

August 2013

Transportation Property Needs and You

Questions and Answers



Americans with Disabilities Act (ADA) Information

This material can be made available in an alternate format by emailing the WSDOT Diversity/ADA Affairs team at wsdotada@wsdot.wa.gov or by calling toll free, 855-362-4ADA(4232). Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711.

Title VI Statement to Public

It is the Washington State Department of Transportation's (WSDOT) policy to assure that no person shall, on the grounds of race, color, national origin or sex, as provided by Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against under any of its federally funded programs and activities. Any person who believes his/her Title VI protection has been violated, may file a complaint with WSDOT's Office of Equal Opportunity (OEO). For additional information regarding Title VI complaint procedures and/or information regarding our non-discrimination obligations, please contact OEO's Title VI Coordinators, George Laue at (509) 324-6018 or Jonté Sulton at (360) 705-708.

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Introduction

This booklet has been prepared by the Washington State Department of Transportation (WSDOT) Real Estate Services Office to help explain the acquisition process under the eminent domain statutes.

We wish it were possible to locate a transportation facility to serve everyone who needs it without causing inconvenience for you, your neighbors, or local businesses. Whenever property is needed for a transportation facility whether for a highway, rail corridor, marine facility, or airport, it is necessary to acquire property from someone to meet those needs.

Your concerns are important to us. We will do everything we can to hold any disruptions and other impacts of the project to a minimum.

We hope the information in this booklet will help you better understand how such a project begins, the development process, and the efforts made to select the best possible location. This booklet also explains what information and assistance you will be given if your home or business property must be purchased.

Thank you for taking the time to read this booklet. We appreciate your understanding and cooperation.

Why new transportation facilities?

Transportation facilities do not just happen by accident—they are built to meet the needs of people. No matter how much any of us may debate the need for the construction of additional facilities to complete our transportation system, our state is still growing. People continue to move and businesses and industries thrive by following the people. All of this movement and growth requires new and expanded transportation facilities.

In addition, dangerous, outmoded transportation facilities designed to antiquated standards, need to be redesigned to save lives, facilitate growth, and reduce property damages.

Ultimately, new applications of mass or public transit will be developed which, hopefully, will relieve much of the congestion in our metropolitan areas. However, even mass transit, whether bus or rail, requires the use of property for rights of way. So the need to acquire rights of way is sure to continue.

Planning new facilities

Planning required for a new transportation facility is complex and time-consuming. Advance planning in the form of area-wide studies must be completed before final legislative approval of a transportation program can be obtained. Following legislative approval and authorization, a wide range of objectives must be carefully studied before the actual location and design of a project can begin.

Early in the planning process, intensive, in-depth studies are conducted to determine the effect a project will have on the ecology of the area—both good and bad—including the projection of any future socioeconomic problems or benefits. The results of these studies are included in an Environmental Impact Statement (EIS) which becomes the department's documentation to assure that the project selected will be of the greatest benefit to both the people and the environment of the area.

Will my property be needed?

If the transportation project is at an early stage in development, there is no way of determining whether your property will be needed. For example, if you have just received notice that department personnel will need access to your property for survey and/or noninvasive inspection, it does not mean that your property is even within the limits of the project as it will ultimately be designed. On the other hand, if you have received notice of a design or access hearing to be held soon in your vicinity, the chances are that your property will be affected either in whole or in part.

If your property is involved, it will indicate that you are located in the area which all of the advance planning, preliminary engineering studies, location surveys, and design studies have selected as the location which will, at the lowest total cost, provide the maximum benefits to both the residents of the area and the transportation users of our state.

What if only a portion of my property is needed?

More often than not, only a part of your property will be needed for the project. Regardless of the amount needed, you will be compensated fairly. In addition to paying you the market value for the property needed for the project, you are also to be paid for any loss in market value (damages) to your remaining property. If the portion which remains should be of such a size or shape as to have little or no value or utility to you, the state will offer to purchase it.

Can an acquisition of part of my property increase the value of the remainder?

It is possible that, after the state's acquisition of a portion of your property for a public project, the remaining property would demand a greater price than it would have before the acquisition because of better accessibility, greater development potential, etc. In this event, and as provided by statute, the amount of benefits will be offset against the acquisition costs. If it is shown that a property will increase in value because of improved location or other reasons, the amount of special benefits is deducted from the value of the part acquired and from damages to the remainder.

How will the amount be determined?

WSDOT's primary concern is to offer you fair and equitable compensation for real property rights being acquired.

