



CALIFORNIA
High-Speed Rail Authority

RIGHT-OF-WAY • REV. 2 APRIL 2013 (PREV. DECEMBER 2012 AND NOVEMBER 2009)

Your Property, Your High-Speed Rail Project

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The California High-Speed Rail Authority (Authority) prepared this booklet for you as a person who may potentially be affected by the proposed construction of the high-speed rail system, a public transportation project. If it appears that your property will be affected, you may be wondering what will happen. Who will contact you? What will you be paid for your property? Who will pay your moving costs? Will the Authority help you find a new place to live?

Important questions such as these require specific answers.

We hope this booklet will answer some of your questions and present a better picture of our overall procedures.

WHY DOES A PUBLIC AGENCY LIKE THE AUTHORITY HAVE THE RIGHT TO BUY MY PROPERTY?

Our state and federal constitutions recognize the need for public agencies to purchase private property for public use while providing appropriate safeguards to accomplish this purpose. The state and federal constitutions and various statutes, including the California Eminent Domain Law and the state Relocation Assistance Act, and the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act), authorize the purchase of private property for public use and outline how public agencies are required to protect the rights of each citizen whose property is being acquired.

The responsibility for studying potential sites for the high speed train system rests initially with Authority staff and teams of highly qualified consultants, and ultimately with the Authority Board which will make final decisions on the location of high speed train system tracks, structures and related facilities. By the time the Authority reaches a decision on the location of facilities many months and years will have been spent in preliminary study and investigation to consider possible locations for sections of the project.

Consideration of the environmental and community impacts of the high-speed train system is important in determining the location of tracks and facilities, as are engineering factors and costs. Participation by private citizens and public agencies is actively sought so that various views can be considered in the study process. The process may include public hearings and/or workshops, which give persons an opportunity to express their views on the locations being considered. As a result of this team effort, the best possible location for the rail facilities is selected after thorough social/community, economic, engineering, and environmental analyses, as well as consideration of expressed public concerns and desires. The goal is that the project provides the greatest public good and the least private injury or inconvenience while rendering the best possible service.

The Authority will employ various specialists, including the following:

Relocation Specialists

These individuals perform early studies of the general needs of persons who may need to be relocated and the kind of replacement properties which may be required. A relocation impact analysis will be completed before the Authority requires anyone to move from their property.

DEFINITIONS

The language used in relation to eminent domain proceedings may be new to you. These are some terms you may hear and their general meaning.

Acquire - To purchase.

Answer - The property owner's written reply, in appropriate legal form, filed with the court in response to the eminent domain complaint and as requested by the summons.

Authority - The California High-Speed Rail Authority.

Compensation - The amount of money to which a property owner is entitled under the law for the purchase of the property and any related damages.

Complaint - The document filed with the court by the Authority that initiates an eminent domain proceeding.

Condemnation - The legal process by which a proceeding in eminent domain is accomplished.

Counsel - An attorney or attorneys.

Deposit - A deposit made by the Authority with the State Treasurer as security for the property rights it is seeking to acquire. The deposit is based on the probable amount of just compensation as determined by an appraisal.

Eminent Domain - The right of a public entity to purchase private property for public use.

Property Surveyors

These individuals perform field surveys and monument property lines to delineate and map the Authority's right of way needs. They are also authorized by law to enter real property to perform such tasks. It is the Authority's policy that owners and tenants of property will be notified prior to such surveys.

WHO WILL CONTACT ME?

A Right-of-Way Agent or an appraiser will contact you to initiate an appraisal of your property on behalf of the Authority. You will be afforded the opportunity to accompany the appraiser on the inspection of your property. At the time of the inspection the appraiser will also provide you with general project information. The appraiser will analyze your property and examine all of the features which contribute to its market value. Information about improvements you have made and any other special features that you believe may affect the market value of your property should be given to the appraiser to ensure he/she has all the information you feel is relevant.

It is the duty of the Authority to ensure that you receive fair market value as if you sold your property privately in the open market. The Authority cannot buy your property for more than it is worth, but it **CAN** and **WILL** assure you that you do not have to sell your property for less than its fair market value. The owner shall receive a copy of the appraisal or a summary of the valuation upon which the Authority's offer is based.

