

Purchase of Right-Of-Way



NORTH TEXAS TOLLWAY AUTHORITY

This brochure explains the rights and benefits of property owners whose real property is to be acquired, in whole or in part, for a NTTA project.

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Introduction

The North Texas Tollway Authority (NTTA) is a regional tollway authority governed by Chapter 366 of the Texas Transportation Code authorized to acquire rights of way for transportation systems and to plan, design, construct, operate, expand, extend, and modify those systems.

Since at least a portion of your property is required for right of way to improve the public transportation system in your community, we are providing you with this booklet to explain briefly your rights as a citizen as well as the procedure which will be followed in purchasing your property and to answer some of the questions that you probably have.

All of your questions regarding right of way matters will not likely be answered in this booklet, but perhaps the answers to a few of them will enable you to have a better understanding of the overall process. This booklet is offered for general information purposes only; it is not a document of law, rule or regulation. You will have an opportunity at a later date to discuss your individual case with a representative of NTTA and to ask any questions you may have.

This booklet applies only to those rights of way that are acquired by the NTTA. If you have any questions, you may call the NTTA Project Line at 469-608-6880 and they will direct your call to the appropriate person.

Public Need for Private Property

Perhaps the first questions that should be answered is “Why does the government have the right to acquire private property?” State law gives governmental entities the power to acquire property where necessary for public purposes.

Why Your Property is Needed

The NTTA uses a systematic approach to assess the impact of any project that is proposed. Projects are not selected arbitrarily. They are the result of cooperative efforts with proper local agencies, the study of alternatives and a balanced consideration of the need for safe and efficient public transportation. You may be sure that this process was followed on the project that involves your property.

Every effort is made to reach a fair and equitable agreement in the purchase of all right-of-way for an NTTA project.

Initial Contact by NTTA

In some instances, there may be some time between when you hear of a proposed project and the time you are actually contacted, but every effort is made to expedite the various planning, engineering, environmental, public hearing and approval steps.

Compensation

As a property owner, you have the constitutionally-guaranteed right to receive just compensation for the property that the NTTA is acquiring. Even though you have the right to receive such compensation, you may choose to make a gift or donation of all or part of the property. Where payment is to be made, the real property will be appraised to determine just compensation.

Our representative will contact you before any appraisal is made. You will be given an opportunity to accompany the appraiser during the inspection of the property. Your cooperation and input will aid the appraiser in coming to an accurate determination of just compensation. Appraisals are reviewed to assure that proper appraisal principles and methods were used to arrive at the value to be offered for your property.

After the appraisal and appraisal review work is complete, you will be provided a written offer in the amount of the total approved value. You will also be provided a copy of NTTA's appraisal and you should note that if you already have an appraisal report you are required to provide it to the NTTA. If you decide to have a separate appraisal done, you are required to provide that appraisal to the NTTA in accordance with Texas law and the Texas Attorney General's Landowner's Bill of Rights, which will be provided to you. You will also be advised in the written offer of the possible option of retaining any building or other improvements located on the land being acquired. Where appropriate, the just compensation for the real property to be acquired and for compensable damages to remaining real property will be stated separately.

To avoid delay of the acquisition process, we appreciate your prompt decision regarding the NTTA's offer for your property.

Administrative Settlements

An administrative settlement is any settlement which is in excess of the NTTA's appraised value. The administrative settlement process is:

1. A timely written counteroffer that must include a property owner's signed proposal for full settlement setting forth a specific dollar amount with information to support the proposal.
2. The counteroffer will be reviewed by the NTTA.
3. The property owner will be notified of the NTTA's decision.
4. If an administrative settlement is not made or is not approved or if the property owner rejects an approved administrative settlement, the NTTA will proceed with the process outlined in Chapter 21 of the Texas Property Code.

If improvements are retained, the retention value will be subtracted from the total settlement amount.

Donation of Right of Way

You may donate or gift all or a portion of your property that is needed for the NTTA's project. Funds that are saved if property is donated can be utilized for construction or other purposes. Donations can also help to expedite the letting of construction contracts and lead to an earlier completion of the project.

In situations where your remaining property will be increased greatly in value by the project, the donation of right of way may be to your advantage by making your property more suitable for timely development. If you elect to donate your property an appraisal will be made unless you elect to waive this option.

Damages to Remaining Property

If you have a question about damages you should know that in many cases public transportation projects enhance rather than damage remaining property. When only a portion of your property is needed, you will be offered an amount for damages if the appraisal process indicates that your remaining property will have a lesser value after the project is constructed. The amount established for damages, if any, will be stated separately and will also be included in the total offer made to you by the NTTA.

