordered by the court, relocation benefits are separate from just compensation determined during condemnation proceedings.

### 19. If my property is condemned and the state takes possession before the case is settled, can I receive relocation payments?

**Answer:** Yes. Unless otherwise ordered by the court, relocation benefits are separate from the just compensation. You will have 18 months from the date of the final court award or date of displacement (whichever is later) to file relocation claims.

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

**Answer:** Yes. Businesses are eligible to receive moving and reestablishment payments and may elect to receive a fixed payment (in lieu of moving and reestablishment) if they meet the criteria set forth in the Uniform Act.



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## Questions and Answers

### 21. May I keep my home buildings and remove them from the site?

**Answer:** 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; this amount will be deducted from the compensation. Additionally, a site clearance deposit will be held out of the compensation until the buildings are removed and all provisions of the Option to Purchase Land are met.

Buildings must be removed within 30 to 90 days after closing with MDOT, unless other terms are specifically agreed upon. Buildings acquired by MDOT will be demolished and may be sold at public auction.

### 22. Why must MDOT examine my property for environmental contamination? What if contamination is found?

**Answer:** 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.



**Development Services Division**  
**Real Estate Services Section**