

Right-of-Way Acquisition & Your Property

As the City of Lincoln grows, it becomes necessary to make changes and improvements to our infrastructure. The City of Lincoln is faced with the responsibility of providing adequate major infrastructure items such as roadways and utilities. The increase in growth of the City results in the need to improve existing roadways and utilities that are no longer adequate to supply the growing demand.

To serve the community, it sometimes becomes necessary to acquire private property to construct new roadways, modernize existing roadways, or improve utilities such as storm drainage sewers, water mains, and sanitary sewers. It is indeed unfortunate that a private property owner must be inconvenienced in any way; however, the accomplishment of public works projects would not be possible if the land necessary was not first acquired.

The purpose of this brochure is to help you understand the methods used by the City of Lincoln to acquire the land needed for necessary improvements and, hopefully, it will provide the basis for mutual understanding and cooperation.

Design and Right of Way Process

When a project is first identified and incorporated into the Capital Improvement Program (CIP), the City of Lincoln develops a project design schedule that typically includes public participation for major infrastructure projects. Public participation is an important part of the project process because it will allow for you to express your point of view early in the design process through various sources such as open houses, web sites, and questionnaires.

As part of the design process, professional engineers will develop preliminary plans to show where infrastructure improvements will be located and the amount of land that will be needed due to the project. Typically during the preliminary plan phase is when a public meeting will be held in order to give you a chance to be heard and enter your comments and recommendations for the record. Prior to beginning final design, the suggestions and comments received are considered from a variety of viewpoints such as economic, aesthetic, safety, and service.

At the point when comments have been received and the amount of land needed for right of way or easement purposes is established, then the property will be appraised before the initiation of negotiations. In most cases, the property owner or the owner's designated representative shall be given the opportunity to accompany the appraiser during inspection of the property. The appraiser will use a comparison with similar properties recently sold and use them as value indicators. The appraiser's report is then reviewed by an independent appraiser who will determine the fair market value that will be offered by the City of Lincoln.

After your property has been appraised and the appraisal review completed, you will be contacted by the right-of-way agent who will make an offer for your property. Appraisals are made for the mutual benefit of the property owner and the City of Lincoln. The agent does not attempt to bargain or "horse trade" for a lesser amount than the appraisal. The agent is not authorized to go higher than the appraised value unless certain values or damage items have been overlooked in the

appraisal. If this is the case, please bring it to the attention of the agent so it can be checked with the appraiser.

After the agent has explained the requirements of the City of Lincoln and the offer is extended, most owners understand and accept the settlement. The offer is given in writing and is a firm price that totally excludes any bargaining. In order to protect the interest of the owner and the City of Lincoln, the City of Lincoln will re-evaluate its appraisal in light of any new information.

How is your property acquired?

There are three methods by which your property may be acquired.

❑ *Direct sale of the property from the property owner to the City of Lincoln*

The agent will submit the contract for the payment price offered to the property owner to execute. The contract will then be returned to the City by the agent for approval. The City will prepare and transmit to the property owner all necessary documents to effect the conveyance of the property acquired. When all necessary documents are signed and returned to the City, then the payment is mailed directly to you. The City then proceeds with filing the documents.

❑ *Eminent Domain procedure*

Eminent domain procedure is used when title to the property cannot be conveyed because it is held by a minor, an owner cannot be located, or the City and the owner cannot agree on a price. If an agreement cannot be reached, the eminent domain law must be used. The City of Lincoln prepares all the applications and other documents necessary to start these proceedings. They are filed in the office of the Lancaster County judge.

With proper notification to the landowner, the county judge appoints three local property owners as county appraisers. After viewing the property, the appointed appraisers listen to the statements of the landowner, or the owner's representative, and of the City of Lincoln. A formal report of their findings of

value is filed with the county judge. This hearing is conducted at no expense to the landowner unless the landowner hires an attorney or other representative.

If the landowner or the City of Lincoln is not satisfied with a report of the appraisers appointed by the judge, either may appeal to the district court for determination by a jury. The prospects of a condemnation should not cause fear or apprehension. The eminent domain law provides a means of settlement of honest disagreement and protects the landowner as well as the City of Lincoln.

❑ Donation of property by civic-minded property owners

Entire sections of public improvements projects have been built on properties, all of which have been donated.

When will I be paid?

After you have accepted the agreement of sale, the acquiring agency processes it as soon as possible so that an early payment may be made to you. There are basic administrative tasks that must be performed before the payment can actually be entered, but every effort is made to insure that you receive payment in the most expeditious manner. Where an improvement is to be acquired by the City of Lincoln, priority will be given to expedite payment.

In the process of condemnation, the award estimated in the formal report by the court appointed appraisers is paid by the City directly to the county judge. You may then secure your payment from the county judge's office after the specified appeal

period has lapsed. In the event either you or the City of Lincoln should elect to appeal the award, special arrangements can be made through the attorneys for you to receive a partial payment

Must I pay a capital gain tax or an income tax?

The sale of property to the City of Lincoln, in most instances, is considered "involuntary conversion" by the U.S. Internal Revenue Service. Because Federal tax laws and official interpretations may vary from time to time, it is best to check with your tax advisor or the Internal Revenue Service officials.

Additional Information

From your first notice to the final payment, you will be kept informed of all developments concerning the acquisition of your property. Every representative of the City of Lincoln is sincerely interested in cooperating with you. We offer you assistance and understanding and will appreciate your confidence and good will. After all, most of us are property owners, and all of us are stock holders in the City of Lincoln and are joined in a common concern for the best interest of the public. For additional information, contact:

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