



## STATE AID FOR LOCAL TRANSPORTATION ACQUISITION INFORMATION FOR PROPERTY OWNERS

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### **ACQUISITION INFORMATION FOR PROPERTY OWNERS**

A primary responsibility of the County Highway Department is the administration, planning, construction, maintenance, and safety control of the County highway system.

In carrying out this responsibility the acquisition of privately owned real property is sometimes necessary. The purpose of this brochure is to inform those individuals whose land must be acquired, of their rights under Minnesota law and to provide information about the acquisition process.

Under Minnesota law, the County may acquire property by gift, direct purchase, or eminent domain proceedings.

#### **EARLY CONTACT**

Before the County is in a position to acquire your property, a survey crew will request permission to enter your land to obtain information for the development of the proposed improvement.

A field title agent will contact you to learn the nature and interest of involved parties in the land.

#### **DETERMINATION OF JUST COMPENSATION**

A valuation of your real property will be made before negotiations are started. (Real property is defined as the rights and interests possessed in land and generally whatever is erected, or growing upon, or affixed to, land.) You, or a representative you designate, will be given an opportunity to accompany the appraiser on his/her inspection of your property. This provides you an opportunity to point out any unusual or hidden features your property may possess.

In preparing the appraisal, the appraiser may not consider an increase or decrease in the value of your property, prior to the date of valuation, which results from the highway project or the likelihood that your property will be acquired for the project. However, any physical deterioration within your reasonable control will be considered in the valuation of your property.

The valuation is based primarily on studies of recent sales of property in the vicinity of your property.

The County will review the completed valuation(s). Based on this review, the County will establish the amount it believes to be just compensation to be offered for the property.

#### **DIRECT PURCHASE**

The County will make a prompt offer to purchase the property for the full amount it has determined to be just compensation. A written statement will be provided to you which will include the amount offered and an explanation of the basis for determining this amount. In cases where only a part of the property is to be acquired, the statement will separate the amount of compensation to be paid for the property being acquired and the amount (if any) for damages to the remainder. If the acquisition leaves you with an uneconomic remnant, the County must offer to purchase it.



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The County will not take any action that would coerce you into accepting its offer. Prohibited actions include advancing the time of condemnation, deferring negotiations or condemnation, or postponing the deposit of funds in court for your use.

You will have 60 days to consider the offer. To aid in your decision you may wish to secure your own appraisal. Minnesota law provides for reimbursement by the County in an amount not to exceed \$1,500.00 for the actual cost of an appraisal of property acquired by direct purchase.

Reimbursement cannot be made, however, until your property is acquired.

If you elect to accept the offer, you will be asked to sign instruments granting the County the right to purchase your property. The County will at its own expense furnish all documents necessary to complete the sale, make the necessary examination of title, and record the instruments of conveyance.

After the documents have been recorded, payment will be processed. If there is a mortgage and all or a major portion of the property is being acquired, a separate check payable to the mortgagee will be drawn for the amount of the balance on the mortgage plus interest to the date of payment. When the checks are ready for delivery, one check will be mailed to the mortgagee, who will in turn give the County a satisfaction of mortgage to be recorded. The check for the amount of the balance due you will then be mailed.

If only a part of your property is to be acquired, the County may ask for a partial release of the mortgage. The check will be mailed to you; you and your mortgagee must then agree on a distribution of the money. Any fee charged by the mortgagee for issuing a partial release or a prepayment penalty must be borne by you. When your property is acquired you will be furnished a claim form in which you may request reimbursement for fees charged by your mortgagee for a partial release or prepayment penalty. In some cases, the county will pass these fees directly to the mortgagee.

If all or a major portion of your property is being acquired, it will be necessary that all current and delinquent real estate taxes, as well as all special assessments, be paid in full. If only a small portion of your property is being acquired, any delinquent taxes must be paid, although in some instances the County may be able to record the documents notwithstanding current real estate taxes due. The County can advise you on payment of taxes due. The County will make every reasonable effort to avoid litigation by acquiring your property through direct negotiation.

