



Public Acquisitions - Eminent Domain & Condemnation - An Overview

INTRODUCTION

The government and public utility companies are often involved in the acquisition of property from individuals. Most people are unfamiliar with the procedures involved and their rights affected when this happens. If you are involved in this process, this overview will provide you with some basic information about the acquisition process in the State of South Carolina.

While we hope that this overview is helpful to you, there are some important matters which we ask that you remember:

The information provided is general and not intended to apply specifically to your case. The facts in every case vary. Please do not use this overview for precise guidance on your particular case. This overview is no substitute for consultation with an attorney. Whenever you have a specific question about the condemnation process or the particulars of your case, you should discuss this with an attorney experienced in eminent domain law or condemnation law.

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Paul D. de Holczer authored the South Carolina Chapter for **The Law and Procedure of Eminent Domain in the 50 States** published by the American Bar Association. The American Bar Association, Litigation Section, Committee on Condemnation, Zoning & Land Use Litigation, is working on a project to publish the law of eminent domain in each of the 50 states and territories. The Law and Procedure of Eminent Domain in the 50 States is a work in progress online and available to ABA Members, but may be published in book form when outlines are complete for all the states and territories.

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OVERVIEW

What is Condemnation?

- Condemnation is the act of taking private property for a public use and is also a shorthand term to describe the process of taking private property for a public use. The power of condemnation is also known as the power of eminent domain.
- The power is established by the South Carolina Constitution, as well as the United States Constitution. The South Carolina Constitution, Article 1, Section 13, provides: “private property shall not be taken . . . for public use without just compensation being first made therefore.” The U.S. Constitution provides in the Fifth Amendment “No person shall be . . . deprived of . . . property without due process of law; nor shall private property be taken for public use, without just compensation.”
- The rationale for condemnation is that the government is empowered with the right to take private property for public uses for the good of the general public. When building a road, for example, the power allows the government to design the road in the manner which will most benefit the general public and acquire the necessary lands to carry out its design. Roads can therefore be designed so they are straight, for example, rather than having to curve around the land of all of the owners who were unwilling to sell their property for the road. In return for being forced to give up their property, individual owners are constitutionally entitled to receive full and fair compensation, typically referred to as “just compensation.”

Who can take my property?

- Federal, state and local governments have the power to condemn private property, and this power has been delegated to many governmental agencies. Thus, for example, the South Carolina Department of Transportation has the power to condemn your property. The government has also delegated the power of eminent domain to various public utilities (water, sewer, power).
- The vast majority of condemnations are initiated by State, County or City Government, rather than by a utility like South Carolina Electric & Gas, or a local sewer or water authority, or other entity with the power of eminent domain. The “taker” is called the “Condemnor” or “condemning authority.” Throughout this brochure, we will refer to the taking power as the “Condemnor.”
- A person who owns record title to property is a “Landowner.” A person in possession of the property but without record title (such as a tenant or lessee) or a person with a record interest less than title (such as a mortgage company, or someone holding a lien against the property) is an “Other Condemnee.” Throughout this brochure, we will refer to both the Landowner and Other Condemnee as “Condemnee.” Although there are important differences between a Landowner and an Other Condemnee, this brochure does not address the differences.

Can the Condemnor take my property for any reason?

- No. The Condemnor may only take your property for a public use, not a private use.
- The following is a list of some of the things which are considered to be public uses: construction of reservoirs for water or storage basins for storm water, irrigation, rights of way for the construction of canals, ditches, flumes or pipes to carry water, roads and highways, railways, tramways, cuts, tunnels, shafts, hoisting works, dumps, power lines, power plants, gas lines, public buildings, sewer plants and sewer lines, parks and boat landings. There are many other public uses as well.

Who decides whether the condemnation of my property is for a public or private use?

- Only a judge can decide. Even if the Condemnor believes the condemnation is for a public use, under some circumstances, a judge can rule otherwise and deny the Condemnor the right to take your property.

How will I know whether the Condemnor really wants to take my property?