At the time the offer is made to purchase your property, you may obtain your own appraisal and the Authority will reimburse you up to \$5,000 for the actual, reasonable costs of obtaining an independent appraisal. A state licensed appraiser must perform your appraisal. Your Right-of-Way Agent will provide more information concerning this reimbursement at the time of the offer.

WHAT ADVANTAGE IS THERE IN SELLING YOUR PROPERTY TO THE AUTHORITY?

A real estate purchase by the Authority is handled in the same way as any private sale of property. However, there can be financial advantages in selling to the Authority.

The Authority will pay fair market value for your property. The Authority will also pay for the preparation of all documents, all title and escrow fees, a policy of title insurance, recording fees and other fees that may be required for the conveyance of title to the Authority. Because this is a direct conveyance of real property from the property owner to the Authority, there are no real estate commissions involved, and the Authority will not recognize or pay any real estate commissions.

A private sale will usually cost the seller thousands of dollars in sales expenses. There are no seller's expenses in a purchase by the Authority.

Additionally, depending on your specific circumstances, you may be eligible for relocation payments and benefits when you move. These benefits are described in supplemental booklets which will be provided to you, should the Authority's acquisition actually cause you to be displaced from your property.

WILL I BE PAID FOR LOSS IN VALUE TO MY REMAINING PROPERTY?

When only a part of your property is needed for a project, every reasonable effort is made to ensure that you do not suffer damages to the remainder of your property. The total payment by the Authority will be for the property the Authority actually purchases and for any loss in market value to your remaining property.

The determination of any loss in market value due to a partial acquisition is an appraisal task involving many variables. When this situation occurs, the Right-of-Way Agent will explain the effect of a partial acquisition on your remaining property.

Fair Market Value - The highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

Final Order of Condemnation -

The instrument which, when recorded, transfers title to public ownership.

Judgment - The court's formal decision based on applicable law and the verdict.

Just Compensation - The amount paid to a private property owner by a public entity measured by the fair market value of the property being acquired.

Loss of Business Goodwill - A loss in the value of a business caused by a public entity's acquisition of property that cannot be reasonably prevented by relocation of the business or by the owner adopting prudent or reasonable steps that preserve the value of the business goodwill.

Parcel - Usually the property that is being acquired.

Plaintiff - The public entity that desires to purchase the property.

Possession - Legal control of the property including the right to use it.

MAY I RETAIN AND MOVE MY HOME, BUSINESS BUILDING, MACHINERY, OR EQUIPMENT?

If your house is movable and you wish to make such an arrangement, the Authority will pay you on the basis of the market value of your present lot including landscaping, plus the reasonable cost of moving the building. There are cases where, because of age, size or condition of the house, the cost of moving it would exceed its present market value, less its salvage value. In such a case, payment of moving costs would be an improper expenditure of public funds and your compensation would instead be based on the fair market value of the entire property.

If you operate a farm or business, you may wish to keep and move fixed machinery and equipment. Additionally, as an owner of a business conducted on the property to be purchased, you may be entitled to compensation for a loss of business goodwill. Your specific circumstances will need to be analyzed on a case-by-case basis.

If these concepts apply to your situation, they will be explained by the Right-of-Way Agent assigned to purchase your property.

WILL I HAVE TIME TO SELECT ANOTHER HOME AFTER THE AUTHORITY MAKES ITS PURCHASE?

The Authority starts to appraise properties early enough so that you will have ample time to move before the beginning of project construction. Like any other real estate transaction, the purchase of your property requires time to close an escrow after a right of way contract and deed have been signed. You will not be required to move until comparable, decent, safe and sanitary replacement housing is available.

Once you have received the written offer from the Authority to purchase your property, it is in your best interest to look for a new place to live as soon as possible. Finding a home early that best suits your needs before you are required to move will minimize your personal inconvenience and will avoid your having to make a choice of housing under pressure. In some instances you may be able to sell your property to the Authority and rent it back temporarily pending construction.

The Authority will also offer to provide you with assistance in finding a new place in which to live and will give you at least 90 days notice in writing before you are required to move.

WHAT HAPPENS TO THE LOAN ON MY PROPERTY?

