**Right of Way Acquisition**

**Introduction**

Improving our transportation system often requires us to ask neighboring property owners for help. Sometimes we need a small piece of your property to improve safety for you and others using the transportation system. Other times we need large pieces of property to add to or change the transportation system’s path. In any event, we have prepared this leaflet because we are committed to being fair, honest, and open in our work with you. To follow you will find information related to the acquisition process.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Donations**

Property owners, having been made aware of their right to receive just compensation, may elect to waive this right and donate their property to the local public agency. In this situation, an owner will be asked to sign a Waiver of Compensation in addition to the deed and other supporting documents.

**Acquiring Property**

The first step in the process of acquiring property is deciding what it’s worth. The value of the property will be determined by an accepted valuation process. A qualified individual will inspect and prepare a valuation document. This may be one of the agency’s staff members or a contract appraiser; you will be kept informed as this process evolves. You may be present during the inspection. Any information you are willing to share about your property, including information about buildings, wells, septic tanks, cisterns, private utility lines, etc., would be greatly appreciated. This completed valuation document will be reviewed by a qualified person and just compensation will be approved by an agency official. In no case shall the approved compensation be less than the value determined during the valuation review process.

**Reaching an Agreement**

A representative from the agency office in your area will work with you throughout the acquisition process. If you

would like to designate someone else to work with the agency representative on your behalf, that can be arranged. When an offer for your property has been determined, an agency representative will contact you to schedule a meeting. During this meeting, the representative will explain how the agency acquires land and realty rights and how the particular project will affect your property. If you receive your offer by mail, the representative’s contact information will be included in the packet.

If you are not in agreement with the amount offered for your property, you may make a counteroffer and engage in negotiations with the agency.

**Settlements and Closings**

Settlements and closings can be confusing with a flurry of paperwork. Information that may simplify the process and help you be prepared is listed below.

* All closing costs and recording fees will be paid for by the agency.
* All necessary paperwork will be provided by the agency representative or the closing agent. All paperwork will be held by the agency or a closing agent until distribution of the money is made to you and/or other parties entitled to receive payment. Appropriate documents will then be recorded in the appropriate Office of Recorder of Deeds.
* After payment is made and it is determined by the agency that you are required to move, you will be given a minimum of 90 days in advance of the date required to relinquish possession of your property to the agency.
* The agency will reimburse you for a pro rata portion of the state, county, and city real estate taxes paid for the current tax year on property purchased by the agency. The pro rata portion of the taxes will cover the full number of months remaining in the calendar year after payment for real property has been made. Delinquent tax payments are not reimbursable. You will be provided with a reimbursement claim form and instructions on how to properly submit a claim.

**Eminent Domain**

When it is not possible to agree on a fair amount for your property, the agency will use another process to determine the price to be paid. Eminent Domain brings in the judicial system to set the fair market value of the property. Eminent Domain is a right provided for under RSMo. 523.

How the process works – The agency will file a condemnation petition in the circuit court of the county where the property is located. This petition will set out the land and/or rights to be acquired and all parties who own an interest in it. After the circuit judge sets the date for hearing the petition, you will receive a summons to attend the hearing. The judge will review the agency’s condemnation petition. If the judge finds the petition to be proper, he or she will appoint three commissioners. The commissioners must own land and reside in the same county where your property is located and cannot have any special interest in the property being condemned or the transportation project. The commissioners will view the property and establish fair market value. After the commissioners file their report with the court, the agency must deposit that amount with the circuit clerk before obtaining possession of the property. However, within a 30 day period, either side may file exceptions to the commissioners’ award and request a jury trial to determine the matter. Legal and physical possession of the property will transfer to the agency even when exceptions are filed. Trials can either increase or decrease the amount determined by the commissioners. Subject to the requirements of the circuit court, you may withdraw money at any time, regardless of whether or not exceptions are filed. If exceptions are filed and the jury trial established a smaller amount than the commissioners’ report, you must refund the difference plus interest on the refunded amount. If the jury trial results in a higher amount, the agency will pay you the difference plus interest on the increased amount.

You are not required to have an attorney represent you at the hearing appointment of commissioners. However, you may if you so desire. If exceptions are filed by either you or the agency, you may want to contact an attorney.

**In Conclusion**

We hope this information helps explain some of the general procedures we use to acquire realty rights for transportation projects. If you would like additional information about the land acquisition process, please feel free to contact the local public agency with any questions you may have or information you may need.