



DeKalb County
Public Works
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Your Guide to the Right-of-Way Acquisition Process

As you can imagine, the construction or improvement of a road is a complex and lengthy process. Due to growth and community expansion, engineers continually evaluate traffic patterns to determine the need for changing or expanding an existing road or building a new one. When the traffic patterns indicate a need for improvement, qualified engineers conduct in-depth studies of grade changes, slopes, sight distances, drainage, speed limit specifications and other land-use issues. Plans are designed in accordance with environmental, safety and cultural resource guidelines. Whenever feasible the County will use its existing right of way to construct needed improvements. However, acquisition of additional property rights sometimes becomes necessary to assure sound design and construction stability. Please be assured that the location and design of the improvements are well researched to minimize alterations and adverse effects on private property and are in the best interest of the community.

The Constitution of Georgia and the Constitution of the United States provide that private property may be acquired for public purposes and that just compensation be paid for all property so acquired. The County has the authority to acquire private property for public use and property owners have the right to receive compensation for that property. Real property rights can be acquired through several methods: by donation, direct purchase, exchange or eminent domain proceedings. Unless received through donation, private property is acquired by payment of just compensation to the property owner.

The following is not all inclusive, but rather is intended to serve as an outline of the acquisition process. For more detailed information, please consult with a DeKalb County Land Acquisition representative.

Property Owner Information Meeting

Generally, a property owners' information meeting will be held if a significant number of properties are affected by a project. We will have knowledgeable representatives present, including Design Engineers and Land Acquisition Specialists, to ensure you understand the design aspects of the project, the acquisition process and your rights.

Determination of Compensation

You are entitled to fair market value of your property.

Fair market value is usually defined as that amount of money, which would normally be paid for a property in a sale between a willing seller and a willing buyer, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. The amount is generally considered by the courts to be "just compensation" under the Fifth Amendment of the Constitution.

When an appraisal is needed, the County will utilize independent, impartial real property appraisers familiar with local property values to appraise your property. You and/or your representative will be invited to accompany the appraiser during an inspection of your property. The appraiser will perform research, taking into consideration your property's physical characteristics and all other elements that affect its value. Compensation is not limited

to the value of the land. In addition to the value of the land, you will be fairly compensated for losses that may include structures, landscaping, or damages to the remaining property.

Offer

You will be offered the full amount of the estimate of fair market value. There will be no attempt to buy your property at a lesser value. This offer will be made to you in writing. You will be given a reasonable amount of time to consider the offer and ask questions or seek clarification of anything that is not understood. If you believe that all relevant material was not considered during the valuation process, you may present such information and make reasonable counter offers, which will be considered.

Agreement and Closing

When an agreement is reached, you will be asked to sign an option, an easement, or some form of agreement or deed. The closing will be similar to that required in any real estate transfer. The County will prepare the conveyance instruments.

- There will be no closing and recording costs, no real estate commission to pay or attorney closing fee
- You may be reimbursed for incidental expenses incurred as part of the conveyance
- You are entitled to reimbursement of penalty costs for pre-payment of any pre-existing recorded mortgages entered into in good faith encumbering such real property.
- You are entitled to reimbursement of pro-rated portion of real estate property taxes, which have been paid, or which are due and payable at the time of acquisition.
- You may be reimbursed reasonable survey fees to reestablish existing property corner pins that were removed as a result of the acquisition or construction.

Condemnation

Since the County must acquire the property in order to construct the project for the public benefit, state and local laws provide that the County can initiate a condemnation suit under eminent domain proceedings. If after a reasonable period of time negotiations reach an impasse or the County determines that it cannot secure clear title for reasons such as title defects then condemnation action will be initiated. One of the following methods will be employed:

Declaration of Taking - An attorney will file the suit in the Superior Court of DeKalb County. Upon filing the petition the County will deposit the amount of the offered compensation. At this time title is conveyed.

Special Master - The Judge of the Superior Court appoints an attorney to hear the evidence and make an award.

Three Assessors - Under this method one assessor is selected by the owner, one by the County and the third by agreement of the first two, or if agreement cannot be reached, the third is appointed by the Judge of the Superior Court. These three review the facts and make an award based on their findings.

This information is provided to you to assist you in understanding the County's acquisition process and your rights and obligations.

Our pledge:

- Protect the rights of all citizens.
- Uniform treatment of all parties.
- Use of public funds in an equitable and responsible manner.