- In most cases, you will learn far in advance of the proposed construction date of the project which may require the taking of your property. Your first knowledge of the project may come from reading a newspaper article or talking to a neighbor. Sometimes the Condemnor will advertise the project.
- In many cases, the Condemnor will hold a public hearing at which the agency will describe the scope and location of the project, so that you will be able to determine whether your property is needed for the project.
- The Condemnor will also generally give you a written notice that your property is needed and will give you a written offer to purchase your property prior to filing a condemnation action.
- In some cases, the planning process takes several years and project plans change several times. You may not know for certain whether the Condemnor needs your property until they notify you and begin the process to acquire your property, which means starting to negotiate with you about the acquisition.

What can the Condemnor take?

- It depends. Statutes usually define what specific rights a Condemnor may acquire.
- Sometimes the Condemnor takes fee simple ownership -- that is, all the rights and title to the property. Sometimes the Condemnor takes a right of way or easement -- that is, an interest in the property, leaving title to the property with the Condemnee.
- Sometimes the Condemnor takes a whole parcel of property, but often only takes a portion of a particular property.

THE RIGHT TO CONDEMN

Does the Condemnor have the right to take my property?

- It depends. The Federal and State Governments have the power of eminent domain. By statute, all counties and cities and many state and local governmental agencies and public utilities have the power of eminent domain as well.
- While a specific governmental body or public utility may have the power of eminent domain, that does not necessarily mean that it has the right to take your specific property.
- In order to condemn your property, the Condemnor must be able to prove to a Court that it has the power to do so, that the taking of your property would be a proper exercise of that power, that the taking of your property is necessary, and that the use to which your property is to be applied is a public use. The Condemnor is supposed to design its project so that the greatest public good is done and the least private injury is caused thereby.
- If you do not consent to the condemnation, the Condemnor must prove to the court that your property is reasonably necessary for a public project. While the courts more often than not allow the requested condemnation, there have been some occasions in which the courts have denied a Condemnor the right to take the property it seeks.
- If you do not want your property taken, only the Court can require that your property be condemned. You have the right to file a Challenge Action to attempt to stop the taking. If you prove that the condemnation is wrong, you can stop the condemnation and may even recover some or all of your costs and attorneys' fees. However, if you are unsuccessful in stopping the condemnation action, the Condemnor may be able to recover its costs and attorneys' fees from you!
- The Challenge Action is not to be used to simply gain leverage for greater compensation. There must be an actual dispute as to whether or not the Condemnor is acting with a reasonable basis in taking the property. Usually, the Condemnor has a reasonable basis for requiring the property.
- **Challenge actions are often difficult matters involving expert witnesses. A Challenge Action can only be filed within thirty (30) days of the Condemnor's taking, so time is of the essence. If you determine that you do not want your property taken, you should discuss this with an attorney as soon as possible.**

NOTE: The Condemnor's right to condemn is not part of the trial on just compensation. The Challenge Action addresses only the right to condemn. The Condemnation Action only addresses how much just compensation is to be paid to the Condemnee.

PRE-CONDEMNATION PLANNING

Should I be doing anything before my property is condemned?

- In general, it is wise for a Condemnee to seek the advice of a lawyer when considering any actions taken with regard to property which is about to be condemned. This is because the actions a Condemnee takes before his property is condemned may help or hurt his case. It is unwise to make assumptions and act without the advice of a professional because the potential harm to your case may be serious.
- The Condemnee should be aware that in most cases, representatives from the condemning authority make a written record of conversations with the Condemnee about acquisition of the property. It can be prudent for a Condemnee to talk to an attorney prior to speaking with representatives from the condemning authority so that the Condemnee can become familiar with the process of eminent domain and valuation and avoid making statements which may be used against the Condemnee.
- The Condemnee should avoid taking positions, especially written positions, which may be used against him in the condemnation proceeding.
- Leases and mortgage agreements signed by the Condemnee prior to condemnation may reduce the portion of the final award to which the Condemnee will be ultimately entitled. The Condemnee's lawyer should be consulted on condemnation clauses contained within these documents.
- The Condemnee should maintain the appearance and condition of the property. Visual impressions, even to sophisticated professionals, are important, and the condemning authority's appraisers will be inspecting the property long before it is condemned. It is generally a good idea for the Condemnee to have the property looking as good as possible.
- Contamination on the property may reduce the final award, delay the payment of funds to the Condemnee or result in the Condemnee's liability for cleanup charges. It thus behooves the Condemnee to take those steps necessary to assure that the property remains free of contamination.
- The value of property is often enhanced by favorable land use permits. Where it is practical and prudent, the securing of a rezoning, plat approval or building permit may result in a higher valuation of the property. The decision of whether to apply for such permits must always be weighed against the effect which a potential denial will have on the case. It is therefore wise to seek the advice of an attorney before proceeding with a land use application.
- The Condemnee should take pictures of the property to show its condition before the taking.

