

117.012 PREEMPTION; PUBLIC USE OR PURPOSE.

Subdivision 1. **Preemption.** Notwithstanding any other provision of law, including any charter provision, ordinance, statute, or special law, all condemning authorities, including home rule charter cities and all other political subdivisions of the state, must exercise the power of eminent domain in accordance with the provisions of this chapter, including all procedures, definitions, remedies, and limitations. Additional procedures, remedies, or limitations that do not deny or diminish the substantive and procedural rights and protections of owners under this chapter may be provided by other law, ordinance, or charter.

Subd. 2. **Requirement of public use or public purpose.** Eminent domain may only be used for a public use or public purpose.

Subd. 3. **Exceptions.** This chapter does not apply to the taking of property under laws relating to drainage or to town roads when those laws themselves expressly provide for the taking and specifically prescribe the procedure. The taking of property for a project undertaken by a watershed district under chapter 103D or for a project undertaken by a drainage authority under chapter 103E may be carried out under the procedure provided by those chapters.

History: 2006 c 214 s 1

117.025 DEFINITIONS.

Subdivision 1. **Words, terms, and phrases.** For the purposes of this chapter and any other general or special law authorizing the exercise of the power of eminent domain, the words, terms, and phrases defined in this section have the meanings given them.

Subd. 2. **Taking.** "Taking" and all words and phrases of like import include every interference, under the power of eminent domain, with the possession, enjoyment, or value of private property.

Subd. 3. **Owner.** "Owner" includes all persons with any interest in the property subject to a taking, whether as proprietors, tenants, life estate holders, encumbrancers, beneficial interest holders, or otherwise.

Subd. 4. **Condemning authority.** "Condemning authority" means a person or entity with the power of eminent domain.

Subd. 5. **Abandoned property.** "Abandoned property" means property that: (1) has been substantially unoccupied or unused for any commercial or residential purpose for at least one year by a person with a legal or equitable right to occupy the property; (2) has not been maintained; and (3) for which taxes have not been paid for at least two previous years.

Subd. 6. **Blighted area.** "Blighted area" means an area:

- (1) that is in urban use; and
- (2) where more than 50 percent of the buildings are structurally substandard.

Subd. 7. **Structurally substandard.** "Structurally substandard" means a building:

(1) that was inspected by the appropriate local government and cited for one or more enforceable housing, maintenance, or building code violations;

(2) in which the cited building code violations involve one or more of the following:

- (i) a roof and roof framing element;
- (ii) support walls, beams, and headers;
- (iii) foundation, footings, and subgrade conditions;
- (iv) light and ventilation;
- (v) fire protection, including egress;
- (vi) internal utilities, including electricity, gas, and water;
- (vii) flooring and flooring elements; or
- (viii) walls, insulation, and exterior envelope;

(3) in which the cited housing, maintenance, or building code violations have not been remedied after two notices to cure the noncompliance; and

(4) has uncured housing, maintenance, and building code violations, satisfaction of which would cost more than 50 percent of the estimated market value for the building, excluding land value, as determined under section 273.11 for property taxes payable in the year in which the condemnation is commenced.

A local government is authorized to seek from a judge or magistrate an administrative warrant to gain access to inspect a specific building in a proposed development or redevelopment area upon showing of probable cause that a specific code violation has occurred and that the violation has not been cured, and that the owner has denied the local government access to the property. Items of evidence that may support a conclusion of probable cause may include recent fire or police inspections, housing inspection, exterior evidence of deterioration, or other similar reliable evidence of deterioration in the specific building.

Subd. 8. Environmentally contaminated area. "Environmentally contaminated area" means an area:

(1) in which more than 50 percent of the parcels contain any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment under state or federal law or regulation; and

(2) for which the estimated costs of investigation, monitoring and testing, and remedial action or removal, as defined in section 115B.02, subdivisions 16 and 17, respectively, including any state costs of remedial actions, exceed 100 percent of the assessor's estimated market value for the contaminated parcel, as determined under section 273.11, for property taxes payable in the year in which the condemnation commenced, or for which a court of competent jurisdiction has issued an order under law or regulations adopted by Minnesota or the United States, that clean up or remediation of a contaminated site occur and the property owner has failed to comply with the court's order within a reasonable time.

