

# TEXAS DEPARTMENT OF TRANSPORTATION 2025-2026 EDUCATIONAL SERIES

## EMINENT DOMAIN

- Land Acquisition and Valuation Process
- Negotiation Process and Value Determination
- Special Commissioners' Hearing
- Jury Trial
- Relocation Assistance
- The State of Texas Landowner's Bill of Rights
- Authority to Acquire Property
  - Texas Transportation Code

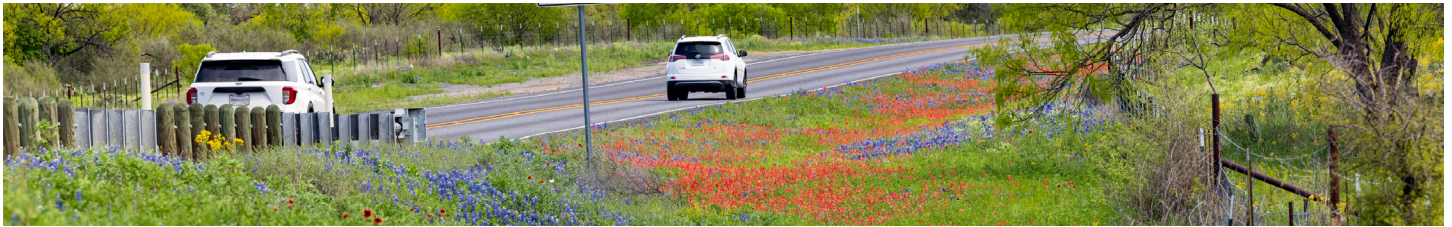


**Texas Department of Transportation (TxDOT):** Public website offering information and resources for drivers, businesses, government officials, and anyone interested in learning about TxDOT.



**TxDOT 2025-2026 Educational Series:** Focuses on key transportation issues affecting TxDOT and Texas.





## OVERVIEW

When the state requires additional land for new transportation projects, the Texas Department of Transportation (TxDOT) engages with private property owners to acquire land not currently owned by the state. TxDOT acquires most of the land it requires for transportation projects by negotiating the purchase with property owners. However, if TxDOT and a property owner are unable to reach an agreement upon the terms of a sale of property, TxDOT may condemn the property through its power of eminent domain to acquire the property for the transportation project. TxDOT recognizes that using the power of eminent domain requires balancing the rights of private property owners and the needs of the public and is committed to working fairly with property owners through the negotiation process or condemnation proceedings.

While eminent domain refers to the legal authority of the state or another entity to acquire private property for public use, condemnation is the legal process under which the state may acquire private property for public use. Entities authorized with the power of eminent domain cannot acquire a landowner's private property, which can include land and certain improvements located on that property, without providing adequate compensation (fair market value).

The Texas Constitution (Article 1, Sec. 17) and state law (Chapters 51, 91, 203, 224, and 391, Texas Transportation Code) grant TxDOT with the power of eminent domain on behalf of the people of Texas, and TxDOT uses that authority judiciously. TxDOT only exercises its eminent domain authority when it has exhausted all alternative efforts to reach an agreement for a property sale to TxDOT. Historically, TxDOT has acquired around four out of every five parcels through the negotiation process.



## LAND ACQUISITION AND VALUATION PROCESS

The condemnation process cannot begin until after TxDOT has obtained all environmental approvals for a transportation project. Throughout the environmental review process, which may require years to complete, TxDOT holds multiple meetings with the public to discuss alternative project routes, alignments, and designs. After TxDOT determines a final alignment that best meets and balances the needs of the proposed transportation project, the needs of the public, and relevant environmental needs, property acquisition may begin. (For more information on the public involvement and environmental review process, see — Project Development, Selection, and Delivery (Project Lifecycle) Section of the Educational Series).

When TxDOT determines that it needs property for a transportation project, pursuant to state law TxDOT must obtain an independent third-party appraisal to determine the fair market value of the property. The Texas Constitution requires that a state agency pay “adequate compensation,” which is defined by Texas courts as fair market value of the property acquired plus any damages to the remaining property. Similarly, the interest of taxpayers requires that compensation from the state to a private property owner should not exceed fair market value.