### POSSESSION

If you must move because your home has been acquired, or if you must relocate your business or farm operation because of the acquisition of your property, you will be given at least 90 days written advance notice of the date by which you are required to move. If you have to move from your home, a decent, safe and sanitary replacement dwelling must be available to you, on a nondiscriminatory basis, prior to your displacement.

You are not required to surrender possession of your property until:

1. You have been paid the agreed purchase price, or
2. A deposit has been made with the court, for your benefit, in an amount not less than the City/County approved appraisal, or the amount of the award of compensation in a condemnation proceeding. This deposit can be withdrawn.



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Once the County has acquired your property, it may decide to rent it, subject to termination on short notice. The amount of rent charged you, or another tenant, will not exceed the fair rental value of the property to a short-term occupier.

### DONATIONS

You may make a gift or donation of the property, or any part of it, or of any of the compensation paid for it, to the County.

You have the right to receive just compensation for the acquisition of the property if it is desired.

You are also entitled to have an appraisal made of the property along with an offer of just compensation.

However, you may release the County from either or both of the obligations. It is your option.

### CONDEMNATION

If agreement cannot be reached on the purchase of your property the County will acquire your property by the exercise of the power of eminent domain. If a situation such as this does occur, the County will institute formal condemnation proceedings.

Under eminent domain procedures, the court appointed commissioners may, in their discretion, allow reasonable appraisal fees not to exceed \$1,500 for single or two family residential property or \$5,000 for other properties (See [M.S. 117.085](#)).

### BUILDINGS, STRUCTURES AND IMPROVEMENTS - SINGLE OWNERSHIP

When the County obtains an interest in your land, it must acquire at least an equal interest in any buildings, structures or improvements located on the acquired land, if they are required to be removed or if the highway project will adversely affect them.

### TENANT-OWNED BUILDINGS, STRUCTURES AND IMPROVEMENTS

The County is required to pay for property as if it were in a single ownership, and the contributory value of a tenant's improvements will be paid. In other words, if you are a tenant who owns a building, structure or improvement on land required for public purposes, the offer made by the County to the landowner will include either the fair market value which your building, structure or improvement contributes to the real property or the fair market value of the building, structure or improvement for removal from the real property, whichever is greater. As a tenant owning any buildings, structures or improvements on real property you must reach agreement with the landowner as to your share of the settlement.

### REIMBURSEMENT OF LITIGATION EXPENSES

If any one of the three following conditions exist, the County must reimburse you for your reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees which you have actually incurred. Such litigation expenses are reimbursable only under these conditions:

1. If the County starts a condemnation action, but the court decides that the County does not have authority to acquire your property by condemnation, or



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2. If the County starts a condemnation action and abandons it, or
3. If you, as owner, successfully maintain an inverse condemnation proceeding. (Inverse condemnation is a legal process by which an owner brings suit against the County to prove that they have taken compensable property rights without payment of just compensation).

### REIMBURSEMENT OF INCIDENTAL EXPENSES

You are entitled to be reimbursed for fair and reasonable expenses you necessarily incurred for:

1. Recording fees, transfer taxes, and similar expenses incidental to conveying your real property to the acquiring agency.
2. Penalty costs for prepayment of any pre-existing, recorded mortgage, entered into in good faith, encumbering your property.
3. The pro-rata portion of prepaid real property taxes that can be reimbursed in accordance with state law.

### APPEALS

You may file a written appeal with the County in any case in which you believe that we have failed to properly determine your eligibility for, or the amount of, a payment required for those expenses incidental to transfer of title to us or certain litigation expenses as mentioned above. The County shall consider all written appeals, regardless of form.

In filing an appeal you have the right to be represented by legal counsel or other representative in connection with the appeal, but solely at your own expense. In making an appeal you shall be permitted to inspect and copy all materials pertinent to the appeal, except materials that are classified as confidential by the County. Reasonable conditions may be imposed upon right to inspect, consistent with applicable laws.

### SUMMARY AND CONCLUSION

What is stated here is brief and general. If you desire more information, you may request assistance from the County Engineer.

County Engineer: Timothy Bray

Address: 16589 County Road 142, Brainerd, MN 56401

Telephone No: 218-824-1110 or Toll Free 1-866-824-1110