Steps in Buying Right-of-Way for Highways (continued)

The following major steps occur during the land acquisition process:

- **Selection of ROW**
  After public meetings are held and the route location has been established, ROW plans are completed based on the construction requirements for the particular type of improvement. Detailed plans are then prepared.

- **Establishing a Property Value**
  Real estate professionals assist the County with determining compensation, which is based on a current analysis of the real estate market. All appraisals are reviewed by a review appraiser.

- **Informing property owners**
  A real estate professional contacts each property owner, explaining the area to be acquired, construction features, other pertinent data and will answer any questions.

- **Making an Offer to Purchase**
  The purchase offer will be presented in writing and will match the established property value. This offer will not be modified unless items affecting the real estate value were overlooked. A County representative will be available for any questions.

- **Deciding on the Offer to Purchase**
  Each property owner will have a reasonable amount of time to consider this offer. The sale is concluded in a similar manner to other real estate transactions.

- **Receiving Relocation Assistance**
  If displaced, the occupant of an improved property, such as a house or business, may be eligible to receive relocation assistance and payments.

Disclaimer

Note: This brochure is intended to give you only general information about eminent domain and county land acquisition. Any legal advice about condemnation or County acquisition of your property should be obtained from a qualified attorney of your choosing.
Why the County Acquires Land

When new highways are built, or old ones reconstructed to current standards, the Kendall County Highway Department (County) may have to acquire additional right-of-way (ROW). Although every effort will be made to avoid displacing land owners, the County will pay just compensation plus relocation costs if applicable to individuals, families and business owners.

County Land Acquisition Methods

The County acquires private property either by purchasing it from the owner or through its power of “eminent domain” in a court proceeding called “condemnation”.

Purchasing Property

If the County needs a property, it will first approach the owner with an offer to purchase it, just as a private individual or corporation would. The amount of that offer will be what the County believes the property will bring if it is put up for sale. The County will obtain an appraisal or waiver valuation depending upon the complexity of the assignment to determine the fair market value. If the County wishes to purchase only part of the property, the amount it offers will include compensation for any damages (that is the loss in value of the remaining property) that will be caused by acquisition.

While the County’s offer is based on its determination of fair market value, the offer to purchase is not inflexible. It may consider a validly supported counter-offer from the owner and may make a revised offer in response. County purchases of property are concluded, just as in private sales, with the property owner giving the County the proper deed and other documentation to transfer good title.

Acquisition Through Eminent Domain

Eminent domain is the County’s authority to take private property for public purposes, like those mentioned earlier, upon payment of just compensation to the owner. While eminent domain is inherently a power of only the federal and state governments, the State of Illinois has given this power to other units of government, such as counties, cities, and villages, and, in certain cases, to railroads and utilities. The court proceeding used to acquire property under power of eminent domain is called “condemnation”.

If the owner rejects or do not respond to the County’s first offer, or if after counter-offering, the owner and the County still cannot agree on a price or other conditions for the sale of the property, the County may decide to acquire the property under the power of eminent domain. Even in cases in which the owner and the County have agreed on a sale price, the County may still have to resort to acquisition by eminent domain if there is a reason the owner cannot give clear title to the property (e.g., if there are liens against it, or if a co-owner will not agree to the sale or cannot be located).

Payment of Compensation

When Kendall County has filed a condemnation case, it cannot by law make the preliminary and final just compensation payments directly to the owner, but must deposit them with the County Treasurer. This is so that there will be an opportunity to pay off any claims (judgments, delinquent taxes, etc.) that are recorded against the property.

To receive compensation payments after deposit, the owner usually will be required to present a petition (a written request) to the judge asking to have them released. It is the responsibility of the owner to present this petition, either yourself of through your attorney, since the State’s Attorney only represents the Department in condemnation cases. Ordinarily, the judge will direct the County Treasurer to make payment to the owner unless a judgment creditor, tax collector, or other claimant appears and shows that he or she is entitled to all or part of the payments.

Selling Your Property to Kendall County

Although your county government has the right to acquire property under the eminent domain laws of the US and Illinois constitutions, the final decision to purchase a property comes after a thorough study and determination that the route selected is the best alternative.

There are some benefits to you when you sell your property to the County:
- Fair cash market value
- No settlement expenses (the County pays for title evidence and accessory documents)
- Payment in cash
- Relocation assistance and payments of displaced

Steps in Buying Right-of-Way for Highways

Once a highway project is funded by the County Board, and studies and preliminary engineering work have been completed, the acquisition of land starts during the second phase of engineering. During the first engineering phase, the County works with governmental agencies and private entities to ensure that the project meets all applicable requirements.

Continued on the next page.