To comply with state law requiring TxDOT to hire an independent appraiser to determine a property's fair market value and any compensable damages to the value of the remaining property, a survey of the property is conducted. Appraisers must contact landowners in advance to provide them the opportunity to attend the inspection of the property. These in-person meetings with the appraiser and the landowner allow the landowner to point out unique aspects of the property including improvements such as water wells, septic systems, and drainage improvements. The landowner can verify the items of value on the property and provide input regarding whether the possible loss of the appraised tract of land might impact any adjacent properties that the landowner owns. Once the independent appraisal is complete, TxDOT makes an offer based off the appraisal and commences any necessary negotiations with the affected property owner.

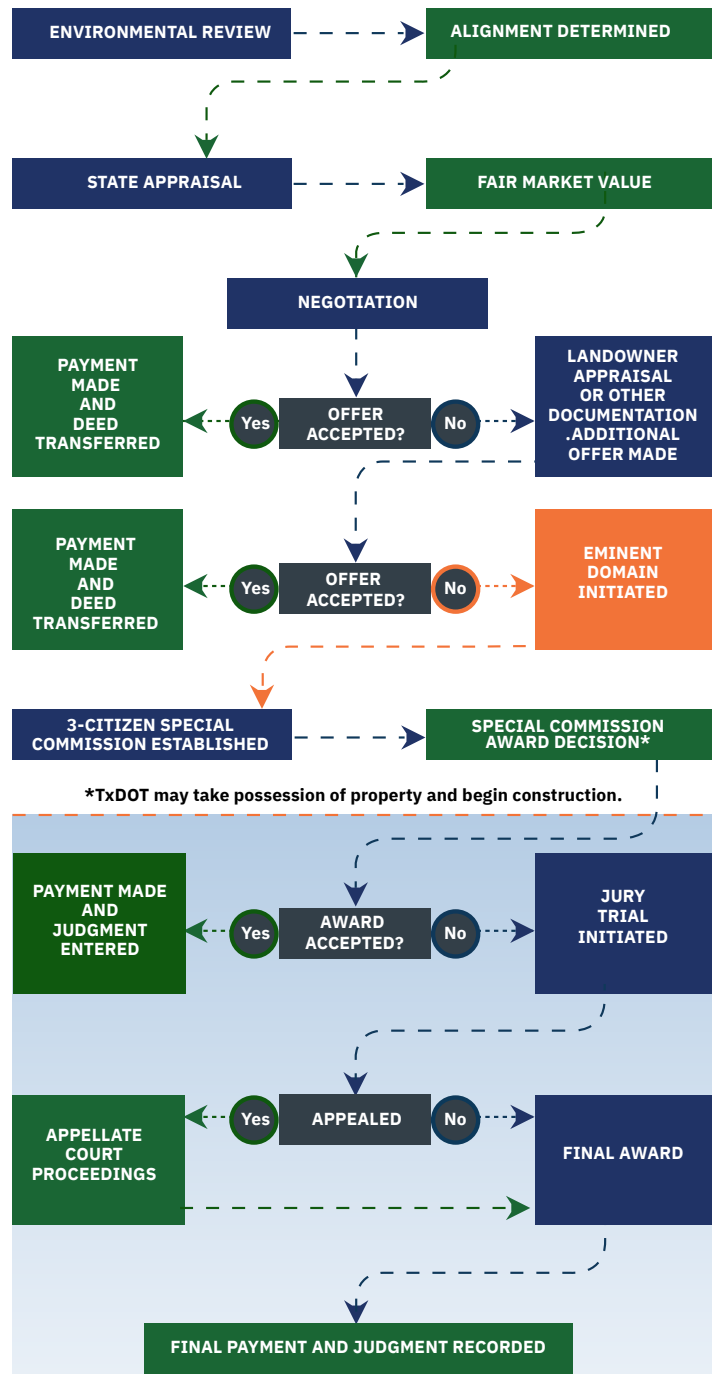
# NEGOTIATION PROCESS AND VALUE DETERMINATION

When acquiring land for transportation projects, TxDOT begins by attempting to acquire property through negotiations with the landowner. TxDOT procedures balance private property rights and comply with the United States and Texas Constitutions regarding adequate landowner compensation. TxDOT also complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which establishes uniform and equitable land acquisition policies for federal and federally assisted programs, which include most TxDOT highway improvement projects.