In those cases where the property rights being acquired involve payment of a nominal consideration, the department, after reviewing market transactions and other pertinent information, will administratively establish an amount to be offered. If the administrative offer is over \$10,000 you will have the right to request an appraisal at any time prior to accepting our offer.

In all other cases, the department will arrange to have your property appraised to establish the "just compensation" due you. The appraiser will be furnished with current title reports and maps to accurately identify the property needed.

The appraiser is required to make a reasonable attempt to contact you for a joint inspection of your property. You have the right to accompany the appraiser on the inspection of your property. It is to your advantage to give the appraiser all of the information you can which has a bearing on the property's worth. Appraisers are trained to know what to look for, but without your help and cooperation, it is possible to overlook an important item.

How can I be sure the appraiser is right?

Every appraisal obtained by the department is subjected to an intensive review by a reviewing appraiser, selected for experience, special training, and ability. Only when the reviewer is satisfied that the appraiser's conclusion of value is sound and adequately supported will a Determination of Value form be signed which becomes the basis for the state's offer. If any questions remain which cannot be resolved to the reviewer's satisfaction, a new appraisal will be obtained.

How, by whom, and when will the state's offer be made?

WSDOT employs two methods when presenting offers:

1. An offer packet may be sent to you by mail. This packet will contain at a minimum:
 - A letter providing a detailed explanation of the state's proposed project and the purchase offer.
 - Maps showing your property boundaries and the state's proposed acquisition area.
 - The name and telephone number of the acquisition specialist who has been assigned to work with you throughout the acquisition process.

2. The state's offer may be presented to you in person, both orally and in writing, by the acquisition specialist. The specialist will also provide you with copies of right of way plans and a detailed explanation of the proposed project and its effect on your property.

In either case, your offer will be presented as soon as possible after the appraisal review/administrative offer summary has been completed.

What happens if I accept the state's offer?

The specialist will handle almost all details, preparing the deed, payment voucher, escrow instructions, and any other instruments which may be necessary. The specialist will obtain your signature on all essential documents and notarize your signature where required.

The specialist also arranges for payment of any real estate taxes or assessments which are due and payable by deduction or direct payment as you elect, or will assist you in obtaining a refund of any advance payments you have made.

The specialist will make arrangements to have any deeds of trust or other encumbrances which constitute a lien against your property paid out of the settlement or, if only a portion of your property is needed, will arrange to clear title to the portion being acquired by the state.

When the transaction has been completed, the entire file will be reviewed and processed for payment. The state's payment will be mailed directly to you if the title is clear, or to an escrow company if there are encumbrances to be paid through escrow. Processing the transaction by the department can usually be completed in four to six weeks.

What will my closing costs be on a sale to the state?

A sale to the state could be the best real estate sale you ever make. In addition to paying you the market value, the state will pay the selling costs which include recording fees, title insurance premium, escrow fees, and other normal expenses of sale. Your sale to the state under the eminent domain statute will be exempt from payment of real estate excise tax.

Besides those savings, you also do not have to pay a real estate commission.

The following is an example of typical seller's closing costs on a \$40,000 sale:

	Private Sale	Sale to State
Selling Price	\$40,000	\$40,000
Title Insurance	-500	Paid by State
Escrow Fee	-350	Paid by State
Excise Tax (1.53%)	-612	Exempt (varies by county)
Broker's Commission (7%)	-2,800	
Net to Seller	\$35,738	\$40,000

If your business, home, or other personal property will have to be moved as a result of the state's acquisition, you may be entitled to certain relocation assistance benefits under Washington State Law. A brief explanation of these benefits is given on page 20 of this booklet.

Can I arrange to keep and move my house?

The acquisition specialist will advise you if circumstances permit the department to extend to you the option of salvaging (removing) your house or other improvements. You will find the department's established salvage value on the improvements both fair and reasonable. The purchase of salvage rights to improvements is subject to the Washington State Use Tax (same rate as state sales tax). A deposit will be required to ensure complete removal of improvement and cleanup of the site, but will be returned upon satisfactory completion.

If I make a profit, will I have to pay a capital gains tax?

Because tax laws change frequently, it is recommended that you check with the Internal Revenue Service, your tax consultant, or your attorney to determine the current status or interpretation of the laws on capital gains taxes.

What if I feel the offer is too low?

