

PROPERTY RIGHTS

The Constitution of the United States and the Constitution of the State of Oklahoma ensure that private property shall not be taken or damaged for public use without just compensation.

It is with these provisions in mind that the Oklahoma Turnpike Authority pursues the acquisition of right-of-way. This brochure will provide you, the property owner, with general information as to this process. Your right-of-way agent will provide you with specific information as it relates to you and your property.

APPRAISAL

Before the initiation of negotiations for the purchase of real property, an amount is established by OTA which is believed to be reasonable just compensation for the value of the property to be acquired and any damages to the remaining property, if any. In cases involving the purchase of real property by OTA with a fair market value of \$10,000 or less, no approved appraisal report will be required. On a case-by-case basis, the OTA Executive Director may waive the need for an appraisal on properties with an estimated value greater than \$10,000 and less than \$25,000.

Generally, however, real property is first appraised by a certified general appraiser. The property owners or their designated representatives are given an opportunity to accompany the appraiser during the physical inspection of the property. A separate certified general appraiser not employed or associated with an original appraisal, will perform a review of the original appraisal on all properties. Finally, an authorized amount established by appraisal will be presented to the owner or their authorized agent in an offer letter. Additional compensation could be added for the removal of personal property from the new right-of-way.

NEGOTIATION

The right-of-way agent will provide you a written offer letter of the amount established as just compensation for the property to be acquired with the amount for damages (if any) separately listed. The option to donate your property to the OTA is available to you if you so desire. The right-of-way agent will show you the available plans for this project and will also explain to you the amount of property which is required and what effect the acquisition will have on your remaining property. Please keep in mind the right-of-way agent is not authorized to alter the amount established as just compensation. Any counteroffer will need to be presented to OTA for consideration.

The right-of-way agent will periodically request that you confirm the current surface ownership regarding individual owners of record, liens, mortgages and tenants (if any), and solicit from you any relevant abstract information that may be available. You are encouraged to advise the right-of-way agent when any actual or pending surface title changes occur. A copy of the appraisal report or other supporting documents for the offer of just compensation may be requested from the agent.

Upon written notice, property owners may elect to retain the ground water rights (if any) that are attached to the property to be acquired. If the property owner elects to retain the ground water rights, the acquisition will be for surface rights only and will exclude any ground water rights. A property owner who chooses to retain the ground water rights shall have no right to use or occupy the surface rights to the property nor will the property owner have any right to construct, maintain or operate any

water well, drilling equipment or lines on or under the surface without the express written permission of OTA.

ACCEPTANCE OF OFFER

If an agreement is reached on compensation and you can convey marketable title, the right-of-way agent will prepare the contract for the sale of real estate for your review, approval and execution. You will be notified of a formal closing date and will be required to attend to sign closing documents and receive your just compensation unless other arrangements are made with the abstractor.

EMINENT DOMAIN

In the event you and the OTA are unable to reach a negotiated agreement for the purchase of your property or marketable title could not be conveyed, it will be necessary for OTA to exercise its power of eminent domain. The power of eminent domain is the power of the state to take private property for public use upon the payment of just compensation. The legal process by which the power of eminent domain is exercised is known as condemnation.

Condemnation proceedings begin when OTA files a petition in the district court in which your land is situated. You will be provided a copy of the petition. The next step to be taken in condemnation proceeding is for the district judge to appoint three unbiased disinterested freeholders (land owners), known as commissioners, to decide the amount of compensation they think you should receive.

These commissioners will be appointed at a hearing at the courthouse. You will be provided written notice at least 10 days prior to that hearing. Under the law, the district judge has the authority to select all three of the commissioners. However, in some instances, the district judge will ask the parties for suggestions as to whom to appoint. You have the right to attend the hearing, but you are not required to do so.

The three court-appointed commissioners, having been sworn to perform their duties impartially and justly, will inspect the property and assess the amount of just compensation they believe you are entitled. The compensation awarded by the commissioners (known as the "commissioners' award") will include the value of the part of your property actually taken, as well as damages, if any, by way of reduction in value to the remaining portion of the property not taken. Any special and direct benefits to the part of the property not taken may be offset only against any injury (damage) to the property not taken. The commissioners will then file a written Report of Commissioners with the court clerk setting forth their findings. Within 10 days, the court clerk shall forward to you or your attorney a copy of the commissioners' report and a notice stating the time limits for filing an exception or demand for jury trial.

After the filing of the Report of the Commissioners, the OTA will deposit the amount awarded by the commissioners with the court clerk. State law provides that upon such deposit OTA acquires the right to enter and take possession of the property. If you so desire, you may make application to the court for disbursement of the commissioners' award to you (or at least that portion of the award to which you are entitled). The withdrawal of the commissioners' award in no way affects your right to pursue further legal actions, as detailed below.

If either party believes there has been an error or omission in the Report of Commissioners, or if you wish to challenge the state's legal powers to take your property, a written exception to the Report of

Commissioners must be filed with the court clerk within 30 days after the filing of the Report of Commissioners. The court may then confirm or reject the exceptions. If the court confirms the exception, it may order a new appraisal. In that event, OTA will have a continuing right of possession acquired via the deposit it made based on the first Report of Commissioners, unless and until the court rules that the OTA does not have the right to condemn your property. If the court finds OTA did not have the right to condemn, your ownership and possession will be restored, and the OTA shall pay you for any damages sustained through its occupation of the property. If either party desires to challenge only the amount awarded by the commissioners, it must do so by filing a Demand for Jury Trial with the court clerk within 60 days after the filing of the Report of Commissioners. If a Demand for Jury Trial is filed, the amount of just compensation shall be assessed by a jury, and the trial shall be conducted and judgment entered in the same manner as civil actions in the district court.

In the event of a jury trial and a jury verdict which exceeds the amount awarded by the court-appointed commissioners, OTA would then have to deposit with the court clerk an amount equal to the difference between the jury verdict and the commissioners' award. Similarly, should the verdict be for an amount less than the commissioners' award, the property owner(s) would in that event be required to return that portion of the commissioners' award which exceeds the amount of the jury verdict. Should the amount of the jury's verdict exceed the amount of the commissioners' award by 10 percent or more, then OTA must reimburse the property owner(s) for their reasonable attorney, appraisal and engineering fees actually incurred in connection with the condemnation proceedings. Either party may appeal to the Oklahoma Supreme Court any decision of the district court on exception to the Report of Commissioners or jury trial; however, such appeal will not delay the progression of the work on the turnpike project over the property in question.