

## Property Owner's Rights / Utah Department of Transportation

Brochure: *Acquiring Property for Utah's Transportation System*

<http://www.udot.utah.gov/dl.php/tid=451/Acquiring%20Property%20for%20Utah.pdf>

### Executive Summary of Property Owners' Rights

Copied from: <http://www.udot.utah.gov/index.php/m=c/tid=451/item=1820/d=full/type=1>

- 1. Fair Market Value.** You have the constitutional right to receive “just compensation” when UDOT acquires your property; in other words, to receive the “fair market value” of the land or property acquired. Just compensation can include compensation for a decrease in the market value of the portion of your property that remains when part of your property is acquired, if that decrease in value occurs because of the public improvements planned. In some cases, just compensation can include damages caused by the project to property that is not acquired, but which is damaged by the project.
- 2. Full Payment.** You have the right to receive full payment for “just compensation”, in the full amount that is determined by negotiation or by a court, jury, mediation or arbitration before UDOT takes title to your property.
- 3. Early Occupancy.** If UDOT wishes to occupy your property before “just compensation” can be agreed upon, you are entitled to receive the money that UDOT is offering you for the acquisition of your property before they occupy it. In such cases, you may still reserve the right to have the “just compensation” determined by a court, jury, mediation or arbitration.
- 4. Public Documents.** You have the right to examine and make copies of any public documents, including project maps, specifications or other project materials in UDOT's possession.
- 5. Open Meetings.** You have the right to attend any meetings held by an elected or appointed council or commission to discuss the project and to tape record the proceedings. You do not have the right to speak unless the meeting is a public hearing. You may be legally excluded if the officials move to go into an executive session to discuss the acquisition of real property or to discuss imminent legal proceedings
- 6. Other Property Owners.** You have the right to request that UDOT provide a list of any other property owners whose property is also being acquired for the project.
- 7. Public Purpose.** You have the right to know for what public purpose your property is being acquired and to challenge the necessity of the acquisition.

8. **Offer and Negotiation.** You have the right to negotiate with UDOT before condemnation proceedings begin. For that purpose, UDOT is required to provide you with a written determination of the value of the property that is to be acquired from you and of any damages that will arise as a result of the acquisition.

9. **Appraiser.** You have the right to accompany the appraiser retained by UDOT during his or her inspection of your property and to talk to the appraiser before a value is reached.

10. **Appraisal.** You have the right to know the amount of the appraised value of your property and of any damages assessed and to request a copy of the appraisal report. If a copy is denied, you are entitled to know what appraisals exist and why you are not allowed to see them during negotiations. If the matter goes to formal mediation, arbitration or trial, you will be entitled to see the appraisal(s) well before the hearing.

11. **Other Damages.** Your right to just compensation includes payment for the land, and also for any improvements on the land if they contribute value to the property. Just compensation also includes the net lost value of any remaining property that you keep. (Known as "severance damages") You may also be entitled to just compensation for any special and unique damage done to any portion of your property that is not acquired for the project and for any temporary occupancy of any portion of your property that is not being acquired, but which must be used by UDOT or its contractors during construction of the project.

12. **Relocation Costs.** You have the right to be paid certain relocation expenses from UDOT if it requires you to move as a result of the acquisition. These amounts are determined by statute, but may be mediated or arbitrated if, after exhausting the appeals process UDOT provides to review such matters, a dispute still exists.

13. **Replacement Dwelling.** If you are displaced from your residence, you have the right to be offered a comparable replacement dwelling that is safe and clean and reasonably close to your employment and public services if you are displaced from your home.

14. **Displaced Business or Farm.** You have the right, if your small business or farm is displaced by the project, to receive UDOT's assistance in identifying replacement properties available on the private market, located within UDOT's jurisdiction.

15. **Prior Notice.** Unless an emergency exists, you have the right to receive 90 days written notice before a move is required.

16. **Rollback Taxes.** You have the right to have UDOT pay any greenbelt rollback taxes if the acquisition results in your land losing greenbelt status.

17. **Ombudsman.** You have the right to consult with the State of Utah's Private Property Ombudsman and to inquire about your rights and responsibilities in eminent domain proceedings. He can be reached at 801-537-3455.

18. **Second Appraisal.** You have the right to an additional appraisal at UDOT's expense, if you request it and the Ombudsman, or a mediator or arbitrator appointed by him, considers the appraisal reasonably necessary to resolve a dispute about just compensation.

19. **Alternative Dispute Resolution.** If the amount of just compensation cannot be negotiated, UDOT has the right to institute legal action against you. If you would rather arbitrate eminent domain issues than go to court, you have the right to request arbitration through the Ombudsman. If the Ombudsman determines that arbitration is appropriate, you have the right to arbitration even if UDOT objects.

20. **Evidence.** You have the right to offer any relevant and admissible evidence at arbitration or trial, including the use of expert witnesses, to justify the amount of just compensation you consider appropriate. Any witness testifying to property value must be a licensed appraiser.

21. **Disclosure and Review.** You have the right to know about and examine any evidence that will be used by UDOT to establish the amount of just compensation prior to formal mediation, arbitration or trial. This includes copies of any appraisals UDOT has obtained to determine just compensation and other evidence they plan to offer.

22. **Testify.** You have the right to testify at arbitration, and, if qualified, to testify at trial regarding the value of your property.

23. **Cross Examination.** You have the right at arbitration or trial to cross examine the expert witnesses that UDOT relies upon in establishing the amount of just compensation that it claims to be fair.

24. **Appeal.** You have the right to appeal to the District Court if you are not satisfied with an arbitrator's determination.

25. **Jury Trial.** If the matter goes to court, you have the right to choose to have the amount of compensation determined by a jury rather than by a judge.

26. **Appellate Review.** You have the right to appeal a District Court decision to an appellate court, if appropriate.