CHRONOLOGY

What happens, and when, during a condemnation action?

- The Condemnor begins the planning process for a public project.
- Surveyors and Engineers may enter the Condemnee's property.
- Preliminary Plans for the project are designed.
- Condemnees are usually notified of property which will be taken for the project.
- The Condemnor assigns or hires appraisers to make an appraisal. Sometimes, administrative offers are formulated without an appraisal.
- Condemnor's appraiser begins to research the surrounding market and appraise properties.
- A Right of Way Agent is assigned to present an offer to the Condemnee based on the appraisal or the administrative offer and negotiate for the purchase of the property.
- If the Condemnee accepts the offer, the property is sold in lieu of condemnation under the terms of the offer. If the title is clouded, the Condemnor may have to condemn even if the Condemnor and Condemnee agree on a figure.
- If an agreement is not reached, the Condemnor will file a condemnation action with the Court. The Condemnor can choose to use an Appraisal Panel or to use the Court System. The Condemnee has no option or right to object to the choice of Appraisal Panel or Trial to begin the process.
- The Condemnee receives notice of the commencement of the condemnation action. Usually, the Condemnor will request a jury trial but may request a non-jury trial. The Condemnation laws also provide that an Appraisal Panel may determine just compensation.
- Possession of the property is typically given to the Condemnor while the just compensation issue is considered by the Condemnee in preparation for a trial on the issue. To obtain possession, the Condemnor pays the full amount of its offer of compensation (the "Tender") into the Court. The Court may then release some or all of the Tender to the Condemnee. If less than 100% is withdrawn, the Clerk of Court keeps the remainder until the case is resolved.
- A hearing is held and the jury or appraisal panel decides the just compensation. Sometimes a Judge or Special Referee will decide just compensation if that is what the parties agree.
- The Condemnee receives the amount of the verdict, plus interest at the legal rate on all amounts over and above the amount paid into the Court for possession.
- If the verdict beats a "split" between the highest amount testified to by the Condemnee and Condemnor at the hearing, the Condemnee may ask the Court to award his/her costs and attorneys' fees. The split is the result when the two highest amounts testified to by the Condemnee and Condemnor are added and divided by two. For example, if the Condemnor testifies to \$300, and the Condemnee testifies to \$600, then the split is \$450. The Condemnee may not recover his costs and attorneys' fees if the verdict is anything less than \$450.
- Both parties have the right to appeal from the jury, appraisal panel or judge, if desired.
- If other parties (mortgage companies, lien holders, family members) have an interest in the property, the court may have to decide how the award of just compensation is divided between these parties. The court holds this special hearing without a jury. The Condemnor has no role in how the money is divided.

QUESTIONS TO ASK

You should consider asking the following questions:

- Questions for the Condemnor's Right of Way Agent:
What are the agent's credentials? Is he/she a certified appraiser or does he/she have any other training? Is he/she employed by the Condemnor? (Sometimes independent contractors are hired by the Condemnor rather than "on staff" personnel). What is the project and what is its purpose? What are the project plans? Are the plans preliminary or final? What access will be available to the property after the taking? Is the agent keeping a written record of his/her contacts with you? Can you have a copy of that record? Can you have a copy of the appraisal report? What happens if the Condemnor decides to change its plans for the project? Obtain a copy of the right of way agent's business card.

- Questions for the Condemnor's Appraiser:
What are the appraiser's credentials? Is he/she a general certified appraiser, and if so, does the appraiser have the "MAI" designation from the Appraisal Institute? Where is he/she from? (Sometimes appraisers from out of State are hired by the Condemnor) How many properties is the appraiser appraising for this particular project? When will the appraisal be completed? Obtain a copy of the appraiser's business card.