Subd. 9. Public nuisance. "Public nuisance" means a public nuisance under section 609.74.

Subd. 10. Public service corporation. "Public service corporation" means a utility, as defined by section 216E.01, subdivision 10; gas, electric, telephone, or cable communications company; cooperative association; natural gas pipeline company; crude oil or petroleum products pipeline company; municipal utility; municipality when operating its municipally owned utilities; joint venture created pursuant to section 452.25 or 452.26; or municipal power or gas agency. Public service corporation also means a municipality or public corporation when operating an airport under chapter 360 or 473, a common carrier, a watershed district, or a drainage authority.

Subd. 11. Public use; public purpose. (a) "Public use" or "public purpose" means, exclusively:

(1) the possession, occupation, ownership, and enjoyment of the land by the general public, or by public agencies;

(2) the creation or functioning of a public service corporation; or

(3) mitigation of a blighted area, remediation of an environmentally contaminated area, reduction of abandoned property, or removal of a public nuisance.

(b) The public benefits of economic development, including an increase in tax base, tax revenues, employment, or general economic health, do not by themselves constitute a public use or public purpose.

History: 1971 c 595 s 3; 2006 c 214 s 2,20; 2012 c 294 art 2 s 3; 2013 c 143 art 14 s 14

117.027 CONDEMNATION FOR BLIGHT MITIGATION AND CONTAMINATION REMEDIATION.

Subdivision 1. **Buildings not structurally substandard in areas of blight mitigation; feasible alternatives.** In taking property to mitigate blight, a condemning authority must not take buildings that are not structurally substandard unless there is no feasible alternative to the taking of the parcels on which the buildings are located in order to remediate the blight and all possible steps are taken to minimize the taking of buildings that are not structurally substandard.

Subd. 2. **Uncontaminated property in environmental contamination remediation areas; feasible alternatives.** In taking property to remediate environmental contamination, a condemning authority must not take uncontaminated parcels in the area unless there is no feasible alternative to the taking of the uncontaminated parcels in order to complete remediation of the contaminated parcels and all possible steps are taken to minimize the taking of the uncontaminated parcels.

Subd. 3. **Contribution to condition by developer disallowed.** If a developer involved in the redevelopment of the project area contributed to the blight or environmental contamination within the project area, the condition contributed to by the developer must not be used in the determination of blight or environmental contamination.

History: 2006 c 214 s 3

117.031 ATTORNEY FEES.

(a) If the final judgment or award for damages, as determined at any level in the eminent domain process, is more than 40 percent greater than the last written offer of compensation made by the condemning authority prior to the filing of the petition, the court shall award the owner reasonable attorney fees, litigation expenses, appraisal fees, other experts fees, and other related costs in addition to other compensation and fees authorized by this chapter. If the final judgment or award is at least 20 percent, but not more than 40 percent, greater than the last written offer, the court may award reasonable attorney fees, expenses, and other costs and fees as provided in this paragraph. The final judgment or award of damages shall be determined as of the date of taking. No attorney fees shall be awarded under this paragraph if the final judgment or award of damages does not exceed \$25,000. For the purposes of this section, the "final judgment or award for damages" does not include any amount for loss of a going concern unless that was included in the last written offer by the condemning authority.

(b) In any case where the court determines that a taking is not for a public use or is unlawful, the court shall award the owner reasonable attorney fees and other related expenses, fees, and costs in addition to other compensation and fees authorized by this chapter.

History: 2006 c 214 s 4

117.036 APPRAISAL AND NEGOTIATION REQUIREMENTS.

Subdivision 1. **Application.** This section applies to the acquisition of property under this chapter.

Subd. 1a. **Definition of owner.** For the purposes of this section, "owner" means fee owner, contract purchaser, or business lessee who is entitled to condemnation compensation under a lease.

