



WHEN YOUR LAND IS NEEDED FOR HIGHWAY USE SOME QUESTIONS AND ANSWERS

Prepared by
PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
Bureau of Design
Publication 83

This booklet has been prepared for the individual landowner. It has been designed to briefly outline and answer the most commonly asked questions pertaining to the land acquisition process used by the Pennsylvania Department of Transportation.

Should your property be needed for the construction of a highway, you may be assured that our Right-of-Way Representatives will gladly answer any questions you may have. They also will be available to assist you throughout the land acquisition process.

You also may be assured that it is our intention to achieve the best possible highway facility while maintaining your satisfaction as a private landowner. We will treat every claimant as fairly and as courteously as possible.

Q. HOW IS HIGHWAY LOCATION DETERMINED?

- A. It is PENNDOT's goal to establish the most direct and useable highway facility at the least possible cost to the public. To accomplish this, PENNDOT undertakes intensive studies on several possible routes in order to find the route that will result in the least possible inconvenience or injury to the public and the private landowner.

Statistical data concerning the economy, population needs and traffic volume trends are analyzed for the area under study. Aerial and ground surveys are taken, and consideration is also given to such factors as safety, drainage and soil types. In addition, public meetings are held to discuss the proposed alternate locations.

Q. WHAT IS HIGHWAY RIGHT-OF-WAY?

- A. Right-of-Way is the term used to describe "right of passage" over another's land. When the Commonwealth acquires land for Highway Right-of-Way purposes, it is actually obtaining "right of passage" over land on which a public road ultimately will be built. It is a Constitutional right of the Commonwealth to acquire land for public purposes. The term used to describe this right is "Eminent Domain". Eminent Domain states that it is the inherent right of the State to acquire land when it is needed for public use. The Pennsylvania Department of Transportation will execute this right only when it will benefit the public.

Q. HOW WILL MY RIGHTS BE PROTECTED DURING PROPERTY ACQUISITION?

A. According to Article V of the U.S. Constitution, no person shall be deprived of life, liberty or property without due process of law, nor shall private property be taken for public use without Just Compensation. In this situation, it is your right to receive Just Compensation in exchange for your property. A Fair Market Value will be determined for your property, and you will receive this along with several other benefits as Just Compensation. Pennsylvania's Eminent Domain Legislation is considered the most liberal of its kind in the U.S. Your rights as a property owner are given primary consideration.

Q. IF MY PROPERTY IS TO BE ACQUIRED BY THE COMMONWEALTH, WHO WILL CONTACT ME?

A. You will be contacted several times throughout the acquisition process, and your cooperation is necessary to aid the success of the process. Your first contact will usually be a letter informing you that your property will be affected by a highway project. You will also be personally visited by a negotiator, an appraiser, and, if necessary, a relocation advisor. All appointments will be made at your convenience, within reason, of course. It is our desire to make this process run as smoothly as possible.

Q. WHO DETERMINES PROPERTY VALUE?

A. The value of your property will be determined by qualified staff appraisers of PENNDOT and/or by independent licensed real estate brokers. Local real estate trends and the value of comparable properties will be taken into consideration when determining the Fair Market Value of your property. All appraisals are reviewed by qualified Reviewing Appraisers to assure that you will receive just compensation for your property. For your personal satisfaction, you may obtain an independent appraisal, for which you will be reimbursed. PENNDOT will reimburse you up to \$500.00 for any reasonable expense incurred for an appraiser, engineer or attorney to evaluate your claim.

Q. WHAT WILL I BE PAID FOR MY PROPERTY?

A. If your entire property is needed for a highway project, you will be offered its current Fair Market Value, determined by the appraisal process, as Just Compensation. If only a portion of your property is needed, you will be offered the difference between the value of the whole property and the value of the part remaining.

In addition to the Fair Market Value for your property, you are also entitled to the following benefits:

1. All fees incidental to the transfer of your property to the Department;
2. Any mortgage prepayment penalty you would be required to pay as a result of the acquisition;
3. A maximum of \$500.00 for any reasonable expense incurred for an appraiser, engineer or attorney to evaluate your property;
4. Should the acquisition cause you to be dislocated from your residence or business, you will also be entitled to Relocation Benefits.

These benefits are further explained in Bulletin #47. A Right-of-Way Representative will also be available to inform you of your eligibility for any other benefits.

Q. WHEN WILL I RECEIVE THE OFFER?

- A. A Right-of-Way Representative will personally present you with a written offer for your property. PENNDOT operates under a written one-offer policy in order to achieve uniformity throughout the project. Each owner is treated on the same basis, and each claim is settled on its merits rather than on the negotiating ability of the parties. You will be offered the amount determined by the appraisal process. The Pennsylvania Department of Transportation cannot, by law or by our policy, offer you less than Estimated Just Compensation for your property.

If you do not believe that the appraisal offers "Just Compensation", and if you can provide factual information pertaining to the value or damage of your property, which was not available to the appraisers, PENNDOT officials will gladly review the appraisal.

Q. MUST I ACCEPT PENNDOT'S OFFER?

- A. The vast majority of property acquisitions are settled on an amicable basis. Keep in mind, a careful procedure is used to arrive at a Fair Market Value for your property, and the Pennsylvania Department of Transportation cannot, by law or by our policy, offer you less than Just Compensation for your property.

If, however, an agreement cannot be reached through negotiations, PENNDOT, in order to proceed with the project, will be forced to file a "Condemnation Proceeding" (Declaration of Taking) in the Court of Common Pleas. At the point of condemnation, you will be offered the full amount of the appraised Fair Market Value as Estimated Just Compensation. You may elect to accept the Estimated Just Compensation without jeopardizing your right to contest the amount in court, or you can refuse the payment and it will be deposited in your name with the Prothonotary of the county in which the property is located.

Once a Declaration of Taking has been filed, either you or PENNDOT may petition, within five years, for a Board of Viewers, or the amount paid will be considered payment in full, in accordance with the Statute of Limitations. At a Board of View, the Viewers will consider your testimony, as well as those of the Department of Transportation. An award will be made by the Board of Viewers based on the available information. If either party is still dissatisfied, an appeal may be made to the Court of Common Pleas. Under most circumstances, however, this procedure is not necessary.

Q. WHEN WILL I BE PAID FOR MY PROPERTY?

- A. For your convenience payments will be processed as quickly as possible. Before you receive payment, however, you are responsible for providing the Commonwealth with a clear and marketable title. Any liens, mortgages, judgements, taxes or other obligations with regard to your property must be satisfied either prior to or at the time of settlement with the Department.

Once an agreement has been reached, payment can be expected within four to six weeks. No property owner will be required to move until he or she has received payment of Just Compensation or until it has been made available to him. PENNDOT will forward the payments as quickly as possible to aid you with your relocation process.