After obtaining an independent appraisal of the property value, providing a copy of the appraisal to the landowner (as required by state law to be provided alongside an initial offer), and making an initial offer, TxDOT attempts to personally meet with the landowner to discuss the appraisal and initial offer. These meetings allow the landowner to ask questions, view right of way maps and plans, and receive information on the appraisal process.

The landowner may also seek additional counsel from an attorney or independent appraiser that the landowner hires. After reviewing the appraisal, a landowner may make a counteroffer, supported by its appraisal or documented conditions that may not have been considered in the original appraisal. If the landowner establishes that the independent appraisal obtained by TxDOT overlooked significant improvements or if the landowner identifies other discrepancies in the independent appraisal, TxDOT may have the independent appraiser revise and re-submit the appraisal. TxDOT may also seek a new appraisal from a different independent appraiser. If negotiations are successful, the landowner sells the parcel of land to TxDOT for the negotiated value.

If TxDOT and the landowner are unable to reach an agreement on the value of the property, TxDOT cannot locate a landowner, or if title problems prevent the landowner from conveying a clear title, TxDOT will engage the legal services of the Office of the Attorney General of Texas and initiate the condemnation process. Under this process, which can take several months or longer to complete, court-appointed special commissioners in the county of the property at issue will determine the property owner's compensation for the property. If either the property owner or TxDOT deems that value to be unsatisfactory, either party can file objections to that value, initiating a lawsuit that may end in a jury trial to determine the final property value.



\*TxDOT may take possession of property and begin construction.

\*TxDOT cannot begin construction on a project until a special commission award decision is final.





## SPECIAL COMMISSIONERS' HEARING

The special commissioners' hearing process begins when TxDOT requests that the Office of the Attorney General of Texas file a condemnation proceeding. At that time, a county court at law judge or a district court judge (depending on the county in which the acquisition takes place) appoints a special commission to determine the property value and damages, if any, in an administrative hearing. Three disinterested property owners—individuals without a personal stake in the outcome of the hearing—who live in the same county as the land subject to the condemnation proceeding are appointed by the judge and make up the special commission for each case. Pursuant to state law, both special commissioners and their alternates must be appointed by a judge no later than 30 days after the filing of an initial petition to condemn. The special commissioners will then schedule a condemnation hearing at the earliest practical time and place, and TxDOT or the condemning entity must provide the landowner with written notice of the hearing. The court notifies the landowner of the date and place of the special commissioners' hearing. At the hearing, the special commissioners hear testimony from TxDOT and the landowner on their respective appraisal values and evaluate any damages to the owner relating to the property. The Office of the Attorney General of Texas represents TxDOT in these proceedings. In some cases,

the Office of the Attorney General of Texas may contract with private law firms to represent TxDOT. Landowners may choose to appear by themselves, or with an attorney or an appraiser. Both TxDOT and a landowner are responsible for providing all current and existing appraisals, which form the basis of either parties' opinion of the property's value, to each other at least three business days before a special commissioners' hearing.

The special commissioners determine the amount of adequate compensation, which includes any damages to the remaining property based on the testimony provided during the hearing and then issue a Special Commissioners' Award. If both the landowner and TxDOT are satisfied with the special commissioners' award, the award becomes final, and the court will issue a judgment that transfers the property to TxDOT. Either TxDOT or the landowner can file objections to the special commissioners' award. If objections are presented, the administrative process converts into a lawsuit, which can lead to a jury trial. At any time after the special commissioners issue their award, TxDOT may deposit the amount of the special commissioners' award with the court. If TxDOT makes this deposit, TxDOT takes legal possession of the land for construction purposes. The landowner, and others with claims to the land, may apply to the court to withdraw the funds, without forfeiting the right to appeal the special commissioners' award amount.





## JURY TRIAL

During a jury trial for a condemnation proceeding, witnesses for TxDOT and the landowner testify before a jury and the jury determines the amount of adequate compensation that TxDOT must pay for the land. However, as in most civil trials, the parties settle many cases by agreeing on the final payment amount and avoid proceeding through a full trial. Either party may appeal a jury verdict, and proceedings are not final until the conclusion of any appeals.

If the final agreement or jury verdict payment is greater than the deposit amount after the Special Commissioners' Hearing, TxDOT must pay the difference to the landowner. Conversely, if the total amount is less than the special commissioners' award and the landowner has withdrawn the full amount of the award, the landowner must repay the difference to TxDOT. In either case, the court enters a final judgment for the total amount and transfers the complete title to TxDOT.