Subd. 2. **Appraisal.** (a) Before commencing an eminent domain proceeding under this chapter for an acquisition greater than \$25,000, the acquiring authority must obtain at least one appraisal for the property proposed to be acquired. In making the appraisal, the appraiser must confer with one or more of the owners of the property, if reasonably possible. For acquisitions less than \$25,000, the acquiring authority may obtain a minimum damage acquisition report in lieu of an appraisal. In making the minimum damage acquisition report, the qualified person with appraisal knowledge must confer with one or more of the owners of the property, if reasonably possible. Notwithstanding section 13.44, the acquiring authority must provide the owner with a copy of (1) each appraisal for property acquisitions over \$25,000, or (2) the minimum damage acquisition report for properties under \$25,000, the acquiring authority has obtained for the property at the time an offer is made, but no later than 60 days before presenting a petition under section 117.055. The acquiring authority must also inform the owner of the right to obtain an appraisal under this section. Upon request, the acquiring authority must make available to the owner all appraisals for properties over \$25,000, or the minimum damage acquisition report for properties under \$25,000. If the acquiring authority is considering both a full and partial taking of the property, the acquiring authority shall obtain and provide the owner with appraisals for properties over \$25,000 for both types of takings, or minimum damage acquisition reports for properties under \$25,000.

(b) The owner may obtain an appraisal by a qualified appraiser of the property proposed to be acquired. The owner is entitled to reimbursement for the reasonable costs of the appraisal from the acquiring authority up to a maximum of \$1,500 for single family and two-family residential property and minimum damage acquisitions and \$5,000 for other types of property, provided that the owner submits to the acquiring authority the information necessary for reimbursement, including a copy of the owner's appraisal, at least five days before a condemnation commissioners' hearing. For purposes of this subdivision, a "minimum damage acquisition" means an interest in property that a qualified person having an understanding of the local real estate market indicates can be acquired for \$25,000 or less.

(c) The acquiring authority must pay the reimbursement to the owner within 30 days after receiving a copy of the appraisal and the reimbursement information. Upon agreement between the acquiring authority and the owner, the acquiring authority may pay the reimbursement directly to the appraiser.

Subd. 3. **Negotiation.** In addition to the appraisal requirements under subdivision 2, before commencing an eminent domain proceeding, the acquiring authority must make a good faith attempt to negotiate personally with the owner of the property in order to acquire the property by direct purchase instead of the use of eminent domain proceedings. In making this negotiation, the acquiring authority must consider the appraisals in its possession, including any appraisal obtained and furnished by the owner if available, and other information that may be relevant to a determination of damages under this chapter. If the acquiring authority is considering both a full and partial taking of the property, the acquiring authority must make a good faith attempt to negotiate with respect to both types of takings.

Subd. 4. **Use of appraisal at commissioners' hearing.** An appraisal or minimum damage acquisition report must not be used or considered in a condemnation commissioners' hearing, nor may the appraiser who prepared the appraisal or the person who prepared the minimum damage acquisition report testify,

unless a copy of the appraiser's written report or the minimum damage acquisition report is provided to the opposing party at least five days before the hearing.

Subd. 5. **Documentation of business loss.** Documentation related to a loss of going concern claim made under section 117.186 must not be used or considered in a condemnation commissioners' hearing unless the documentation is provided to the opposing party at least 14 days before the hearing.

History: *1Sp2003 c 19 art 2 s 3; 2006 c 214 s 5; 2015 c 75 art 2 s 3,4*

117.041 ENTRY FOR SURVEY OR ENVIRONMENTAL TESTING.

Subdivision 1. **Surveys.** For the purpose of making surveys and examinations relative to any proceedings under this chapter, it shall be lawful to enter upon any land, doing no unnecessary damage.

Subd. 2. **Environmental testing before eminent domain proceedings.** (a) A state agency by order of the commissioner or a political subdivision by resolution may enter property for purposes of investigation, monitoring, testing, surveying, boring, or other similar activities necessary or appropriate to identify the existence and extent of a release or threat of release of a hazardous substance, pollutant, or contaminant if:

(1) the state agency or political subdivision has reason to believe that acquisition of the property may be required pursuant to eminent domain proceedings;

(2) the state agency or political subdivision has reason to believe that a hazardous substance, pollutant, or contaminant is present on the property or the release of a hazardous substance, pollutant, or contaminant may have occurred or is likely to occur on the property; and

(3) entry on the property for environmental testing is rationally related to health, safety, or welfare concerns of the state agency or political subdivision in connection with possible eminent domain proceedings.