- **If you consult an Attorney, consider asking these questions:**
What portion of the attorney's total practice is dedicated to condemnation cases? How many condemnation cases has the attorney handled? Has the attorney settled or tried the condemnation cases which he/she has handled? What types of results have been obtained? Are the attorney's fees going to be calculated on a contingency fee or an hourly basis? Make sure that the attorney answers any specific questions you have about your case or the condemnation process generally.

- If you consult an Appraiser, consider asking these questions:
What experience, education and training in condemnation appraising does the appraiser have? What portion of the appraiser's total practice is dedicated to condemnation cases? In how many condemnation cases has the appraiser been involved? Has the appraiser testified in depositions or at trial? What types of results have been obtained?

CONDEMNATION

Who serves on the trial jury?

- The jury is selected from qualified citizens. The judge will summon a jury panel of approximately 25 to 40 prospective jurors. From those prospective jurors, the parties and their lawyers will select 12 people to decide the case, and perhaps one or two alternates to listen to the evidence and serve in the event that one or more of the jurors selected is excused during the trial.
- The Court will excuse potential jurors for cause or in response to a challenge. A juror will be excused for cause if he is related to a party or is viewed by the Court as being unable to serve as a fair and impartial juror.

Who serves on the Appraisal Panel?

- The Appraisal Panel consists of one appraiser chosen by the Condemnor, another chosen by the Condemnee, and a third selected by the two appraisers chosen by the Condemnor and Condemnee.

Should I take a drawdown?

- Sometimes the Condemnor tenders the payment of just compensation (the "Tender") to the Condemnee before or after the commencement of the condemnation action. If the Condemnee takes a drawdown, he/she waives any objection to the taking and surrenders any right to challenge the Condemnor's right to take under the condemnation action. If a Condemnee takes a drawdown, the Condemnee may be able to ask a jury for more money later and use the Tender in the meantime. The idea behind this is that the Condemnee should be able to use the money because he or she can not use the condemned property.

How do I know that my interests are protected and my concerns are being addressed?

- Sometimes the amount of just compensation is not the only issue of concern to a Condemnee. In this case, it is important that you consult with an attorney to address other matters: access to the property after the project, drainage on the property after the project, etc. Many times, a Condemnee will not even spot these issues until much later.
- Sometimes the Condemnor can make engineering adjustments which will be of great value to a Condemnee. Experienced condemnation attorneys will be able to identify and negotiate with a Condemnor about these adjustments and issues. BUT NOTE: These must usually be addressed very early in the project.
- **An experienced condemnation attorney can spot these issues and potential problems. An experienced condemnation attorney can negotiate with the Condemnor to address the Condemnee's concerns about these issues and potential problems.**

TRANSFER OF POSSESSION

When will I be required to give up my property?

- There are a number of ways the date for surrender of possession of your property may be determined. The date for surrender of possession is determined in different ways depending on whether the acquisition is accomplished by condemnation or by a sale of the property instead of condemnation.
- If the Condemnee sells his property to the Condemnor, then the Condemnee and the Condemnor will agree upon a mutually acceptable date for surrender of possession. This mutually agreeable date is usually arrived at through negotiations. The Condemnee typically indicates the time he needs to conclude business at the condemned property and relocate to a new site. The Condemnor typically indicates the time it needs to take over the property and demolish the buildings so as to meet its construction timetable. The Condemnee and the Condemnor usually negotiate a date to surrender possession which meets both parties' objectives.
- If the Condemnee does not sell his property to the Condemnor, and the Condemnor acquires it through condemnation, then the Condemnee must surrender possession. Often, possession of the property is given up early on to allow the Condemnor to proceed with its project, while the Condemnee and the Condemnor "agree to disagree" about just compensation and have a jury decide the issue in the future.
- The Condemnor may secure a "Right of Entry" to enter the Condemnee's property. This is essentially a permission to do something on the property before condemnation. It typically expires at some specific time or upon settlement or condemnation.
- If the Condemnee will be required to move from the property, relocation benefits are typically available and a reasonable time for moving is allowed.

NOTE:

The Condemnor has a statutory right to enter the property before condemnation for specific limited purposes – such as surveying and appraising. This does not permit the Condemnor or its agents to destroy property or interfere with the Condemnee's activities on the property.