Relocation of Improvements

Many property owners would like to know if their house, buildings, or other improvements can be moved. Since each case is different, it is best that you discuss this with our authorized representative when you are contacted.

Time Allowed for Relocation

“Will I have time to look for another home?” is another question that often arises. If your home is purchased, you will be paid the full consideration. Before you are required to move you will be given adequate time to find and buy another home using the proceeds from our purchase. You are not required to move until you receive a written notice and a date to vacate. To the greatest extent practicable you will be given at least 90 days written notice of the date by which you must move. This timing applies not only to homes but to all properties where a property owner must move to a new property or moves retained buildings, fences or other improvements to remaining property.

Property Adjustment Work

Some property owners ask “Will I have time to fence or do other work on my remaining property?” Every reasonable effort will be made to make the offer of purchase sufficiently in advance of construction to allow time for necessary property adjustment work. Examples of property adjustment work are the building of fences along the right of way lines, construction of new watering facilities for livestock, removal of any buildings or other improvements which an owner desires to keep and their reestablishment elsewhere, and the adjustment of water lines and other facilities which are necessary to continued best use of the remaining property.

Mortgages + Liens

About Your Mortgage

If your property is subject to a lien or mortgage, an agreement must be reached with the mortgage or lien holder.

The VA Loan

The Veterans Administration recognizes that the sale of your property is not of your choosing. Under these circumstances, your loan privileges may be restored and made available for coverage of another property. The veteran must initiate this action.

Small Business Loan

The Small Business Administration administers funds for loans for small businesses. You may wish to contact one of their

offices to determine how to qualify for a loan.

Income Taxes

If your property is worth more today than when you bought it, you may be wondering about paying income tax on the difference as a result of the NTTA's acquisition. The sale of property for public purposes may be treated by the Internal Revenue Service as an "involuntary conversion." It may not be necessary to pay income tax or capital gains tax depending on how you reinvest your profit from the sale to the NTTA. Any payment received for damages also may not be taxable. You are encouraged to contact the Internal Revenue Service Office which serves your area or seek legal advice on these matters.

Eminent Domain Proceedings

Although a sincere and comprehensive effort is made to determine just compensation for the property required, including improvements and damages to any of your remaining property and the utilization of the administrative process, you may still not be satisfied and may refuse to sell. In other instances, the title to the land needed for right of way may be clouded to the extent that legal proceedings are necessary to effect transfer of clear title. In these and a few other cases, eminent domain proceedings will be initiated by the NTTA.

In eminent domain proceedings, the Court will appoint three disinterested landowners to serve as Special Commissioners and a hearing will be held to determine just compensation. The property owner will be notified of the time and place of the hearing. At this hearing, the Special Commissioners will hear the evidence of value and arrive at an award. A deposit in the amount of the award may be made with the Court at which time the NTTA will be entitled to take possession of the property involved. After the deposit is made, landowners may ask the Court to authorize withdrawal of the award. If either the property owner or the NTTA is dissatisfied with the amount of the award, objections to the award may be filed within the time limits prescribed by law, and the case subsequently tried in the same manner as other civil cases. The basic issue decided in eminent domain cases is the amount of just compensation for the property being acquired and, in the case of a partial acquisition, any damages to the value of your remaining property. For additional information on eminent domain procedures, consult the Texas Attorney General's Landowner's Bill of Rights.

Relocation Assistance and Benefits

In addition to payment for your property, you may be entitled to additional benefits. If you must move, you may be entitled to assistance in locating another home or business and financial assistance in the form of moving and related expenses. Such benefits, if any, are in addition to the NTTA's offer of just compensation for your property and are handled separately from the purchase of your real property. It is beyond the scope of this booklet to detail specific benefits; however, if you are eligible, your rights and benefits will be fully explained in detail. A separate relocation assistance booklet is available, and you will be furnished with one if applicable. If the property being acquired is occupied by a home, business or any personal property, **DO NOT MOVE UNTIL YOU HAVE BEEN CONTACTED BY A RELOCATION ASSISTANCE COUNSELOR AND HAVE ESTABLISHED ELIGIBILITY FOR POSSIBLE RELOCATION BENEFITS. MOVING PREMATURELY MAY RESULT IN FORFEITURE OF THESE BENEFITS.**

Conclusion

The NTTA sincerely hopes that the purchase of your property can be accomplished with an absolute minimum of inconvenience to you. We are happy to answer any questions you may have.