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It's Been Three Years!

We launched our first Thorp Law Outer Loop Newsletter three years ago. Our goal then, and now, remains the same. We want you to know your rights as property owners, so the government does not take advantage of you.

Since we sent out our first newsletter, we have had hundreds of new subscribers. Because we have so many new readers, we thought this would be a good time to review the basics. We answer some key questions every property owner has about eminent domain: Can I stop the government from taking my property? How much am I entitled to? How will I know whether the government's offer is fair? What are the different stages of an eminent domain process?

This newsletter will help answer these questions for you. If you still have questions, call us. We offer free consultations. We want you to know your rights, whether you hire us or not.



What You Need to Know Before The Government Condemns Your Property

It's something property owners dread. You may have owned your property for years – built a home, raised your family – and now the government may take it from you through a process called eminent domain. If you may find yourself in this position, it's important that you educate yourself. Knowledge is power.

Here are answers to some common questions property owners have when facing the possibility of an eminent domain proceeding. If you have specific questions about your own circumstances,

Why am I receiving this newsletter?

Our mission is to arm property owners facing eminent domain with useful information so they can better understand what lies ahead.

Staying informed about the 540 Outer Loop expansion can help you understand your rights as a property owner, how these changes may affect you and how you can rightfully take action. Call us for a FREE consultation at 919-833-6408.

just pick up the phone. I'm happy to talk with you about what the process of eminent domain involves. It's free. No obligation. No pressure. We are here to help.

What is eminent domain?

Eminent domain refers to the government's power to take private property for a public purpose. This process is also known as condemnation. When the government takes property through eminent domain, it has to pay the property owner "just compensation." This means the government has to pay you full market value for the property it takes.

Who can take my property?

Federal, state or city governments can condemn your land if they can show that it's necessary for a public purpose. Public utilities can also take your property through eminent domain. They can only take your property if it's necessary for a public purpose, such as building new roads or schools or installing power or sewer lines.

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How much do they have to pay me?

The Constitution says the government has to pay you “just compensation.” This means it has to pay the full fair market value for your property.

How does the government decide what’s fair?

The government hires an appraiser who is supposed to figure out the fair market value of your property. An appraiser typically does this by looking at the price other properties like yours have sold for. These are called “comparable sales.” The appraiser will then form an opinion about what he believes your property is worth.

Keep in mind, an appraisal is only one person’s opinion. If the appraiser doesn’t do his homework, he may miss some comparable sales he should consider. If an appraiser does a lot of work for the government, he may be biased. This can sometimes affect the appraiser’s opinion and result in an appraisal that’s too low.

How do I know I’m getting paid fairly?

The only way to know for sure is to have an appraiser thoroughly investigate property values in your area, an appraiser who isn’t working for the other side and understands the condemnation process. Doing an appraisal for a condemnation case is a lot more complex than doing an appraisal for someone who wants to refinance his mortgage.

An experienced eminent domain lawyer can save you a whole lot of time and anxiety by finding a qualified appraiser who knows how eminent domain works. You don’t have to simply trust the government when it says its offer is fair. We can help you evaluate so that you can make the right decision financially for you and your family.

Am I better off with an attorney, or can I negotiate a settlement on my own?

You aren’t required to hire an attorney, and you are free to negotiate a settlement on your own.

Keep this in mind, when deciding whether or not to hire a lawyer. A 2015 legislative study by the North Carolina General Assembly found that property owners who hired condemnation attorneys and went to court in eminent domain proceedings received substantially more money on average than the people who accepted the Department of Transportation’s initial offer.

How much more? A lot more. The study found that landowners who hired attorneys and obtained jury verdicts from 2009-2014 recovered on average over 160% more than people who simply accepted the DOT’s initial offer.

Can I take what they pay me and seek more?

Absolutely. After the government pays you what it says the property is worth, the money is yours to keep. You may also seek additional compensation through a lawsuit. The government cannot take back the money it has already paid, nor force you to pay back what you have already received.

Can I stop the condemnation from happening?

It is really hard to stop a condemnation from taking place. The government is required to notify property owners of its intent to condemn property. You can sue to stop the process if you can show that the project is not necessary for the public good. If the condemnation is part of a highway project, you are unlikely to be successful in stopping it.

What if the government takes only part of my property?

The government may decide that it requires only a part or parcel of your property to meet its public project needs and pay you for what it takes. You may be entitled to be paid more if the remaining land is worth less as a result of the condemnation project.