IF YOU OBJECT TO THE CONDEMNOR'S AGENTS' ACTIVITIES, CONTACT YOUR ATTORNEY IMMEDIATELY.

IT IS NEVER APPROPRIATE OR NECESSARY TO THREATEN OR HARM THE CONDEMNOR'S AGENTS OR CONTRACTORS.

APPRAISING THE PROPERTY

How will my property be appraised?

- Appraisers generally use three methods of appraisal to estimate the value of real estate: the market approach, the cost approach and the income approach. In the market approach, the appraiser considers sales of similar properties to determine value. In the cost approach, the appraiser considers what it would cost to replace existing structures on the land. In the income approach, the appraiser considers the income stream being generated by the property to determine its value. All three approaches may be used, or some combination of the three.
- The Condemnor usually selects an appraiser who writes an appraisal report which the condemning authority uses as the basis of an offer and negotiations.
- It is important for the Condemnee to consider and evaluate the appraisal conducted by the Condemnor. Sometimes Condemnees are not provided with a copy of the appraisal report. You should always ask for a copy of the report. If the Condemnor will not provide a copy, ask to view it at the Condemnor's offices and then take notes on what it says. You should always try to obtain and review the appraisal report.
- A Condemnee who is unfamiliar with appraisals, or who desires a second opinion, may wish to seek the advice and counsel of an attorney. Attorneys who practice condemnation law can typically retain an appraiser who is familiar with the particular problems presented by the taking of your property and assist you in obtaining an expert appraisal opinion. The Condemnee does not have to accept the amount offered by the condemning authority if the Condemnee believes that the Condemnor's appraisal is incorrect or unfair.
- Consider the Condemnor's appraisal carefully. If the market approach is used, consider how similar the sales considered by the appraiser are to your property. If the income approach is used, has the appraiser accurately estimated the income generated from your property?
- Property to be taken for condemnation is supposed to be valued assuming that the project for which the property is being taken was never planned, designed or constructed. The reason for this rule is to be fair to both the Condemnor and the Condemnee. For example, if you own property in the desert and the Condemnor announces plans to build a reservoir next to you so that you will own waterfront property, the value of your property may increase dramatically as a result of the announcement of the project. When the Condemnor then seeks to acquire your property, it is not required to pay the inflated waterfront prices - the influence of the project is disregarded and you are entitled to receive the fair market value of your property as though the project was never announced.
- The same is true where your property values have been diminished, or blighted, because of a project. For example, if you own a residential development and the Condemnor announces a major highway project, the value of your land may decrease. The Condemnor is not allowed to consider the decreased value of your land resulting from the project in determining the fair market value of your land, and must consider the value of your residential development as if there is no project.

- Condemnees are entitled to have the value of their property determined based on its highest and best use, which may not be the current use. For example, if the property is being used as a family farm but its highest and best use is as a residential subdivision, it is to be appraised as subdivision land and not agricultural land. “Highest and best use” entails an analysis of the land uses which are physically possible, legally permissible, economically feasible and maximally profitable.
- **Condemnation appraising is much different from appraising for settling estates or for mortgage financing or for correcting a tax assessment. Special circumstances exist in condemnation matters and addressing these circumstances effectively requires an appraiser to have special training and experience. Of the many appraisers in the state, only a relatively few have the training and experience necessary to successfully address the problem of a condemnation appraisal.**

COMPENSATION

If I don't agree with the Condemnor's offer, who decides how much money I get?

- An Appraisal Panel or a jury. State law provides that a jury determines the amount of compensation to be paid to a Condemnee who loses his property through condemnation if the Condemnee requests a jury trial. If the Condemnor elects to use the Appraisal Panel, and the Condemnee disagrees with the decision of the Appraisal Panel, the case can be appealed to the Circuit Court and still tried before a jury. If the parties agree to forego a jury trial, the amount of just compensation can be determined by a Judge or Special Referee.
- Most Condemnees elect to have a jury determine value because then the decision regarding just compensation rests with twelve fellow citizens rather than a Judge. Many people feel more comfortable having ordinary citizens, rather than a judge, determine just compensation.

What am I entitled to be paid for?