After you and the Authority have agreed upon a price, a Right-of-Way Agent and/or a title company will contact all other parties having an interest in the property. Payment to satisfy outstanding loans or liens will be made through a title company escrow as in any other real estate transaction.

WHAT WILL HAPPEN TO MY GI OR CAL-VET LOAN?

The Veterans Administration and the California Department of Veterans Affairs allow your veteran loan privileges to be transferred and to become available for coverage on another property.

Your Right-of-Way Agent will assist you in the transfer. However, it is to your benefit and is your responsibility to check with the Veterans Administration or the California Department of Veterans Affairs for procedural instructions.

IF THE VALUE OF MY PROPERTY IS HIGHER TODAY THAN WHEN I PURCHASED IT, DO I HAVE TO PAY INCOME TAX ON THIS DIFFERENCE WHEN I SELL/CONVEY TO THE AUTHORITY?

Under both federal and California income tax law, the sale of property to a governmental agency for public use comes under the definition of an "involuntary conversion." Property owners who sell their property for a gain as a result of an involuntary conversion may elect to defer the tax on all or part of

Possession and Use Agreement - An agreement between an owner and the Authority allowing the Authority to enter and utilize the property under specific conditions, including the deposit of the full amount of the Authority's appraisal, while negotiations continue.

Property - The right or interest which an individual has in land and improvements, including the right to use or possess all or any portion of it.

Relocation Assistance Act - California Government Code 7260-7277 and Implementing Guidelines (25 Cal. Code of Regs., sections 6000-6198).

Summons - Notification of filing of a lawsuit in eminent domain and of the necessity to file an answer or other responsive pleading.

Title - Legal ownership.

Trial - The hearing of the facts presented by a plaintiff and a defendant in court of law, either with or without a jury.

Uniform Act - The Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. sec. 4601, et seq.) and Implementing Regulations (49 C.F.R. Part 24)

Verdict - Following trial, the amount of just compensation to be paid for a property including any damages to the remainder, if applicable.

the gain. If an election is properly made, the gain in the year of the sale is taxable only to the extent that the sales price received for the sale of the property exceeds the cost of replacement property, which must be purchased by the seller within certain time limits. You should consider consulting your tax advisor because of the various issues involved regarding the qualifications for, and tax reporting of, the special tax treatment under the involuntary conversion rules.

WILL I LOSE THE FAVORABLE PROPERTY TAX BASIS THAT I NOW HAVE UNDER THE PROVISIONS OF PROPOSITION 13?

Section 2(d) of Article XIII-A of the California Constitution, section 68 of the Revenue and Taxation Code and section 462.5 of title 18 of the California Code of Regulations generally provide that property tax relief shall be granted to any real property owner who acquires comparable replacement property after having been displaced by governmental acquisition or eminent domain proceedings.

You will be given a copy of section 462.5 with an attached page showing examples of how to calculate estimates of the tax relief you may be eligible for. These are only approximations. You must see your county Tax Assessor for a final determination.

Note: Revenue and Taxation Code section 68 and section 462.5 of title 18 of the California Code of Regulations set forth time limits that may affect your eligibility to retain your favorable current real property tax status.

THE AUTHORITY'S POWER OF EMINENT DOMAIN

A person's private property rights are protected by the federal and state constitutions and applicable federal and state laws. The principal right is that "just compensation" must be paid for private property acquired for a public project.

The vast majority of Authority's property transactions are settled by contract. However, if the owner and the Authority cannot agree on the terms of sale, the Authority may initiate the eminent domain process to avoid delaying the project, and may eventually be required to initiate condemnation proceedings.

Before filing a condemnation action in court, the Authority will give you an opportunity to question whether public interest, necessity, planning and location require the proposed project and your property. Condemnation lawsuit documents are prepared by the Authority and filed with the court in the county where the property is located. The summons and complaint in eminent domain will then be served on all persons having a property interest in the parcel. The persons served must answer the lawsuit within 30 days.

Counsel for the parties will then prepare for trial, and the court will set dates for briefing, preliminary motions and the trial.

WHAT HAPPENS IN A CONDEMNATION TRIAL?