(b) At least ten days before entering the property, the state agency or political subdivision must serve notice on the property owner requesting permission to enter the property, stating the approximate time and purpose of the entry, and giving the owner the option of refusing entry. The notice shall also give the owner the option of requesting an equal amount of any sample or portion taken from the property and a copy of any data obtained or report issued. If the property owner refuses to consent to the entry, the state agency or political subdivision must apply for a court order authorizing the entry and the removal of any sample or portion from the property, giving notice of the court order to the property owner. The court shall issue an order if the state agency or political subdivision meets the standards in paragraph (a). Notices under this paragraph must be served in the same manner as a summons in a civil action.

(c) The state agency or political subdivision must do no unnecessary damage to the property and shall restore the property to substantially the same condition in which it was found. If the state agency or political subdivision removes a sample or portion of the property for investigation, monitoring, or testing, or obtains any data or issues any report, it must give the property owner an equal amount of the sample or portion and a copy of any data or report, if requested by the property owner, and must permit the property owner to perform independent investigation, monitoring, or testing of the sample or portion.

(d) The results of testing performed under paragraph (a) must be included in any environmental assessment worksheet or environmental impact statement that the state agency or political subdivision is required to prepare under chapter 116D.

Subd. 3. **Geotechnical investigation before eminent domain proceedings.** (a) A state agency by order of the commissioner or a political subdivision by resolution may enter property for purposes of investigation, monitoring, testing, surveying, boring, or other similar activities necessary or appropriate to perform geotechnical investigations.

(b) At least ten days before entering the property, the state agency or political subdivision must serve notice on the property owner requesting permission to enter the property, stating the approximate time and purpose of the entry, and giving the owner the option of refusing entry. If the property owner refuses to consent to the entry, the state agency or political subdivision must apply for a court order authorizing the entry and the removal of any sample or portion from the property, giving notice of the court order to the property owner. The court shall issue an order if the state agency or political subdivision meets the standards

in paragraph (a). Notices under this paragraph must be served in the same manner as a summons in a civil action.

(c) The state agency or political subdivision must not cause any unnecessary damage to the property and must compensate the property owner for any damages actually incurred as a result of the geotechnical investigations.

History: *1971 c 595 s 5; 1991 c 224 s 1; 2008 c 287 art 1 s 1*

117.042 POSSESSION.

Whenever the petitioner shall require title and possession of all or part of the owner's property prior to the filing of an award by the court appointed commissioners, the petitioner shall, at least 90 days prior to the date on which possession is to be taken, notify the owner of the intent to possess by notice served by certified mail and before taking title and possession shall pay to the owner or deposit with the court an amount equal to petitioner's approved appraisal of value. Amounts deposited with the court shall be paid out under the direction of the court. If it is deemed necessary to deposit the above amount with the court the petitioner may apply to the court for an order transferring title and possession of the property or properties involved from the owner to the petitioner. In all other cases, petitioner has the right to the title and possession after the filing of the award by the court appointed commissioners as follows:

(1) if appeal is waived by the parties upon payment of the award;

(2) if appeal is not waived by the parties upon payment or deposit of three-fourths of the award. The amount deposited shall be deposited by the court administrator in an interest bearing account no later than the business day next following the day on which the amount was deposited with the court. All interest credited to the amount deposited from the date of deposit shall be paid to the ultimate recipient of the amount deposited.

Nothing in this section shall limit rights granted in section 117.155.

History: 1971 c 595 s 6; 1975 c 218 s 1; 1976 c 72 s 1; 1978 c 674 s 60; 1981 c 8 s 1; 1Sp1986 c 3 art 1 s 82

117.054 COPIES OF APPRAISAL TO LANDOWNER.

A public utility, municipal utility, cooperative electric association, natural gas pipeline or crude oil or petroleum products pipeline company must provide the property owner with a copy of each appraisal it has obtained for a property before presenting a petition under section 117.055 to acquire the property.

