

# Acquisition of Real Property

City of San Antonio - Real Estate Section  
100 W. Houston St., Street Level  
San Antonio, TX 78205



## *Introduction*

By this time, you are probably aware at least a portion of your property may be required for an important public improvement project in your community. The purpose of this notice is to briefly explain your rights as a citizen; the procedure followed in acquiring your property, and hopefully answer some of the questions you may have. This flier is offered for general information purposes only; it is not a document of law, rule, or regulation. All your questions may not be answered here, but perhaps the answers to a few will enable you to have a better understanding of the City's overall Property Acquisition process. You will have an opportunity to discuss your individual case with the City representative responsible for acquiring your property.

## *Why does the City of San Antonio (COSA) have the right to acquire private property?*

Our successful existence in a democracy requires the development of public services to improve our way of life. We would be greatly handicapped without lands upon which to carry out the activities of cities and government; there would be no lands for public schools, streets, libraries, public hospitals, or other facilities necessary for our society. In short, cities and government cannot provide services to its citizens without the right to acquire land.

## *Why is my property needed?*

You may have attended a public meeting where the need and methods of project development were discussed. One purpose of these meetings is to inform citizens of the systematic approach used to assess engineering conditions, beneficial and adverse social, economic, environmental, and other effects. Projects are not arbitrarily selected. They are the result of cooperative efforts with the proper local council districts, the study of alternatives and a balanced consideration of the need for the project. You may be sure that this process was followed on the project which involves your property. Under our form of government, the rights of the individual are of paramount importance. Our laws guarantee these individual rights for all of us. However, our laws also recognize another principle, namely, the public good. Sometimes it is necessary to resolve a difficult matter such as public acquisition of private property in favor of the majority and for the good of all. Every effort is made to reach a fair and equitable agreement in the acquisition of all property needed for public purposes. It is sincerely hoped that when a project and design have finally been determined all citizens will agree that fair and equitable consideration has been given to the property owners involved and that the project is in the best interest of the public. The remainder of this flier is designed to answer questions common to most property owners. If you have other questions, the city is always ready to discuss your situation and try to solve any problems.

### *When will I know something definite?*

You will be contacted by an authorized representative of the City. This contact for negotiation purposes, however, must be delayed until all preliminary requirements for project development have been completed. In some instances, the time between the date you may have heard of a proposed project until you are contacted may seem unreasonable; however, every effort is made to expedite the various planning, engineering, environmental, public hearing, and approval steps so that purchase of the property can begin at the earliest possible date.

### *How much will I get?*

As a property owner you have the constitutionally guaranteed right to receive just compensation for the property which will be purchased from you. Even though you have the right to receive such compensation, you may make a gift or donation of all, or part of the property being acquired if you wish to do so. Where payment is to be made, the real property will be appraised to determine just compensation. If you elect to donate all your property prior to the time an appraisal is made, no appraisal will be made unless you desire one to be made. A thorough investigation of your property will be made to determine its value in accordance with State law. You or your designated representative will be given an opportunity to accompany the individual evaluating your property during the inspection of your property. Your cooperation will ensure that nothing is overlooked which ought to be included in the appraisal of your property. At the earliest possible time, you will be provided a written offer in the total amount determined to be just compensation for your property. Your decision regarding the offer for your property needs to be made at the earliest possible time (no later than 30 days from the receipt of the offer letter) so that the completion of the acquisition process is not delayed. You can appreciate the fact that there is a definite time frame required for every aspect of the project that involves your property.

### *What does donation of private property mean?*

The donation or gift of all or a portion of your property that is needed for the project is an option that you have. Obviously, the public funds that are saved if property is donated can be utilized for construction and/or other purposes. Donations can also help to expedite the construction contracts and lead to an earlier completion of the project. There are undoubtedly other good and valid reasons for consideration to be given to the possibility of donation or the acceptance of reduced consideration.

### *What about damages?*

In some cases, project construction will enhance rather than damage the remaining property. When only a portion of your property is taken for public use, every effort is made to compensate you adequately and not only for the part taken but also for any damage if the loss of this portion

reduces the value of the part you have remaining. The amount established for damages, if any, will be separately stated and will also be included in the total offer made to you by the City.

### *Will I have time to look for another home?*

If your home is purchased, you will be paid the full consideration and given ample time to buy another using the proceeds from your sale before moving from your present home. This applies not only to homes but to all properties where a property owner relocates to a new property. To the greatest extent possible, you will be given at least 90 days written notice of the day by which you must move.

### *Do I have time to fence or do other work on my remaining property?*

Every effort will be made to acquire the property sufficiently in advance of construction so that the time needed for utility adjustments, fence relocation, and other similar items which are necessary for the continued best use of the remaining property.

### *What about my mortgage?*

Like the handling of any other real estate transaction, payments must be made to satisfy outstanding mortgages or liens. If only a portion of your property is being acquired, agreement must be reached with the mortgage or lien agency concerning repayment requirements. If you were selling your property in a private real estate transaction, and part or all of an outstanding mortgage had to be paid, many lending agencies would require a prepayment penalty. Since this sale is being made to the public, most lending agencies, including the Federal Housing Administration, waive this requirement. However, some do not, and you should investigate this matter to determine whether or not such a penalty will have to be paid.

### *The G.I. Loan*

The Veterans Administration recognizes that the sale of your property is not of your choosing. Under these circumstances your G.I. loan privileges may be restored and become available for coverage on another property. This action must be initiated by the veteran.

### *Small Business Loan*

The Small Business Administration administers funds for loans for small businesses. You may wish to contact one of the Small Business Administration offices which are in Austin, Corpus Christi, Dallas, El Paso, Fort Worth, Harlingen, Houston, Lubbock, Marshall, and San Antonio to determine how to qualify for a loan.

### *Income Taxes*

If your property is worth more today than when you bought it, you may be wondering about paying income tax on the difference when you sell to the City. The sale of property for public purposes comes under a class which the Internal Revenue Service designates as "involuntary

conversion." It may not be necessary to pay income tax or capital gain tax depending on how you reinvest your profits from the sale to the City. Any payment received for damages also may not be taxable. You, therefore, are urged to contact the Internal Revenue Service Office which serves your area or seek legal advice on these matters.

### *Eminent Domain Proceedings*

Although a sincere and comprehensive effort is made to determine the just compensation for the property to be acquired, including improvements and damages to any remainder, the owner may still not be satisfied and refuse to sell. In other instances, the title to the land needed for the project may be encumbered to the extent that legal proceedings are necessary to affect a transfer of clear title. In these cases, eminent domain proceedings will be initiated by the City. Thereafter, the Judge will appoint three disinterested landowners to serve as Special Commissioners to determine the value. A date will be set of the time and place of the hearing and the owner will be notified.

At that time, the Special Commissioners will hear evidence and arrive at an award which will be filed with the Judge. A deposit in the amount of the award may be made with the Court at which time the acquiring agency will be entitled to take possession of the property involved. After the deposit is made, withdrawal of the award must be authorized by the Court. If either the owner or the acquiring agency is dissatisfied with the amount of the award, objections to the award may be filed within the time prescribed by law and the case subsequently tried in the same manner as other civil cases. The basic issue decided in eminent domain cases is just compensation for the property being acquired.