

Prepare for real estate acquisitions and avoid costly delays



By Beth Steinhauer, MSA Professional Services

Will your next public project require the acquisition of private property? If so, a thorough understanding of state and federal regulations can help you navigate this detailed process, and save your community time and money.

Municipalities have the right to condemn property, but it requires a detailed process for guaranteeing the rights of private property owners. The goal is always to obtain a negotiated settlement; condemnation is the ultimate last resort. Whenever state or federal funds are involved, municipal officials must follow legal procedures under Section 32.05 of the Wisconsin Statutes regarding the rights of landowners related to the state's Eminent Domain Law.

Real estate acquisition poses many challenges. Officials may not learn of the need for right of way until the last quarter of a design project. At that point, it may be too late to meet the timeline required for private land acquisition. In a perfect world, it takes **150 – 280 days** to acquire property for a Wisconsin Department of Transportation (WisDOT) project. The timeframe is reduced to 120 to 240 days for most locally funded projects.

If municipalities run out of time for real estate acquisition, they could lose grant funds, meaning they'll have to wait for the next grant cycle to reapply. The largest threat, however, may be the need to delay a project until the next construction season.

If state or federal funds are financing a project, a WisDOT certified representative or approved negotiator must handle private land acquisitions. Local funds typically are used to cover the costs of this service.

MSA provided real estate acquisition services for this University of Wisconsin-Marathon County Center for Civic Engagement, Wausau. MSA negotiated the purchase of 20 private properties for the project. Pictured is a portion of the site before (left) and after construction.



Some municipal officials may downplay the challenges of private real estate acquisition. It's never a good idea to underestimate the importance of trees on someone's property. For instance, the MSA Professional Services real estate team worked with a municipality to obtain a temporary limited easement (TLE) for a sidewalk required for a Safe Routes to School project. It was expected that the process would be routine. Property owners, however, were not happy about losing their trees and further negotiations were required.

Improvements located in the right of way can include trees, landscaping, cemeteries, septic systems, signage, parking stalls and fencing. All could potentially impact the landowner's willingness to negotiate for the land and improvements being acquired. The acquisition process can impact a project's budget and timeline.

State statutes provide eminent domain power to municipalities for the purpose of acquiring private land for public uses. According to an eminent domain brochure published by the Wisconsin Department of Administration (WDOA), condemnation can be used for the purposes of highway construction or improvement, reservoirs, dams, public utility sites, waste treatment facilities, city redevelopment and energy lines. Once municipalities realize that they wish to acquire private land, officials must provide private landowners with the required information regarding their rights. After the landowners receive an appraisal from the acquiring authority, such as a city or village, they have 60 days to seek a second appraisal at the municipality's expense.

When a municipality becomes aware of the need for a real estate acquisition, the best policy is to notify the landowners and prevent last-minute surprises. With bigger projects, some municipalities send out newsletters to property owners, informing them of significant issues. In many cases, just announcing and conducting a public information meeting isn't going to avoid problems. Additional public outreach may be needed.

The real estate acquisition process is more complex, time consuming and expensive than many officials realize. The following forms are required, in this order:

- Environmental Documents
- Design Study Report
- Plat
- Relocation Order
- Updated Title
- Legal Descriptions

Negotiations with landowners should not begin until the above documents are approved. In addition, the municipality must approve any offer before compensation is discussed with landowners.



A successful municipal project includes many components, including the potential acquisition of private property. Municipal officials who understand relevant state and federal requirements, including necessary timelines, will be better able to manage the process. If real estate acquisitions are a possibility, notify property owners so that successful negotiations can proceed. Another proactive move is to identify potential property issues in the preliminary design stages of a project to minimize or avoid potential issues before they get to the real estate phase.

For more information

For more information about the real estate acquisition process, contact Beth Steinhauer at bsteinhauer@msa-ps.com

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