History: 2008 c 296 art 1 s 4

117.155 PAYMENTS; PARTIAL PAYMENT PENDING APPEAL.

Except as otherwise provided herein payment of damages awarded may be made or tendered at any time after the filing of the report; and the duty of the petitioner to pay the amount of any award or final judgment upon appeal shall, for all purposes, be held and construed to be full and just compensation to the respective owners or the persons interested in the lands. If either the petitioner or any respondent appeals from an award, the respondent or respondents, if there is more than one, except encumbrancers having an interest in the award which has been appealed, may demand of the petitioner a partial payment of the award pending the final determination thereof, and it shall be the duty of the petitioner to comply with such demand and to promptly pay the amount demanded but not in excess of an amount equal to three-fourths of the award of damages for the parcel which has been appealed, less any payments made by petitioner pursuant to section 117.042; provided, however, that the petitioner may by motion after due notice to all interested parties request, and the court may order, reduction in the amount of the partial payment for cause shown. If an appeal is taken from an award the petitioner may, but it cannot be compelled to, pay the entire amount of the award pending the final determination thereof. If any respondent or respondents having an interest in the award refuses to accept such payment the petitioner may pay the amount thereof to the court administrator of district court to be paid out under direction of the court. A partial or full payment as herein provided shall not draw interest from the condemner from the date of payment or deposit, and upon final determination of any appeal the total award of damages shall be reduced by the amount of the partial or full payment. If any partial or full payment exceeds the amount of the award of compensation as finally determined, upon petitioner's motion, final judgment must be entered in the condemnation action in favor of the petitioner in the amount of the balance owed to the petitioner and is recoverable within the original condemnation action.

History: 1971 c 595 s 19; 1980 c 607 art 19 s 2; 1Sp1986 c 3 art 1 s 82; 1997 c 231 art 16 s 3

117.175 TRIAL, BURDEN OF PROOF, COSTS.

Subdivision 1. **Trial.** Such appeal may be noticed for trial and tried except as herein otherwise provided as in the case of a civil action and the court may direct that issues be framed, and require other parties to be joined and to plead therein when necessary for the proper determination of the questions involved. The owners shall go forward with the evidence and have the burden of proof as in any other civil action, with the right to open and close. The court or jury trying the case shall reassess the damages de novo and apportion the same as the evidence and justice may require. Upon request of a party to such appeal, the jury or court shall show in the verdict or order the amount of the award of damages which is to reimburse the owner for the land taken and the amount of the award of damages, if any, which is to reimburse the owner for damages to the remainder tract not taken whether or not described in the petition. The amounts awarded to each person shall also be shown separately. A commissioner in a condemnation proceeding may be called by any party as a witness to testify as to the amount and the basis of the award of commissioners and may be examined and qualified as any other witness.

Subd. 2. **Fees, costs, and disbursements.** The court may, in its discretion, after a verdict has been rendered on the trial of an appeal, allow as taxable costs reasonable expert witness and appraisal fees of the owner, together with the owner's reasonable costs and disbursements. No expert witness fees, costs or disbursements shall be awarded to the petitioner regardless of who is the prevailing party.

History: 1971 c 595 s 21

117.145 APPEAL: DEADLINE, NOTICE, SERVICE, CONTENTS; BY OTHER PARTIES.

At any time within 40 days from the date that the report has been filed, any party to the proceedings may appeal to the district court from any award of damages embraced in the report, or from any omission to award damages, by: (1) filing with the court administrator a notice of such appeal, and (2) serving by mail a copy of such notice on all respondents and all other parties to the proceedings having an interest in any parcel described in the appeal who are shown in the petitioner's affidavit of mailing, required by section 117.115, subdivision 2, as having been mailed a notice of the report of the commissioners.

If any notice of appeal is filed, any other party may appeal within 50 days from the date that the report was filed by: (1) filing with the court administrator a notice of the appeal; and (2) serving the notice of appeal by mail, as provided in this section. Service by mail is deemed effective upon deposit of the notice in the United States mail, by first class mail, with postage prepaid, and addressed to each person served at the address shown in the petitioner's affidavit of mailing required by section 117.115, subdivision 2. Proof of service by mail of a notice of appeal shall be filed with the court administrator promptly following the mailing of any notice of appeal. The notice of appeal shall specify the particular award or failure to award appealed from, the nature and amount of the claim, the land to which it relates, and grounds of the appeal, and if applicable, the notice required in section 117.086.