- It depends. A Condemnee is entitled to the fair market value of any property taken, damages to any remaining property caused by the taking and construction of the project (often called special damages), less any benefits from the project to the property remaining. In some cases, a Condemnee is entitled to Relocation Assistance (discussed in the next section). The facts of every case are different, and a Condemnee should consult with a qualified attorney to determine what may be compensable.
- Condemnation has many specialized rules regarding compensation. It is therefore not possible or feasible to cover in this general guide all the nuances which may affect your rights to compensation. If you have a specific question, you should consult a professional.
- Again, condemnation appraising is much different from appraising for estates or for mortgage financing or for correcting a tax assessment. The facts of every case are different, and a Condemnee should consult with a qualified attorney to determine what may be compensable and to select an appraiser with the training and experience necessary to successfully address the problem of a condemnation appraisal.

RELOCATION ASSISTANCE

- Relocation Assistance is often available to persons and businesses displaced by a public project. Relocation falls into two classifications: Residential Displacements and Non-Residential Displacements. The first is available to persons whose dwelling place is affected; the second applies to businesses affected. Relocation Assistance eligibility is generally triggered when the Condemnor initiates the negotiations for the acquisition of the property. Generally, relocation assistance is a reimbursement of certain qualified expenses.
- This aspect of public acquisitions can become quite complex. Generally, the larger the condemning authority the more likely that these benefits will be afforded in a timely fashion to Condemnees. Large State governmental agencies and most Federal governmental agencies employ or contract with specialists to manage administration of these benefits. Cities and Counties and Public Utilities are generally less conversant with these benefits and, in some cases, may need to be prodded into providing them.
- Residential Displacements
Relocation Assistance for Residential Displacements may include 1) moving and related expenses (that is, actual costs of moving personal belongings); and, 2) replacement housing. In cases where sub-standard housing is taken or destroyed, the condemning authority must put the displaced person in decent, safe and sanitary replacement housing -- even if the new housing is worth more than the housing taken.
- Non-Residential Displacements
Relocation Assistance for Non-Residential Displacements may include 1) actual moving and related expenses (based on bids) or fixed moving expense payment a/k/a "in lieu" payment; 2) reestablishment expenses (such as new stationery and telephone numbers for an active business); and, 3) some actual search costs incurred with searching for a new business location. There are limits to the amount of relocation assistance available in each of these categories and qualifications as to how these are determined. Personal property and inventory are eligible for relocation while realty and fixtures are not eligible for relocation.
- Other Moving Items
"Moving Items" are not part of Relocation Assistance. These are items of personal property (or, "personalty") which may be found on the property acquired but which can be moved or relocated at some expense to other land of the Condemnee. For example: a gate, mailbox, sign, irrigation system or fence may be moved back and reinstalled on the Condemnee's property. These items are usually moved at the Condemnor's expense.

NOTE: Relocation Assistance is not part of the trial on just compensation. If a Condemnee disagrees with the determination of appropriate Relocation Assistance, the Condemnee must appeal that to the Condemnor. After that appeal, the matter may be resolved by the Courts.

ATTORNEYS' FEES & COSTS

If I consult an attorney, what will it cost me?

- The answer to that question depends on how the case turns out. In some cases, the Condemnor is required to pay a substantial portion of the Condemnee's attorneys' fees and costs at the conclusion of the case. Attorneys' fees are generally charged for the time of an attorney, while costs include appraiser's fees, engineer's fees, photographs of the property, drawings of the property, and similar items. In most cases, early consultation with an attorney is cost effective. Many attorneys do not charge for an initial consultation and an attorney's advice often pays.
- If the Condemnee retains an appraiser and pays for an appraisal before the Condemnor files its condemnation action, the costs of the appraisal may not be recoverable from the Condemnor.
- If the Condemnor abandons a condemnation, it might be possible for a Condemnee to recover the costs and fees spent until the time of abandonment.
- If the case is settled and the Condemnee and the Condemnor are able to reach an agreement prior to trial, some or all of the costs and fees may be obtained from the Condemnor through the settlement negotiations.
- Most attorneys take condemnation cases on a contingency fee agreement, meaning that the attorney will take a portion of the recovery rather than charge hourly fees. This usually means that if the attorney does not generate a recovery for you, you do not owe any attorneys' fees.