## RELOCATION ASSISTANCE

In addition to adequate compensation for property, eligible landowners and tenants may also be entitled to relocation benefits. The federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 authorizes benefits to certain persons and businesses who have been displaced from real property due to acquisition for transportation projects. State law requires TxDOT to provide relocation assistance compatible with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Texas Property Code.

There are three types of relocation assistance programs:

1. For individuals.
2. For businesses, farms, or non-profit organizations (non-residential).
3. For those whom the property acquisition has not physically displaced but who must relocate personal property from within the acquired right of way.

### INDIVIDUALS

This program offers a replacement housing payment for the owner-occupants of the affected property. The replacement payment amounts to the difference between the amount paid for the dwelling and the cost of decent, safe, and sanitary comparable replacement housing. A displaced owner-occupant may also be eligible for a lump-sum payment for any increased interest required in financing a replacement dwelling, if necessary. Incidental expenses associated with purchasing replacement housing are also reimbursable under this program.

A tenant on an impacted property may be eligible for a rental assistance payment. This supplement is the difference in cost between the current rent and utilities and the rent and utilities of decent, safe, and sanitary comparable replacement housing for a 42-month period. The tenant may use the rental supplement as a down payment for replacement housing and for related replacement expenses.

In addition to these housing assistance benefits, TxDOT's relocation program also provides reimbursements for costs associated with moving furniture and other personal property from the displacement site, as well as for reconnecting utilities.



## **BUSINESS, FARM, OR NON-PROFIT ORGANIZATION (NON-RESIDENTIAL)**

This program covers expenses associated with disconnecting, moving, and reinstalling personal and company property at a non-residential property, such as a business, farm, or non-profit site impacted by property acquisition for highway use. These moving expense payments cover items that TxDOT did not purchase as part of the real property, such as furniture, inventory, and equipment. Eligible moving expense reimbursements also include reasonable and necessary modifications to accommodate the personal property at the replacement location. Other moving expenses covered under this program include hiring professional move consultants; replacing letter or card stock; re-lettering signs; running utilities to the replacement site; replacing tangible personal property; and covering one-time impact or usage, storage, and professional fees associated with the purchase or lease of a replacement site.

These entities are also eligible for a “re-establishment” payment for modifications to the replacement location to accommodate the business cost associated with advertising the replacement location and expenses associated with searching for a replacement location.

## **PERSONAL PROPERTY**

Situations may arise in which the property acquisition does not displace an individual or a business, but the owner must nonetheless relocate personal property from within the acquired right of way. In these instances, the owner of such property is entitled to reimbursement for the reasonable cost of moving these items.





## YOUR RIGHTS REGARDING EMINENT DOMAIN: TEXAS LANDOWNER'S BILL OF RIGHTS

Section 402.031, Texas Government Code, and Chapter 21, Texas Property Code, contain the Texas Landowner's Bill of Rights. State law requires TxDOT to provide a copy of the Landowner's Bill of Rights statement to a landowner before or at the same time TxDOT represents in any manner to the landowner that TxDOT possesses eminent domain authority. The Landowner's Bill of Rights applies to any attempt by the government or a private entity to take private property and includes the following:

1. Landowners are entitled to receive adequate compensation if the government takes property for public use;
2. The government or a private entity can only take landowners' property for public use;
3. A governmental entity or private entity must have legal authorization to take a landowner's property;
4. The entity that wants to take the property must notify the landowner that it wants to take the property;
5. The entity proposing to take a landowner's property must provide the landowner with a written appraisal from a certified appraiser detailing the adequate compensation that the entity will pay for the property;
6. If a landowner believes that a registered easement or right-of-way agent acting on behalf of a condemning entity seeking to acquire the landowner's property has engaged in misconduct, the landowner may file a written complaint with the Texas Real Estate Commission (TREC) under section 1101.205 of the Texas Occupations Code. The complaint should be signed and may include any supporting evidence.
7. The entity proposing to take a landowner's property must make a bona fide offer to buy the property before it files a lawsuit to condemn the property – which means the condemning entity must make a good faith offer that conforms with Chapter 21, Texas Property Code;
8. A landowner may hire an appraiser or other professional to determine the value of the property or to assist in any condemnation proceeding;
9. A landowner may hire an attorney to negotiate with the condemning entity and to represent the landowner in any legal proceedings involving the condemnation;
10. Before the condemning entity may condemn the property, the landowner is entitled to a hearing before a court-appointed panel that includes three special commissioners. The special commissioners must determine the amount of compensation the condemning entity owes for the taking of the property. The commissioners must also determine what compensation, if any, the landowner is entitled to receive for any reduction in the value of any remaining property; and
11. If a landowner is unsatisfied with the special commissioners' compensation award, or if the landowner questions whether the taking of the property was proper, the landowner has the right to a trial by a judge or jury. If a landowner is dissatisfied with the trial court's judgment, the landowner may appeal that decision.