History: 1971 c 595 s 18; 1Sp1986 c 3 art 1 s 82; 1995 c 106 s 3

117.115 REPORT, NOTICE.

Subdivision 1. **Fees and disbursements.** The commissioners shall, after notice to the petitioner, file their report with the court administrator of district court and the petitioner shall pay the commissioners their fees and disbursements. The court shall determine any dispute concerning the fees and disbursements.

Subd. 2. **Notification.** Within ten days after the date of the filing of the report of commissioners, the petitioner shall notify the following listed persons, by mail, of the filing of the report of commissioners setting forth the date of filing of the report, the amount of the award, and all the terms and conditions thereof as the same pertain to the respondent or party listed:

- (1) each respondent listed in the petition as having an interest in any parcel described in the report;
- (2) each other party to the proceeding whose appearance has been noted by the court in its order approving the petition under section 117.075; and
- (3) each respondent's attorney.

Such notification shall be addressed to the last known post office address of each person notified. Notice of the filing of the report need not be given to parties initially served by publication under section 117.055. The petitioner shall file with the court administrator an affidavit of mailing of the notice, setting forth the names and addresses of all the persons so notified.

History: 1971 c 595 s 14; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1995 c 106 s 2

117.105 FILING OF REPORT, TIME, FAILURE TO REPORT.

Subdivision 1. **Filing of report.** The report of the commissioners shall be filed with the court administrator of district court within 90 days from the date of the order appointing the commissioners, unless such order otherwise prescribes, but for cause shown upon written motion of the petitioner and not less than three days' notice thereof duly served by mail or otherwise upon such respondents, or their attorneys who entered an appearance at the hearing on the petition or notified the petitioner of their formal appearance, the court may extend the time for making and filing the report. If the petitioner serves such motion and notice thereof by mail, such service shall be at least six days prior to the date of the hearing on the motion.

Subd. 2. **Failure to file report.** If the commissioners fail to file their report within the time provided by the order appointing the commissioners, or within any extension of time to file granted by the court, any owner may upon motion, after due notice to the petitioner, have the proceedings set aside as to that owner; but, for cause shown, the court may extend the time for making their report. If the proceedings are set aside as to any individual owner, that owner shall be entitled to reimbursement for reasonable costs and disbursements including attorney's fees.

History: 1971 c 595 s 13; 1986 c 444; 1Sp1986 c 3 art 1 s 82

117.085 COMMISSIONERS, POWERS, DUTIES.

The commissioners, having been duly sworn and qualified according to law, shall meet as directed by the order of appointment and hear the allegations and proofs of all persons interested touching the matters to them committed. They may adjourn from time to time and from place to place within the county, giving oral notice to those present of the time and place of their next meeting. All testimony taken by them shall be given publicly, under oath, and in their presence. They shall view the premises, and any of them may subpoena witnesses, which shall be served as subpoenas in civil actions are served, and at the cost of the parties applying therefor. If deemed necessary, they may require the petitioner or owner to furnish for their use maps, plats, and other information which the petitioner or owner may have showing the nature, character, and extent of the proposed undertaking and the situation of lands desired therefor. In proper cases they may reserve to the owner a right-of-way or other privilege in or over the land taken, or attach reasonable conditions to such taking in addition to the damages given or they may make an alternative award, conditioned upon the granting or withholding of the right specified. Without unreasonable delay they shall make a separate assessment and award of the damages which in their judgment will result to each of the owners of the land by reason of such taking and report the same to the court. The commissioners shall not reduce the amount of the damages awarded because the land being taken is, at the time of the taking, valued under section 273.111, designated as an agricultural preserve under chapter 473H. The commissioners, in all such proceedings, may in their discretion allow and show separately in addition to the award of damages, reasonable appraisal fees not to exceed a total of \$1,500 for single family and two-family residential property and minimum damage acquisitions and \$5,000 for other types of property, unless the appraised fee was reimbursed under section 117.036. Upon request of an owner the commissioners shall show in their report the amount of the award of damages which is to reimburse the owner and tenant or lessee for the value of the land taken, and the amount of the award of damages, if any, which is to reimburse the owner and tenant or lessee for damages to the remainder involved, whether or not described in the petition. The amounts awarded to each person shall also be shown separately. The commissioners shall, if requested by any party, make an express finding of the estimated cost of removal and remedial actions that will be necessary on the taken property because of existing environmental contamination.