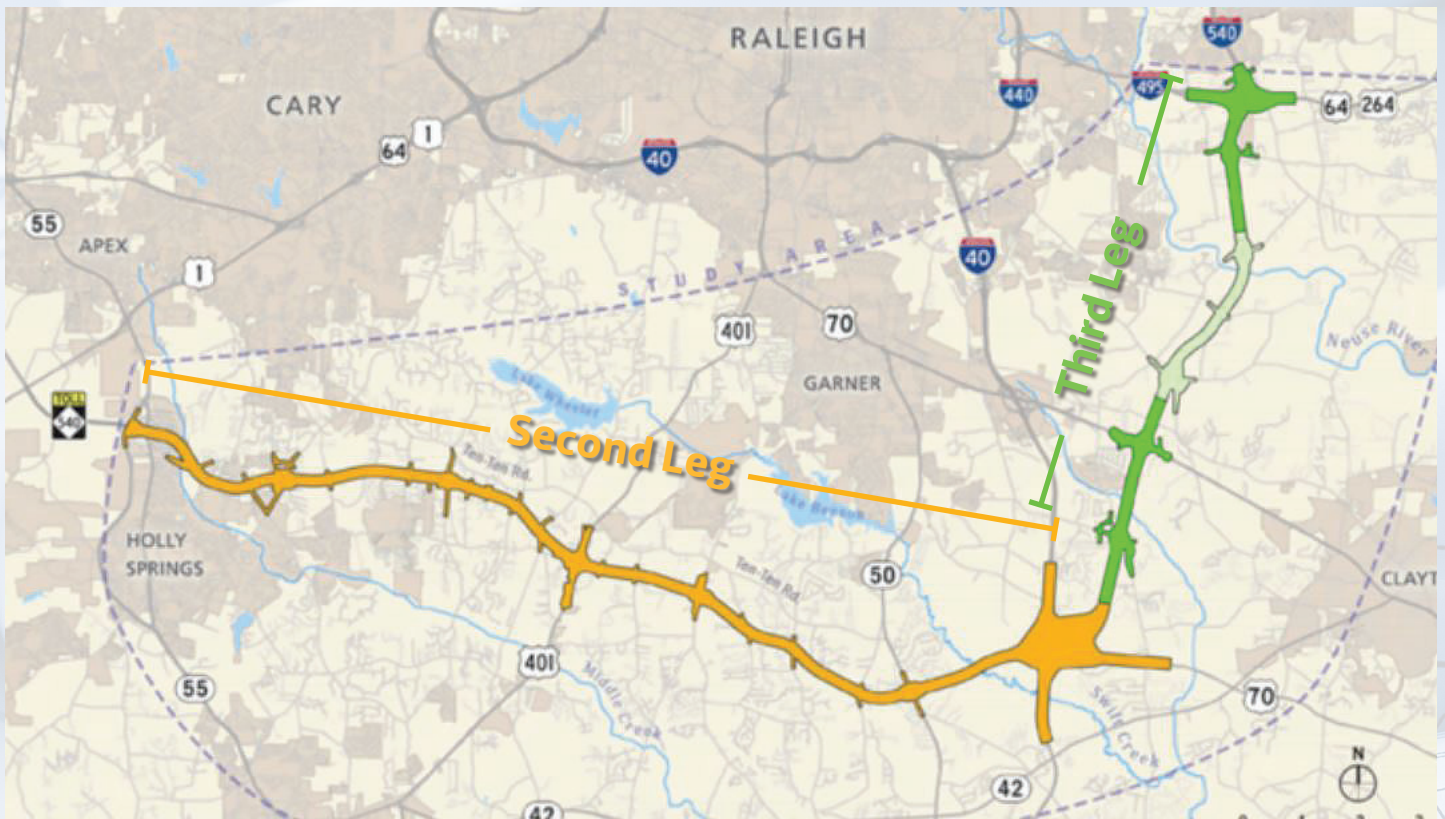
What should I do before the government takes my property?

First, do no harm. Don’t stake yourself out about how much you think your property is worth. Opinions you share with the government or its appraisers about what you think your land is worth can later be used in court and may hurt your case. The eminent domain process is complicated. The best thing you can do is to maximize your financial leverage by contacting an experienced eminent domain attorney.

If I have to move, can I get compensated?

If you have to move because of the condemnation project, you may be entitled to compensation related to moving expenses. North Carolina’s Uniform Relocation Assistance and Real Property Acquisition Policies Act may provide financial assistance to help you with these costs.

Outer Loop - Southeast Extension



★ Highway Construction Timeline

After years of delay, the NCDOT has announced that construction on the Southeast Extension of the 540 Outer Loop could begin as early as the end of this year. This section will encompass the stretch of new highway between NC-55 and I-40. The NCDOT recently awarded contracts to two construction firms to build the Southeast Extension. This portion of the roadway is expected to be open to traffic in 2023. The third and final leg of the project stretching from I-40 to US 64/264 is not slated to begin construction until 2027.

★ The Battle Continues Over How Much Interest the DOT Has to Pay Landowners

In 2016, the state legislature passed a terrible law that penalizes property owners who face eminent domain claims by the North Carolina Department of Transportation (NCDOT). Fortunately, eminent domain attorneys are challenging the law in the courts, and we are winning some important battles.

The law significantly reduces the interest rate the NCDOT is required to pay when juries award favorable verdicts to landowners.