Explain to the specialist why you believe you should receive a larger settlement. If you believe some item or feature of value was overlooked, tell the specialist about it. The specialist will not attempt to coerce you into a settlement. You will be offered the opportunity to obtain an appraisal of your own or seek the advice of someone knowledgeable of real property values to assist you in evaluating the state's offer. The actual cost for obtaining such advice, up to \$750, will be reimbursed by the state upon presentation of a bill or a receipt evidencing payment (RCW 8.25.020).

If you secure an appraisal of your own, obtain it from a qualified expert appraiser. If you are willing, the specialist will arrange to have your appraisal reviewed by the state's reviewing appraiser. If the amount shown as the market value is adequately supported and no major errors are found, the reviewing appraiser is authorized to prepare a new Determination of Value which will become the basis for a revised offer.

Finally, if an acceptable settlement cannot be reached, it will become necessary for the acquisition specialist to recommend the parcel be acquired by condemnation (eminent domain).

Can I prevent the state from acquiring my property?

To build public works projects necessary for the economy and defense of our country, privately-owned land is often needed.

The State Constitution grants the state the right of eminent domain, the right to acquire private property for public use upon payment of just compensation. Without this right, it would be impossible to continue to improve our transportation system and meet the demands placed upon it by the public, by commerce, and by the requirements of national defense.

If you do not want to accept the state's offer, the state will file a legal action to acquire the property by operation of law, known as condemnation. These procedures require the state to prove to the court why your property is needed for a public purpose before the condemnation can continue. If the state is successful in establishing the need, the court approves an Order Adjudicating Public Use and Necessity. As you can imagine, it prevents the state from acting carelessly or thoughtlessly in determining and designating which property it needs for a transportation facility.

To prevent your property from being acquired, it would be necessary for you to persuade the court to deny the state the Order Adjudicating Public Use.

Your rights as a property owner and the rights of the state are well defined under the laws. These rights are designed to safeguard you, as the owner, from receiving less than the market value for your property to which you are entitled. At the same time, it prevents the state from making payments which would be unfair to the taxpayers whose funds make the improvement of our transportation facilities possible.

WSDOT's intention is to treat all owners alike, in a fair manner, and in such a way as to cause the least possible inconvenience.

What happens if I do go to court?

WSDOT recommends that you retain the services of a competent attorney to represent you. In addition, you may employ one or more appraisers, and any other witnesses your attorney may desire to testify in support of your case. The state will be represented by an Assistant Attorney General, the state's appraiser or appraisers, and any other witnesses the Assistant Attorney General considers important to the case.

Trial, except under unusual circumstances, will be held in the Superior Court of the county in which the property is located. The case will be tried before a jury of 12 persons as agreed upon by both sides, unless a trial by jury is waived, in which case, it will be tried before the presiding judge of the court. The verdict is binding upon both parties unless there is a valid basis for appeal.

Will the court action delay payment to me?

Before trial of the case, the state, as soon as a Stipulated Order for Immediate Possession and Use has been signed, will deposit in the registry of the court the amount of the state's Determination of Value previously offered you. This deposit is made for your benefit, and you can arrange to withdraw it at any time before trial. However, if the final judgment is for less than the amount of the deposit, you will be required to pay back the difference.

Will I be able to recover the costs of the trial?

State law provides that under certain conditions, the court will establish an amount which the state shall pay to reimburse an owner for all or a part of the attorney and witness fees. Generally, in order to receive such an award, the owner must grant immediate possession and use and receive a verdict which exceeds by 10 percent or more the highest offer made by the state at least 30 days before trial.

You should discuss questions of eligibility for recovery of attorney and witness fees with your counsel before trial.

What if I am required to move?

Under state law, any person (individual, business, farm, or nonprofit organization) who is considered by the state to be displaced as a result of the state's acquisition, is entitled to a wide variety of relocation assistance benefits. These include advisory and monetary benefits.

If you are a displaced residential occupant, you may be entitled to various replacement housing benefits. The type of benefit depends upon whether you own or rent your home and the length of time you have occupied your home. These payments are in addition to payments for moving your personal property to your replacement home.

Replacement housing benefits for displaced homeowners include a price differential and reimbursement for certain closing costs associated with the purchase of the replacement home. A rental assistance payment may be an option for those owners who choose to rent rather than buy a replacement home.

Replacement housing benefits for displaced tenants include rental assistance or down payment assistance payments for those who choose to purchase rather than rent a replacement home.

Businesses, farms, and nonprofit organizations, which are considered to be displaced by the state, are also entitled to relocation assistance. Benefits include payment for packing, transporting, and unpacking all personal property; disconnecting and reconnecting machinery; limited reimbursement for costs associated with searching for a replacement site and reestablishing the operation at the replacement site. There are many other benefits available as well. Please refer to the *Relocation Assistance Program* booklet.

