

## Highways and Your Property

As our state, cities and towns grow it becomes necessary to make changes and improvements to our roads and highways.

The Nebraska Department of Roads has the responsibility of providing safe highways. The pressure of increasingly heavy traffic requires the improvement of existing highways and the construction of new highways. The task is monumental and never-ending.

To serve this broad public interest, it sometimes becomes necessary for the state to acquire private property to construct new highways or improve and modernize the existing ones. The citizens of the State of Nebraska, through their Legislature, have given the Department statutory permission to acquire private property for this purpose. It is unfortunate that a private property owner must be inconvenienced in any way. However, the accomplishment of modern public works projects would not be possible if the land necessary was not first acquired. There would be no highways, government buildings, railroads, irrigation systems, airports, military bases, or public convenience of transportation. Right-of-way acquisition is a necessary event in the normal course of progress.

The purpose of this brochure is to help you understand methods used by the Department to acquire the land needed. Hopefully, this will provide the information you need and be a basis for mutual understanding and cooperation.

## Valuation Process

Real property shall be appraised before the initiation of negotiations. The owner of a subject tract estimated to be valued in excess of \$10,000 shall be given an opportunity to accompany the appraiser during inspection of the subject property. When the appraiser views your property, it is to your advantage to offer comments concerning your land or business, particularly local peculiarities and operational requirements. You should advise the appraiser if any of these conditions exist:

- There are other persons who have ownership or interest in the property.
- There are tenants on the property.

- Items of real or personal property that belong to someone else and are located on your property.
- The presence of hazardous material, underground storage or utilities.

The appraiser will inspect your property and note its physical characteristics. He or she will review sales of properties similar to yours in order to compare the facts of those sales with the facts about your property. The appraiser will analyze all elements that affect value.

The appraiser must consider normal depreciation and physical deterioration that has taken place. By law, the appraiser must disregard the influence of the future public project on the value of the property. This requirement may be partially responsible for any difference in the fair market value and market value of your property.

The appraisal report will describe your property and the agency will determine a value based on the condition of the property on the day that the appraiser last inspected it, as compared with other similar properties that have sold.

Upon completion of the report, a Review Appraiser analyzes the report and personally inspects your property. The Review Appraiser will establish the just compensation that will be offered for your property.

## Exceptions to the Appraisal Requirements

Regulations provide that the appraisal may be waived:

- If you elect to donate the property and release the Department from the obligation of completing an appraisal.
- If we believe the acquisition of your property is likely to be less than \$10,000, we will prepare a Compensation Estimate to determine your property's fair market value.
- When a Compensation Estimate is prepared, the appraiser is not required to contact the owner.

## Procedures Used to Acquire Real Property for Public Use

You will then be contacted by a Right of Way Agent from the Department who will make a written offer for your property. If only a portion of

your property is being acquired, this offer will separate the amount for property acquired and the amount, if any, for damages to the remainder.

If there is a portion of your property which is considered by the Department to be an uneconomic remainder, you will have the right to receive an offer from the Department to acquire the remainder.

Appraisals are made for the mutual benefit of property owners and the Department. The agent does not attempt to bargain or "horse trade" for a lesser amount. The agent is not authorized to go higher than the appraised value unless certain values or damage items have been overlooked in the appraisal. If this is the case, please bring it to the attention of the agent so it can be checked with the appraiser.

The agent will explain the requirements of the Department and present the written offer. The agent will submit to the owner a contract providing for the payment price offered by the state, a deed providing for the conveyance of the necessary right-of-way, and a payment document. The Department will give you a reasonable amount of time to consider the offer and ask questions or seek clarification of anything that is not understood.

To complete the transaction, the owner will execute these documents. The documents will then be returned to the Department for approval.

The Department will pay all closing costs associated with the conveyance of the property being acquired including the following reasonable and necessary costs:

- Recording fees, transfer taxes, documentary stamps, evidence of title, surveys, and similar expenses incidental to this property transaction.
- Penalty costs or charges for prepayment of pre-existing recorded mortgages.
- The pro rata share of real estate taxes allocated to the period after we own the property

## Payment

Upon approval of the documents, payment is then mailed directly to you, except in those instances where it is necessary to arrange for electronic payment.

There are basic administrative tasks which must be performed before the payment can actually be tendered, but every effort is made to insure you receive payment in the most expeditious manner. The Department then proceeds with the recording of the deed in the county's record.

## What if a price cannot be agreed upon?

If agreement cannot be reached, the eminent domain law must be used. The Department prepares all the applications and other documents necessary to institute formal condemnation proceedings. They are filed with the office of the county judge in the county where the land is located.

The prospects of a condemnation should not cause fear or apprehension. The eminent domain law provides a means of settlement of honest disagreement and protects you as well as the Department.

With proper notification to you, the county judge appoints three local property owners as a Board of Appraisers. After viewing your property, the Board of Appraisers listens to your statements (or those of your representative) and those of the Department. A formal report of their findings of value is filed with the county judge. This hearing is conducted at no expense to you unless you hire an attorney or other representative.

If you or the Department are not satisfied with the award of the Board of Appraisers, either may appeal to District Court for determination by a jury.

The award by the Board of Appraisers is paid by the Department directly to the County Court. You may then secure your payment from the County Court after the specified appeal period has lapsed. In the event either you or the Department should elect to appeal the award, special arrangements may be made through the Department's attorneys to withdraw the amount of the Department's original written offer.

In some extreme and seldom occurring circumstances, you may be eligible for certain expenses if a Court decides that we cannot condemn your property, if we abandon a condemnation of your property, or if you are successful in an adverse condemnation action. You may appeal our decision of eligibility for these expenses. Your written appeal must be filed with