Some quick background: The NCDOT must pay interest on the amount a jury awards to a landowner. This interest is calculated from the time the state condemns your property until the government pays the judgment. Before the legislature passed this new law, the NCDOT had to pay property owners 8 percent per year in interest on the amount of the jury verdict.

Under the new law, the NCDOT must pay an interest rate that is equal to the “prime rate” set by the Federal Reserve. This rate fluctuates, but it is generally much lower than 8 percent. Depending on the size of the verdict, the lower interest rate can result in a property owner being paid thousands of dollars less than he would have received before the law was changed.

The new law penalizes landowners facing eminent domain in another way: it caps the interest rate the NCDOT has to pay at 8%, even when the prime rate exceeds 8%. Now, if the prime rate rises to rises to 12%, the NCDOT still only has to pay 8% interest.

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The good news is that eminent domain attorneys are fighting back. The Constitution requires the government to pay “just compensation” when taking private property through eminent domain, regardless of what the legislature says or does. Some judges in North Carolina have concluded that the law limiting the amount of interest the NCDOT has to pay violates the Constitutional guarantee of just compensation.

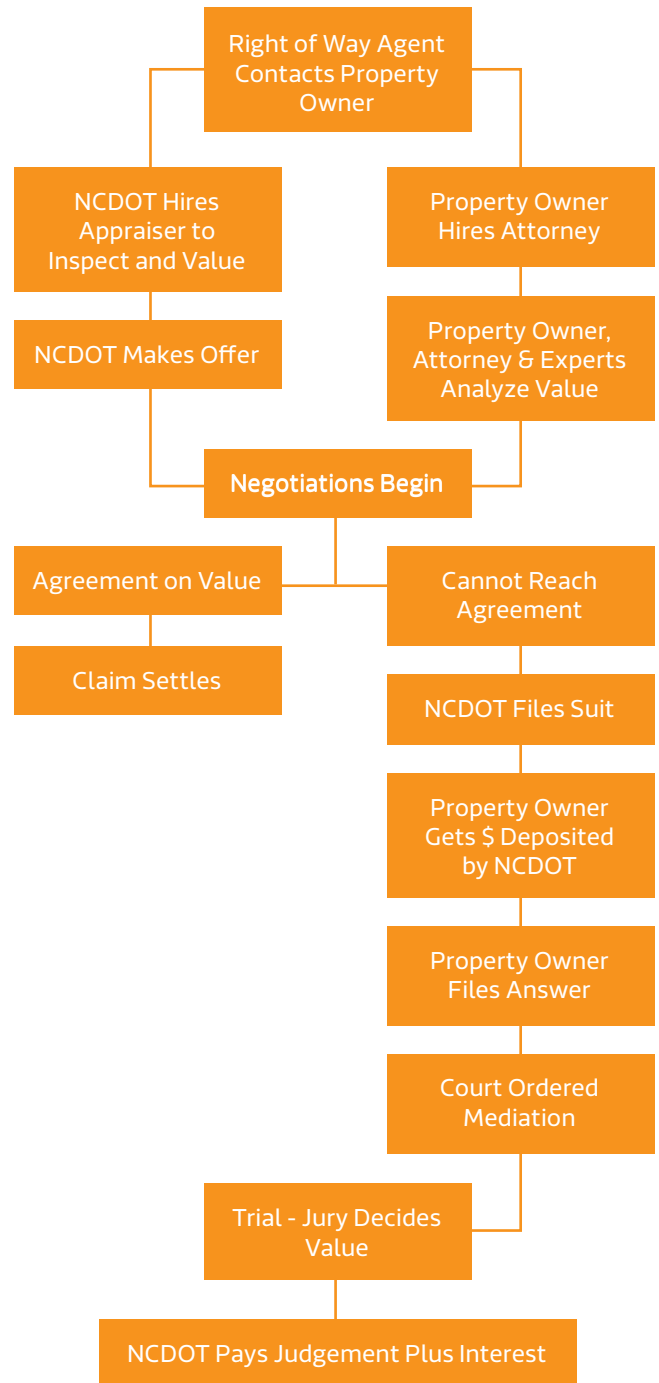
In our last newsletter, we told you about an eminent domain trial in Fayetteville. A jury awarded a large verdict to property owners, as just compensation for the value of the property taken by the NCDOT. The judge refused to use the prime rate when calculating the interest the NCDOT had to pay. Instead, the court required the NCDOT to pay an 8% interest rate compounded annually. As a result, the court ordered the NCDOT to pay the amount of the jury verdict, plus several hundred thousand dollars in interest!

There are new developments in that case that we are reporting for the first time. The NCDOT appealed the trial court’s order, giving the North Carolina Court of Appeals an opportunity to weigh in. All parties recently filed their briefs, and oral arguments will probably take place in the next several months. There is a very good chance that the Court of Appeals will enforce the trial court’s order and require the NCDOT to pay the 8% interest rate.

You can count on us to keep you informed about any new developments related to this and other eminent domain issues affecting property owners in our upcoming newsletters.



What’s involved in a Typical Eminent Domain Claim?



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