

## **Chapter One: Eminent Domain**

Eminent domain is an area of property law. It allows a state or the federal government to force property owners to sell their property so their property can be used by the public. In addition, the state or federal government may grant their power to a private company so the private company can take private property. The taking of private property from a landowner by either the state government or a private company is called condemnation.

Neither state government nor private companies can just take private property without paying the landowner “just compensation.” Unfortunately, it is rare that the landowner truly receives money that is just. In addition, there are complex legal codes and hurdles landowners have to go through just to receive payment.

The Jackman Law Firm can help landowners receive just compensation. We offer free consultations and do not charge by the hour. We simply receive a modest percentage of whatever additional money we fight to get a landowner.

### **How The Jackman Law Firm Can Help with Your Eminent Domain Case**

It can be alarming to receive notice from either the state government or a company that they intend to seize your land and attach a date with when they plan to do it. In addition, the money you are offered is rarely, if ever, fair for what your property is likely worth. You need a tough, intelligent lawyer who has the experience, knowledge and determination to fight for you and get you the money you deserve for your property.

We also have the experts, including surveyors and appraisers, you will need to fight and win against the government.

The Jackman Law Firm does not get paid unless you do. We don’t charge by the hour or ask for a retainer or any upfront fees. We will simply take a small percentage of whatever additional money you receive for your land. We stake our time on your success.

## **Chapter Two: The Law of Eminent Domain**

The United States Constitution explains the law of eminent domain, and every state constitution in the country has a similar law. This law states that the government can take private property as long as the taking is for public use and as long as the government pays the landowner just compensation. If a private company receives permission from the government to act on its behalf, then the private company can also use eminent domain power to take land from private landowners.

Given the rapid expansion of roads and projects throughout the country, the government and private companies have taken more and more property from landowners over the last decade, and it's likely to continue.

The most common uses for eminent domain are the construction of or expansion of the following:

- Streets
- Highways
- Tollways
- Pipelines, especially oil, gas and water
- Drainage systems, especially sewer and water
- Government buildings
- Schools
- Military installations
- Power stations

If you feel that either the government or a private company is not trying to take your land for a valid public purpose, feel free to call The Jackman Law Firm to discuss your case. We offer free consultations.

### **Chapter Three: Eminent Domain FAQ**

Question: How long does my take case to settle?

Answer: Every case is unique and different. It can take anywhere from a few months to a few years. In general, cases where the government is involved with the taking take a long time, typically a year or so. If a private company is involved, the process will run much faster.

Question: What if I want to stop the government from taking my land?

Answer: You can certainly challenge the taking, but understand this is normally an uphill battle you will likely lose. Since eminent domain is widely accepted, it's hard to win unless you can show that the government is not taking your property for a legitimate public use. If you refuse, the government will file an action in court and you will have to appear in court, if asked, and file the appropriate legal documents in opposition to those filed by the government. If you lose, and the judge allows the taking to go forward, then a new trial will be started that allows each to make the case for the land's value.

Question: I don't agree with the amount of money that's been offered to me to settle so my land can be taken. What are my legal rights?

Answer: You don't have to accept the offer from the government. You can fight for more money, but be aware you are going to need certain experts to validate your position, including surveyors, appraisers, and real estate brokers. These experts can persuade the judge or jury the true value of your land.

Question: What is a special commissioner's hearing?

Answer: This is a procedure to attempt to settle your case. The special commissioner is made up of three landowners who have no interest or relationship to you or your case. A judge selects them. The commissioners will hear you and your attorney make your case for the value of your land, as well as the government's side, and from there they will decide the value of your land.

Question: How much will an eminent domain lawyer cost for my case?

Answer: Every lawyer is different, but The Jackman Law Firm charges a third of whatever money you recover from the government, provided that amount is greater than the original offer you received. We only get paid, in other words, unless you both win and your win is an amount greater than what you would have received without help.

## **Chapter Four: The Eminent Domain Process**

There are two steps to having a condemnation case resolved in Texas. If the government or a private company acting on the government's behalf targets your property for a taking, then they will have to provide you with notice of this by serving a letter on you describing the land they wish to acquire along with an amount of money they plan to pay you. Prior to this, they will dispatch a surveyor to your property to survey the property. The Supreme Court of Texas has ruled that only one notice is sufficient to inform you of this process. In other words, they do not have to meet with you in person, call, or email you multiple times to give you a heads up of their intent. If you do not agree that the amount of money offered for your property is fair, then you have the right to challenge their assessment by attending a commissioner's hearing.

### **Commissioner's Hearing**

There are two steps to the condemnation process in Texas. One is an administrative hearing and the other involves being in court. The administrative hearing is called the Special Commissioners' Hearing. The way this works is that three commissioners are appointed by the court to hear evidence and argument from you, the landowner, and the government or the private company that is acting on the government's behalf to take your property.

The three commissioners are supposed to be non-partial, meaning they have no interest in the case, and they are always fellow-land owners in your area, with the idea being that three impartial people can adequately evaluate the worth of your land. You have the ability to strike one of the members of the commission and challenge them if you feel they are not impartial or somehow qualified to hear your case.

The hearing is not a multi-week ordeal. Rather, it lasts a few hours. Since this is an administrative hearing, it does not allow you to conduct the kind of discovery that you would normally engage in while litigating a case; thus, you cannot do depositions or send out written discovery such as Interrogatories and Requests for Production.

You are not required to be at the hearing, and you do not have to have an attorney represent you at the hearing, though it is advised. There are tactical advantages to both attending and not attending. If you do attend, in some ways the hearing is a dress rehearsal for the next stage, which is trial, and which will result if you or the government cannot come to an agreement on your property's value. It is a dress rehearsal because the other side, the government, gets to learn your theory of the case and the value you ascribe to your property.

On the other hand, there is a tactical advantage to disclosing your property's value and attending the hearing because you may be able to reach a compromise with the government and avoid the stress and cost and time it takes to litigate a case in court.

After the commissioners' hearing is over, they will issue their findings in writing within a week or so. This is not binding, meaning you or the government can appeal if you disagree with it.

### **Litigation**

If you disagree with the commissioners' findings, or if the government disagrees, then you and the government can appeal. There is a tight deadline to appeal, so it is crucial you don't miss this deadline. Your case will be transferred from the administrative court, where the commissioners' hearing was held, to a district court in Texas.

Once you are here, your case is just another case in litigation. If you don't have an attorney representing you here, in litigation, you probably should because there are important steps you need to be aware of and things you can miss if you don't have an attorney who knows how to litigate these matters.

For example, you will need to identify the appropriate experts in your case, such as surveyors and appraisers and possibly property brokers, who can help substantiate the value of your case. You will also need to meet with the government's own experts through a meeting called a deposition. In addition, it may be helpful to obtain documents and reports from the government, and you may want to object to the government's requests for documents should they send them to you.

In addition, if you cannot resolve your case during the pendency of litigation, you will need a lawyer who knows how to properly present your case to a judge or jury, including introducing the appropriate jury instructions for the jury to follow. At the trial, the decision the jury or judge will make will be binding on your case. However, if you or the government still disagree with this decision, you have the right to appeal your case to the appellate court.

This is a long and costly process. If you have questions, call The Jackman Law Firm for a free consultation.