History: 1971 c 595 s 11; 1987 c 339 s 1; 1991 c 224 s 2; 1999 c 161 s 1; 2006 c 214 s 9

117.075 HEARING; COMMISSIONERS; ORDER FOR TAKING.

Subdivision 1. **Hearing on taking; evidentiary standard.** (a) Upon proof being filed of the service of such notice, the court, at the time and place therein fixed or to which the hearing may be adjourned, shall hear all competent evidence offered for or against the granting of the petition, regulating the order of proof as it may deem best.

(b) If the taking is for the mitigation of a blighted area, remediation of an environmentally contaminated area, reducing abandoned property, or removing a public nuisance, then, notwithstanding any other provision of general or special law, a condemning authority must show the district court by preponderance of the evidence that the taking is necessary and for the designated public use.

(c) A court order approving the public use or public purpose, necessity, and authority for the taking is final unless an appeal is brought within 60 days after service of the order on the party.

Subd. 2. **Appoint commissioners for damages.** If the proposed taking shall appear to be necessary and such as is authorized by law, the court by an order shall appoint three disinterested commissioners, and at least two alternates, to ascertain and report the amount of damages that will be sustained by the several owners on account of such taking.

Subd. 3. **Commissioner qualifications.** Before appointing a commissioner, the court shall inquire whether each prospective commissioner has any relationship, business or otherwise, to any of the parties in the proceeding, or any interest in the proceeding which may constitute a conflict of interest, or which may create the appearance of impropriety should that person be appointed. Responses to this inquiry must be either written or on the record and made available by the court to any party in the proceeding before and after appointment. No person who might have difficulty in rendering an unbiased decision may be appointed to serve. The court, in its discretion, may appoint one registered, practicing attorney to the commission who is knowledgeable in eminent domain matters. All other commissioners appointed must be persons actively engaged in the occupation of real estate sales or real estate appraising or persons knowledgeable in real estate values.

Subd. 4. **First meeting; pay; oath.** The order shall fix the time and place of the first meeting of the three commissioners and prescribe their compensation. At the first meeting at the office of the court administrator of district court the appointees must be sworn by the court administrator or an authorized deputy and shall take and sign the following oath before assuming their duties as commissioners:

(TITLE OF PROCEEDING)

..... does swear under penalty of perjury as follows:

I will faithfully and justly perform to the best of my ability, all the duties of the office and trust which I now assume as commissioner in the above entitled proceeding. I further swear that, except as disclosed in writing or on the record, I have no interest in any of the lands in the above proceeding or any present or past relationship, business or personal, with any of the parties to the above proceeding or any other actual or potential conflict of interest, and that I will render fair and impartial decisions, so help me God.

Subd. 5. **Court may limit taker's ownership.** The order may, in the discretion of the court, limit the title or easement to be acquired by the petitioner by defining the rights and privileges which the owner of any of the lands may exercise therein in subordination to the public uses to which it is appropriated.

Subd. 6. **Replacement commissioner.** In case any commissioner fails to act or fails to meet the qualifications required by this section, the court without further notice may appoint another in that commissioner's place.

Subd. 7. **Post list of would be commissioners.** The court administrator of court in each county shall post in the courthouse in a prominent place a notice that a qualified person may apply to have the person's name placed upon a list of potential commission appointees for eminent domain proceedings. The notice must contain the language of the oath which the commissioners are required to take upon appointment and shall list the other qualifications set forth in this section. The court shall give due consideration to the names appearing on the list, but is not bound to make appointments from the list.

History: 1971 c 595 s 10; 1985 c 299 s 1; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 2002 c 390 s 1; 2006 c 214 s 8