

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Baldwin's Ohio Revised Code Annotated
Title I. State Government
Chapter 163. Appropriation of Property (Refs & Annos)
General Provisions

R.C. § 163.041

163.041 Form of notice

Effective: October 10, 2007

[Currentness](#)

Before initiating an appropriation action, an agency shall provide notice to each property owner as required by [division \(A\) of section 163.04 of the Revised Code](#). The notice shall be substantially in the following form:

NOTICE OF INTENT TO ACQUIRE

TO: (owner(s)) DATE:

..... (agency) needs your property for a (description of the project) and will need to acquire the following from you:

.....(general description of the property or easement to be acquired).

Ohio law authorizes (agency) to obtain your property or an easement across your property for certain public purposes. The legal description of your property that (agency) needs is: (is attached:)

We will be presenting you with a written offer based on our determination of the fair market value of your property. You will have days (minimum of ten) from the time you receive that offer to accept or reject the offer. We will be willing to discuss the offer with you during that time. **You are not required to accept that offer.** If you reject the offer or we are unable to come to an agreement, we may have to exercise our eminent domain authority to appropriate your property, which requires a court procedure. In a court proceeding, you may disagree with any of the following: whether the project is necessary (except in quick takes), whether the project is a public use (except in quick takes), whether your property is blighted (if applicable), and whether our offer reflects the fair market value of the property.

HERE IS A BRIEF SUMMARY OF YOUR OPTIONS AND LEGALLY PROTECTED RIGHTS:

1. By law, (agency) is required to make a good faith effort to purchase (your property) (an easement across your property).
2. **You do not have to accept this offer** and (agency) is not required to agree to your demands.
3. If you do not accept this offer, and we cannot come to an agreement on the acquisition of (your property)(an easement), (agency) has the right to file suit to acquire the (property)(easement) by eminent domain in the county in which the property is located.

4. You have the right to seek the advice of an attorney, real estate appraiser, or any other person of your choice in this matter.

5. *(this paragraph does not apply to private agencies or to municipally owned public utilities)* You have a right to appeal this decision and may object to this project's public purpose, necessity, designation of blight (if applicable), or valuation by writing, within ten business days of receiving this notice, to:

.....(name(s) and address(es) of the taking agency, as well as to the elected official(s) who appointed the taking agency if the taking agency is not elected).

(The elected official)(A majority of the elected officials) that appointed (unelected agency) has/have the discretion to veto this project, and if they do so, it will not proceed. (This applies only if the taking agency is a public agency composed of officials who were not elected.)

6. We are required by law to provide you with a written offer and the appraisal or summary appraisal on which we base that offer (public agencies and public utilities may delete this phrase for properties valued at less than \$10,000 if they have adopted alternate procedures).

After a trial, a jury will decide the amount you are to be awarded for your property that is taken, for the damage that is caused by the taking, if applicable, and for other damages permitted by law, which could either exceed or be less than our offer. During the court proceeding, you have the right to testify as to the value of your property, and you and the agency are entitled to present evidence of the fair market value of the property (easement).

You may employ, at your own expense, appraisers and attorneys to represent you at this time or at any time during the proceedings described in this notice.

If we go to court to determine the amount we pay for your property and the jury awards you an amount that is significantly in excess of a good faith offer, revised offer, or offer made after an exchange of appraisals, as provided by law, you may be entitled to recover attorney's fees, costs, and expenses, subject to certain statutory limits.

If we go to court to determine whether the project is necessary or for a public use, and the court decides that it is not necessary or not for a public use, the judge shall award you your full amount of attorney's fees, costs, and expenses.

You also have the right to request that the issue of the value of your property be submitted to nonbinding mediation. You must submit your written request for mediation within ten business days after you file an answer to the agency's petition for an appropriation proceeding. If a settlement is not reached at mediation, the matter will proceed to a jury valuation trial.

If you have any questions concerning this matter, you may contact us at:

..... (full name, mailing, and street address, and phone of the agency)

..... (signature of contact person)

..... (printed name and title of contact person)

Agent of (if different than agency)

CREDIT(S)

(2007 S 7, eff. 10-10-07)

[Notes of Decisions \(2\)](#)

R.C. § 163.041, OH ST § 163.041

Current through File 40 of the 133rd General Assembly (2019-2020).

End of Document

© 2020 Thomson Reuters. No claim to original U.S. Government Works.