

CONDEMNATION

The state, as well as local government, is empowered to take private property for any public highway, parkway, airport, improvement or use. The New Jersey Constitution requires that the property taken must be for a public use. However, the term "public use" is given a very broad interpretation and private property can be taken even if the public use is very limited. The power vested in the government to take a private person's property is referred to as eminent domain. The procedure by which a governmental entity takes the property is by condemnation. The bad news is, that you usually cannot prevent the condemnation from occurring. The good news is, that the governmental agency taking your property must pay you "just compensation". The problem in dealing with this type of matter is determining what is "just compensation".

Condemnation proceedings are typically used by the state or county government when there is either a new road being constructed or an existing road being widened. The state, or other governmental entity may elect to take all of a person's property or only a portion of the property. If only a portion of the property is taken, the person is entitled to be compensated not only for the land that has been taken, but, also for any damages caused to the remaining property. However, our Constitution nor any court cases, have established a fixed standard or set forth any formula in

calculating an amount that would constitute just compensation for the property owner whose property has been taken.

A condemnation proceeding starts by the governmental agency sending notice to the property owner of the need to take their property. The governmental agency may enter upon the property for the purpose of making studies, surveys, tests and appraisals upon a minimum of 10 days notice to the property owner. Once the governmental agency conducts its test and appraisals, an offer to pay for the property is made to the owner. The property owner has a right and, in fact, is encouraged to retain their own experts to help determine all elements of value to be certain that the property owner is receiving full just compensation.

When a person is unwillingly required to sell their home or business as a result of a governmental project, the process is usually an emotional one for the property owner. The person, business or family is being forced to leave a place which they may have grown to love.

The most important knowledge a property owner can have when faced with a condemnation proceeding, is the fact that they are not required to accept the offer made by the governmental agency. Every property is unique and must be evaluated on an individual basis.