TAXES AND TAX CONSEQUENCES

Do I pay taxes on the amount I receive as just compensation?

- It depends. A condemnation is considered an involuntary conversion and is treated differently from other sales and other cases. You will have a period of time to reinvest the proceeds of the case and defer your tax obligation until a later date.
- If a portion of your award is considered severance damages (compensation for damages to property you continue to own), you may be able to defer the payment of taxes on that portion of your award.
- The tax deferral benefits of condemnation are also available to sales instead of condemnation. You may thus defer the payment of taxes on a sale to the condemning authority even if you settle the dispute without the Condemnor having to file condemnation action.
- **It is advisable to consult with an attorney who is a tax specialist to address these issues.**

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Moses Koon & Brackett, PC represents Condemnors, Landowners, Lessees and Other Condemnees involved in eminent domain proceedings and other private property issues. We have handled a significant number of condemnation cases all over the state. Located in Columbia, in the center of the state, the firm serves clients throughout the State of South Carolina.

There is no charge for a consultation.

If you have questions about condemnation, feel free to call (803) 461-2300 and ask to speak to a condemnation lawyer. We can even call you back if the call is long-distance.

- Our attorneys have experience in preparing and prosecuting condemnation actions as well as in counseling and representing Landowners, Lessees and Other Condemnees affected by public acquisitions.
- Our attorneys are familiar with appraisal analysis, acquisition negotiation techniques, acquisition procedures, negotiation of engineering modifications, relocation and reestablishment assistance, condemnation case preparation, condemnation case litigation, trials and appeals.

- Our attorneys have counseled or taught seminars to condemning authorities, appraisers, engineers and consultants, and other attorneys. We have prepared and taught Eminent Domain Practice seminars for the University of South Carolina School of Law and the South Carolina Bar Continuing Legal Education Division.
- We have counseled and litigated on issues of pre-condemnation entry to property, challenge actions, appraisal conformity with South Carolina law, legally-informed approaches to appraisal problems, valuation disputes, condemnation appeals, pre-condemnation and post-condemnation settlements, mediation of condemnation cases, amendment or abandonment of condemnation actions, and appeals from condemnation trials.
- We are experienced in handling issues of drainage, wetlands, access, noise, aesthetics, cures and costs-to-cure, highest and best use, and fair market value. We have been involved with residential, commercial, industrial and rural properties as well as unusual or special-use properties: mines, churches, manufacturing facilities, funeral homes, cemeteries, power plants, physicians' offices, airports and airfields, service stations, landfills, planned communities, mixed-use developments and golf courses.
- We have had the experience of deposing or cross-examining the appraisers and engineers widely recognized in the state as the most effective trial witnesses for Condemnees and Condemnors. We have reviewed numerous appraisals. We have become familiar with those experts, techniques, tactics, and approaches that have been successfully used to defend the interests of Condemnees and Condemnors.
- We have worked on public projects for gas lines, sewer lines, water lines, power lines and recreational facilities. Our attorneys have been the condemnation counsel and litigation team for many projects involving road widening and road improvement as well as entirely new road projects. We have handled the first of the South Carolina Department of Transportation design-build transportation projects: Southern Connector (I-185) (approximately 90 tracts), Conway Bypass/Veterans Highway (SC-22) (approximately 94 tracts), Carolina Bays Parkway (SC-31) (approximately 25 tracts), Route 170 Widening Project (SC-170) (approximately 22 tracts). Our counsel has represented Condemnors in right of way acquisition matters on other large projects such as the Ravenel Bridge Project in Charleston, the Route 170 Widening Project in Beaufort, the Two Notch Road Widening Project in Columbia, the SC 6 & SC 60 Project at the Lake Murray Dam in Lexington County, and the Berlin G. Myers Parkway in Dorchester County.
- Our attorneys have handled condemnation matters in Aiken, Anderson, Barnwell, Beaufort, Charleston, Cherokee, Clarendon, Dorchester, Fairfield, Greenville, Horry, Jasper, Kershaw, Laurens, Lexington, Marlboro, Orangeburg, Pickens, Richland, Spartanburg, Sumter and York counties.

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