

Property Rights

Lessen the Impacts of Eminent Domain

Every year homeowners, business owners, farmers and tenants have their property taken so it can be used for public projects. Under the federal and the state constitutions, privately owned property can be taken, condemned or acquired through the process of eminent domain without the property owner's consent. Right now, hundreds of eminent domain projects involve thousands of people in Utah:

- The Utah Department of Transportation (UDOT) is undertaking a major expansion of I-15 through Utah County from the point of the mountain to Spanish Fork.
- Proposed routes for the West Davis and Weber Corridor each call for the demolition of approximately 100 homes and the taking of property from hundreds of individuals.
- Residents in Herriman and Riverton are losing land and homes for the construction of the Mountain View Corridor.
- Draper business owners are losing land and access for the installation of "Michigan U-Turns" while West Valley City and Taylorsville business owners are being similarly impacted by the construction of "Continuous Flow Intersections".

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Know Your Rights

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The Utah Legislature has developed a unique process for dealing with condemnations. Utah's regime gives property owners significant rights, yet few take full advantage of these rights. For instance, you can require the condemning authority (condemnor) to meet with an independent mediator who can force the condemnor to pay for a second appraisal if there are concerns with the first.

Get the Help You Need

Condemnors have expertise and usually a cadre of attorneys and experts advising them. You need to engage qualified professionals who know the process and who are looking out for your interests early in the process. Utah law allows property owners (and their attorneys) to be present when the condemnor's appraiser first inspects the property. Being properly prepared for this meeting can help you to point out compensable features that will help ensure the initial appraisal accurately reflects the true impact of the taking. Also, working with the condemnor early in the process can help to significantly reduce the negative impacts of the taking.

Understand All Documents Before You Sign Them

Do not sign documents giving away rights the condemnor could never obtain through a lawsuit. Many condemnors' documents go beyond what the law would give if they went to court. Therefore, do not sign anything just because it is a form "everyone is required to sign."

Get Future Promises in Writing

Make sure all promises are in writing. One property owner donated land to a condemnor in the excitement of having an adjacent road significantly widened and upgraded. After construction, however, when the owner tried to get a curb cut approved to access the new road, the condemnor said it would cost \$1 million.

Pay Attention to Details

Property owners recently impacted by gas and electric transmission lines crossing the state who sought counsel were able to significantly mitigate the impact of the lines and, in some cases, received more than five times the original compensation offered. Much of this increased compensation came because the condemnor failed to include any of the diminution in value of the property surrounding the actual easement area that would result from the line. In another situation, Farnsworth Farms of Sandy secured more than nine times the compensation originally offered by establishing property ownership when UDOT was claiming it had already been dedicated as a right of way.

Relocation Assistance May be Available

If you are being displaced from your home or business, you may qualify for relocation assistance, but be careful to categorize your expenses early in the process. One business owner settled with the condemnor over the value of his land and building and only later learned the expensive ventilation equipment he had recently installed could not be removed and put into his new building because it was now part of the old building the condemnor had already valued and purchased without taking into account the ventilation system.

Being condemned is a complicated process unique from all other areas of the law. With appropriate legal guidance, careful attention to detail and some knowledge of your rights, you can protect yourself and greatly improve your position. **UB**

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