**TEXAS  
LANDOWNER'S  
BILL OF RIGHTS**

<https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/general-oag/landowners-bill-of-rights-2022.pdf>

## SECTION 203.052, TEXAS TRANSPORTATION CODE

State law authorizes the Texas Transportation Commission to purchase property to achieve the goal of laying out, constructing, maintaining, and operating a modern state highway system. Chapter 21, Texas Property Code, codifies the power of eminent domain and the condemnation process. The following provisions of the Texas Transportation Code lay out the purposes for which the state may purchase property for state highways.

### SECTION 203.052 (COMMISSION DETERMINATION REQUIRED).

(a) The commission may acquire an interest in real property, a property right, or a material under Section 203.051 only if the commission determines that the acquisition is necessary or convenient to a state highway to be constructed, reconstructed, maintained, widened, straightened, or extended.

(b) Property necessary or convenient to a state highway for purposes of Subsection (a) includes an interest in real property, a property right, or a material that the commission determines is necessary or convenient to:

1. Protect a state highway;
2. Drain a state highway;
3. Divert a stream, river, or other watercourse from the right-of-way of a state highway;
4. Store materials or equipment for use or used in the construction or maintenance of a state highway;
5. Construct or operate a warehouse or other facility used in connection with the construction, maintenance, or operation of a state highway;
6. Lay out, construct, or maintain a roadside park;
7. Lay out, construct, or maintain a parking lot that will contribute to maximum use of a state highway with the least possible congestion;
8. Mitigate an adverse environmental effect that directly results from construction or maintenance of a state highway;

9. Subject to Subsection (c), provide a location for an ancillary facility that is anticipated to generate revenue for use in the design, development, financing, construction, maintenance, or operation of a toll project, including a gas station, garage, store, hotel, restaurant or other commercial facility;
10. Construct or operate a toll booth, toll plaza, service center, or other facility used in connection with the construction, maintenance, or operation of a toll project; or
11. Accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway.

(c) The commission may not acquire property for an ancillary facility through the exercise of eminent domain, unless the acquisition of the property is for one of multiple ancillary facilities included in a comprehensive development plan approved by the county commissioners' court of each county in which the property is located.

The Texas Transportation Code also authorizes TxDOT to acquire property by eminent domain for the Intracoastal Waterway (Section 51.005), Rail Facilities (Section 91.091), Interstate Highways (Sections 224.001 and 224.004), Highway Beautification (Section 391.033), and Scenic Enhancement or Public Accommodation (Section 391.181).



<https://statutes.capitol.texas.gov/Docs/TN/pdf/TN.203.pdf>





## MISSION

Connecting you with Texas.

## VISION

A forward thinking leader delivering mobility, enabling economic opportunity, and enhancing quality of life for all Texans.



## VALUES

### People

People are the Department's most important customer, asset, and resource. The well-being, safety, and quality of life for Texans and the traveling public are of the utmost concern to the Department. We focus on relationship building, customer service, and partnerships.

### Accountability

We accept responsibility for our actions and promote open communication and transparency at all times.

### Trust

We strive to earn and maintain confidence through reliable and ethical decision-making.

### Honesty

We conduct ourselves with the highest degree of integrity, respect, and truthfulness.



## PRIORITIES

### Safety

Design, build, operate, and maintain our transportation system with safety as our #1 priority.

### Delivery

Responsible program execution throughout the transportation life cycle (planning, design, construction, maintenance, and operations).

### Innovation

Forward-thinking, technology-focused, fostering a culture of continuous improvement.

### Stewardship

Professional, responsible stewards of resources.

