

**HOW MONROE COUNTY
ACQUIRES PROPERTY
FOR PUBLIC PURPOSES**

A GUIDE FOR PROPERTY OWNERS

MAGGIE BROOKS, COUNTY EXECUTIVE

PREFACE

To accomplish the goal of providing the safest and most efficient transportation system for the citizens of our County, it sometimes is necessary to acquire private property for the general benefit of the traveling public. When this is required Monroe County wants to assure all affected persons that they will receive full compensation and all benefits to which they are entitled.

This information was prepared to provide a general outline of how property is acquired by the County. It sets forth the questions which are most frequently asked along with a brief answer to each. Since we have covered only the acquisition procedure in general terms, more detailed information can be obtained upon request by writing to or calling the address listed on Page 4.

I sincerely hope the following information will provide a better understanding of our acquisition procedures. Our Real Estate personnel will make every effort to respond to any problem so that the property acquisition is accomplished with the least possible disruption and with a minimum of inconvenience. I can assure you that each representative of the County is prepared to assist in every way possible if your property is affected by a public improvement.

HOW IS PROPERTY ACQUIRED BY THE COUNTY?

The acquisition of property required for a public improvement occurs after an extensive and thorough engineering process that includes a series of planning and design phases which lead to a determination that the property is necessary in order to construct the public improvement. You may have attended one or more of the public meetings that form a part of the overall process.

When it is necessary for the County to acquire private property a map is prepared, which shows in detail the extent of right of way needed from each property. Title to the private property required is transferred to the County upon recording of a deed after closing; or, if you do not accept the County's offer to purchase the property, when a copy of the map is filed in the Office of the County Clerk pursuant to a Court Order. However, before any transfer of title takes place, you will receive a copy of the map and the Real Estate Group's representative will extend a firm written offer of compensation.

HOW DOES THE COUNTY DETERMINE WHAT I WILL RECEIVE FOR MY PROPERTY?

The law requires the County to pay each property owner the Fair Market Value of the property. Fair market value is defined as "the most probable price in terms of money which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus".*

*Source: Real Estate Appraisal Terminology compiled and edited by Byrl N. Boyce, Ph.D Center for Real Estate and Urban Economic Studies, University of Connecticut. Sponsored by the Society of Real Estate Appraisers; 1984, Pages 160, 161.

Before the offer is prepared, the Real Estate Division will have an appraisal made to determine the fair market value of the property that must be acquired and the monetary damage, if any, that is caused to the remaining property which you own. The appraiser examines the various features of your property, and the prices at which properties similar to yours are being sold.

The Eminent Domain Procedure Law requires that the County shall make a written offer to the property owner for 100% of the valuation as established by the highest approved appraisal of the property. Therefore, the offer of compensation from the County is based on the appraisal of the fair market value.

WHO WILL APPRAISE MY PROPERTY?

Analysis is performed by experienced New York State Certified Real Estate Appraisers. These are professional consultants hired by Monroe County independent of County staff. These appraisers, through their experience in research and analysis of the real estate market, are intimately familiar with property values of the area. Their job is to objectively determine the value of the property to be acquired and the legal damages, if any, caused by the County's acquisition.

SUPPOSE MY REMAINING PROPERTY IS DAMAGED?

When only a portion of your property is required by the County, every attempt is made to assure that you will suffer no financial loss due to depreciation in value of the remainder of the property caused by the County's acquisition.

The acquisition of a portion of the property may, for example, leave the remainder in an irregular shape or too small to be used to its best advantage; or perhaps it may be isolated by the control of access to a highway. The County's payment to you will reflect loss of value resulting from these conditions ("indirect damages") as well as the value of the land actually required ("direct damages").

WILL I HAVE TO BEAR ANY OF THE COSTS OF THE PROPERTY TRANSACTIONS?

No! Following your acceptance of the County's offer, the County will prepare all of the usual documents necessary for payment of the claim at no expense to you. You may, on the other hand, prefer to retain your own legal counsel or find it necessary to do so due to title or other difficulties. The fee for this service would be your obligation.

HOW WILL THE COUNTY ARRANGE A SETTLEMENT WITH ME?

It is the County's policy to employ a "single offer" system. Under this system the amount offered by the representative of the Real Estate Group is the full amount of the approved appraisal.

Appraisers engaged by the County are qualified for property valuation by training and experience. If, however, you feel there are aspects of the real property omitted in the offer which merit consideration, you should make this information available before signing the offer, together with any evidence which supports your view, at the earliest opportunity. Your case will be reviewed in the light of the newly furnished data and the offer will be amended in appropriate cases.

If you or your representative are unable to arrive at an agreement in full settlement, the law permits you to file a claim in the Supreme Court for the Fourth Judicial District located at the Hall of Justice, Exchange Street, Rochester (the "Court"). Since there are time limitations and procedural requirements which must be adhered to for the filing of claims, you should consult an attorney if you are considering doing so.

CAN I RECEIVE ANY PART OF THE VALUE OF MY PROPERTY IF I DISAGREE WITH THE COUNTY'S OFFER AND WISH TO GO TO COURT?

Yes. If the owner is willing to convey his/her property to the County but cannot come to an agreement with the County as to the amount of compensation, the owner may accept the offer as an advance payment. In that case, the County will pay the owner the amount of the offer at the time the owner gives the deed to the County. The owner may thereafter file in The Supreme Court a claim for additional compensation.

HOW SOON WILL I BE PAID?

The County endeavors to make payment as soon as possible after an agreement is signed. The sooner a settlement is reached, and all the necessary documents executed, the sooner the transaction can be processed and payment made. Settlements must be reviewed by the County Attorney and approved by the County Legislature, title must be examined and deeds must be executed. Should title difficulties be encountered payments might be delayed. While this process takes time, it is necessary to afford the fullest protection to the property owner, the County and all other interested parties.

WHAT ABOUT LIENS, MORTGAGES OR UNPAID TAXES ON MY PROPERTY?

A title search at no expense to the property owner is made by the County on all properties acquired. Any outstanding liens will have to be satisfied out of your settlement. A release of the mortgage on the portion of the property to be conveyed may have to be obtained from the party holding a mortgage. At the time of payment, the County will draw separate checks for any such obligations and pay the balance to you.

WHOM SHOULD I CONTACT IF I WANT TO LEARN SOMETHING ABOUT MY CASE AT ANY TIME BEFORE I RECEIVE FINAL PAYMENT?

If you wish to discuss any part of your case feel free to communicate with:

**Arthur M. English, PLS
Supervisor of Rights of Way
Monroe County Department of Environmental Services
City Place – 7th Floor
50 West Main Street
Rochester, New York 14614
(585) 753-7530**

If you move or convey your property before arrangements are completed for settlement of your case, or prior to payment, it is important that you advise us of the name of the new owner and your change of address. Or if the name(s) on the Option and Right of Entry form is incorrect, please change it to reflect the name of the party or parties exactly as written on your deed.

*The County wishes to thank the State of New York for its assistance in the preparation of this Guide. Much of the text contained in this Guide is derived from Publication 6b(1/84) entitled "How Your State Acquires Property for Public Purposes - A Guide for Property Owners".

/rr
4/98