How much time will I have to move?

A relocation specialist will contact you personally to explain relocation services available, the types of relocation payments, move options, and the eligibility requirements to receive relocation payments that apply to you.

Residential Displacements

You cannot be required to move unless at least one comparable dwelling is made available to you and you have been given a written assurance at least 90 days prior to the date by which you will be required to vacate the property. WSDOT will provide this assurance in the relocation letter entitled, “Notice of Relocation Eligibility, Entitlements, and 90-Day Assurance.”

Non-Residential Displacements

You cannot be required to move unless given a written assurance at least 90 days prior to the date by which you will be required to vacate the property. In most cases, WSDOT will provide this assurance in the relocation letter entitled, “Notice of Relocation Eligibility, Entitlements, and 90-Day Assurance.”

In any case, if occupancy of the property beyond the date the state acquires possession is allowed, you will be required to sign a rental agreement and pay rent. For information regarding the cancellation/termination of your lease, please see the term clause in your Displacee Lease or contact your Property Management Specialist.

Agency Title VI Notice to Public

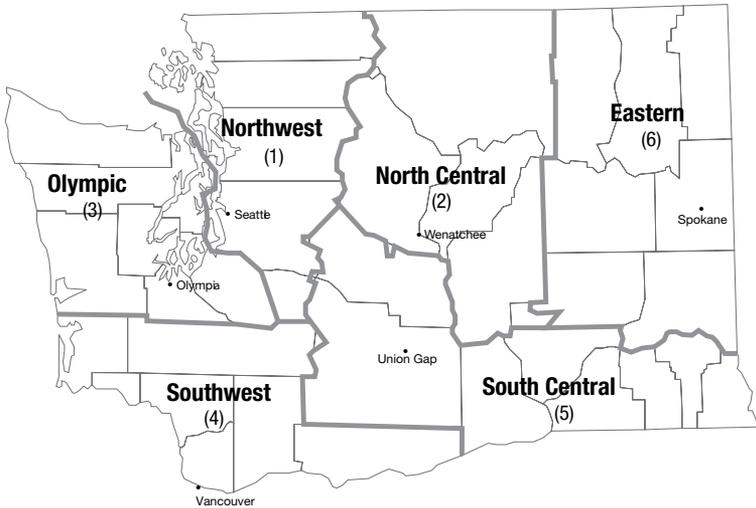
The agency hereby gives notice that it is the policy of the agency to ensure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the grounds of race, color, sex, national origin, disability, age, or religion, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the agency receives federal financial assistance.

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has the right to file a formal complaint with the agency. Any such complaint must be in writing and filed with the agency Title VI Specialist within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from this office at no cost to the complainant by calling 360-705-7083.

Washington State Department of Transportation Region Boundaries

We hope this information booklet has helped give you a better understanding of the process by which transportation facilities are planned and acquired and the efforts made to establish uniform treatment of all people affected by a project.

For additional information, please contact any right of way representative at the WSDOT Real Estate Services Office nearest you.



WSDOT Real Estate Services Offices

1. Northwest Region

(Seattle/Everett/Bellingham)
15700 Dayton Avenue N
PO Box 330310
Seattle, WA 98133-9710
206-440-4160

2. North Central Region

(Wenatchee/Moses Lake/Okanogan)
1551 N Wenatchee Avenue
Wenatchee, WA 98801-1156
509-667-2936

3. Olympic Region

(Tacoma/Olympia/Port Angeles/Aberdeen)
5720 Capitol Boulevard
PO Box 47440
Olympia, WA 98504-7440
360-357-2697

4. Southwest Region

(Vancouver/Raymond/Chehalis/Goldendale)
11018 NE 51st Circle
Vancouver, WA 98682-6686
360-905-2000

5. South Central Region

(Yakima/Ellensburg/Tri-Cities/Clarkston)
2809 Rudkin Road
Union Gap, WA 98903-1648
509-577-1650

6. Eastern Region

(Spokane/Colville/Ritzville/Pullman/Republic)
2714 N Mayfair Street
Spokane, WA 99207-2090
509-324-6000

HQ. Headquarters and Mega Projects

7345 Linderson Way SW PO Box 47338
Tumwater, WA 98501 Olympia, WA 98504-7338
360-705-7307



The mission of the Washington State Department of Transportation is to keep people and business moving by operating and improving the state's transportation systems vital to our taxpayers and communities.