The purpose of the trial is to determine the amount of just compensation. Usually the trial is conducted before a judge and jury. Both the property owner and Authority will have the opportunity to present evidence of property value. The jury will determine the amount of compensation after being instructed as to the law by the judge. In those cases where the parties choose not to have a jury, the judge will decide the amount of compensation.

Following trial, the judgment is prepared by counsel and signed by the judge. It will state that, upon payment of the amount of the verdict for the benefit of the private parties having an interest in the property, title will be transferred to public ownership.

When the Authority makes the payment as required by the judgment, the final order of condemnation is signed by the judge and recorded with the County Recorder's office. The recordation of the final order memorializes the actual transfer of title.

WHO PAYS THE CONDEMNATION TRIAL COSTS?

The Authority pays the costs of its attorney and its engineering and appraisal witnesses. It will also pay the jury fees and certain of your costs that are recoverable by law. The fee for filing your answer with the court is an example of these costs.

However, if after a trial the judge determines that the Authority's offer of settlement was unreasonable, and that the demand of the property owner was reasonable viewed in light of the evidence admitted at trial and the verdict, the property owner may receive reimbursement of litigation expenses such as attorney's and appraiser's fees. The judgment is then prepared by counsel and signed by the judge.

IF I WANT A TRIAL, MUST I HAVE AN ATTORNEY AND EXPERT WITNESSES?

Most property owners will be represented by an attorney, although they have the right to represent themselves.

You may wish to consult your family attorney. If you do not have one, you may consult the yellow pages of the local telephone directory for a listing of attorneys and an attorney reference service. The local bar association may also provide a list of attorneys who may offer services in eminent domain proceedings. You and your attorney must decide what type of case you will present and what witnesses will be needed.

WILL I BE PAID ANY RELOCATION ASSISTANCE BENEFITS EVEN THOUGH I GO TO COURT?

A decision to go to court has no effect on your right to relocation benefits. Payment of relocation benefits is administered separately from the condemnation action, although the amount of just compensation you receive may affect the amount of some of your relocation benefits. You will be provided details of additional assistance to help displaced persons, businesses, farms or nonprofit organizations in finding, purchasing or renting, and moving to a new location. These are explained in various booklets prepared for homeowners, tenants, and business and farm operators and will be made available by the Authority.

HOW LONG CAN I KEEP MY PROPERTY?

Continued use of your property usually depends on the date preparation for construction begins, usually with the need for utility relocations and the demolition and/or clearance of buildings. If preparation for construction must begin before the trial, the Authority will seek a court order for early possession of your property.

In this situation the Authority will be required to make a deposit with the State Treasurer, as security for the property rights it is seeking to acquire, of the probable amount of just compensation, as determined by an appraisal, equal to the appraised value of the property rights it is seeking. The court will determine if the amount of money deposited is adequate. Once the deposit is made the owner may withdraw all or a portion of it at any time during the condemnation proceedings.

Following the deposit, the court may then grant to the Authority an order for early possession allowing the Authority to use the property for construction of the project.

To obtain an order for possession, the Authority will file a motion with the court and schedule a hearing 90 days after you and all occupants of the property are served with the motion papers (60 days if the property is unoccupied). You and the occupants, if any, will have 30 days to oppose the motion. Once the court grants an order for possession of the property, the Authority may obtain possession of the property 30 days after the owner and any occupants are served with the order. You and all your possessions must be removed from the property not more than 30 days after you receive the order.

Subject to the rights of any other persons having an interest in the property, you may withdraw all or part of the pre-judgment deposit. If you do not make a withdrawal, the Authority will pay interest on the eventual court award, or agreed settlement sum from the time it legally occupied your property until the date of final payment to you. Interest will accrue at the applicable statutory rate until paid at the time of final settlement.

The Authority's Right-of-Way Agent assigned to purchase your property will assist you in the transaction and will be available to answer any additional questions you may have.

CALIFORNIA HIGH-SPEED

RAIL AUTHORITY

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This is an informational pamphlet only. It is not intended to give a complete statement of all state or federal laws and regulations pertaining to the purchase of your property for a public use, the Relocation Assistance Program, technical legal definitions, or contain any form of legal advice.

ADA Notice

For individuals with disabilities, this document is available in alternate formats.

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