

Farm Management

Know rights as landowner

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OHIO and federal law gives government entities and utility companies the authority to use an individual's land for a public project such as a roadway or utility line. The legal definition for this concept is appropriation, but it is better known as eminent domain. The authority of eminent domain is very powerful, and it is usually very difficult for an individual to prevent some or all of his land being taken for eminent domain. However, individuals do have rights to ensure that they are fairly compensated for the loss of their property.

Eminent domain typically has a negative connotation because it often involves a government entity taking an individual's property. While this skepticism of government takings is needed and warranted, it is important that government be able to take property for the good of the public. Without eminent domain, a single landowner could obstruct a much-needed highway or force the road to go around his property at considerable expense to taxpayers. So while eminent domain is needed to ensure that public projects can be completed with the least cost to taxpayers, the law helps ensure that those who have property taken are fairly compensated for their loss.

Before the government or utility company can take land by eminent domain,



Country Counsel

By ROBERT MOORE

they must make an effort to negotiate a purchase of the property with the owner. In many cases, an agent will be hired to contact landowners and to initiate negotiations. At some point in the negotiations, the agent will present the landowner with a contract that contains payment terms and terms for the property. The offered price must be based on an appraisal.

Therefore, landowners should always ask to see the underlying appraisal and analyze it closely. It is extremely important that the landowner understand that he has negotiating leverage and need not simply take what is offered. Like any buyer, the government or utility company has an incentive to buy the property at the lowest price possible.

The government or utility company will either require an easement or a purchase of the property. An easement allows the government to use the individual's land but does not transfer complete title. The individual can continue to use the land as he wishes, subject to any restrictions in the easement. If the

government buys the property, then the landowner no longer has title to the property and has no right in how it is used. It is therefore important to understand if property is being taken as an easement or a purchase. It is common that both an easement and a purchase will be done at the same time. Landowners should always ask for a survey or map of the property being taken so that they fully understand what is being taken as an easement or a purchase.

Get an appraisal

Individuals can attempt to stop eminent domain proceedings, but it is extremely difficult to prevail. The government or utility company merely needs to show that the project is for the public good and that the route of the project is reasonable. Therefore, the landowner is usually better served to focus his time and energy on negotiating the best price possible. The landowner may want to get his own appraisal, talk to adjoining landowners regarding their negotiations, and/or discuss the offered price with real estate professionals.

An important factor to consider is the effect that the easement or purchase will have on accessibility to the property. If the eminent domain causes the portion of the property to be inaccessible, it may significantly decrease the value of the property. For example, the government purchases a right-of-way to expand a major highway. The terms of the new right-of-way do not allow the

property owner to have direct access to the road. Previously, the property owner had direct access to the roadway but now will only be allowed to access the new roadway several miles away at the nearest intersection. The inability to directly access the roadway will likely significantly diminish the development value and possibly the agricultural value of the property.

If the landowner cannot come to agreeable terms with the government or utility company, the matter will go to trial, and a judge or jury will decide what compensation is owed to the landowner. A trial is very expensive and time-consuming and should be avoided if at all possible. However, if the landowner believes that he is not being fairly compensated for the eminent domain taking, the law provides him a day in court to make his case.

Eventually, the landowner will receive compensation for the property that was taken. This compensation is taxable income. However, if the landowner uses these funds to purchase other real estate, the capital gain taxes are deferred.

There are other strategies available to help reduce the tax liability on any eminent domain compensation. The landowner should seek the advice of a tax professional at the first opportunity to be sure that he fully understands the tax implications of the compensation and how best to minimize tax liability.

Arts & Crafts



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Please contact Dottie Rovner
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Market fails to see inflation

U.S. fiscal policy and monetary policy are both expansionary. Expansionary policies are inflationary. But the market does not see inflation yet.

For years analysts viewed the interest rate on the 30-year Treasury bond as a barometer of future inflation. The logic: Investors would not lend money for 30 years unless they expected interest earnings from buying the long-term bond would beat inflation by 3% to 4%.

Inflation accelerated through the 1970s. Some people trace the roots of that inflation back to Uncle Sam's financing both the war on poverty and the escalating war in Vietnam on borrowed money. By the late 1970s, the market expected inflation to keep rising. The 30-year Treasury interest rate climbed sharply.

From the '70s to the '80s

Throughout the 1970s, Washington made toothless policy efforts to whip inflation. In 1979 the Federal Reserve clamped down on the money supply growth rate to wring inflation out of the economy. Americans were skeptical. Interest rates actually advanced as skeptics continued borrowing to buy assets as hedges against inflation.

By the early 1980s, the market began to believe that the Federal Reserve's tight money policy would



On the Money

By JOHN OTTE

cut inflation. The 30-year rate fell well below the inflation rate as measured by the Consumer Price Index. Recent 30-year rates have run 2.5% to 3%, the lowest in 30 years.

In normal times, the 30-year interest rate is a barometer of future inflation. People are not willing to lend long term at low rates if they expect inflation to accelerate. But current times are anything but normal.

Flight to safety cuts rates

"The reason today's Treasury bond rates are so low has little to do with current expectations of future inflation," explains Dennis Starleaf, Iowa State University economist. "People and institutions want a safe place to store value and hopefully receive some sort of return on their investment."

Many people and institutions are suspicious about the safety of other assets like corporate bonds, stocks and even the debts of many other governments. Uncle Sam can ill afford a reputation of stiffing creditors. So investors view U.S. government securities as safe.