

Frequently Asked Questions Related to Property Impacts and Eminent Domain

Q: Which agency will implement the eminent domain proceeding for the High-Speed Rail Project?

The California High Speed Rail Authority

Q: What legal authority does the California High Speed Rail Authority have to buy my property?

The state and federal constitutions and various statutes, including the California Eminent Domain Law and the state and federal Uniform Relocation Assistance and Real Property Acquisition Policies 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 California High Speed Rail Authority has to adhere to the regulations and the goal is that the project provides the greatest public good and the least private injury or inconvenience while rendering the best possible service.

Q: Will my property be purchased at fair market value?

Yes. Appraisal will be performed by a Right of Way Agent with the Rail Authority and a copy of the appraisal or a summary of the valuation upon which the Rail Authority's offer is based will be provided to the property owner as required by California law.

Q: Can I obtain an independent appraisal?

Yes, and the Rail Authority will reimburse up to \$5,000 for the actual, reasonable costs of obtaining an independent appraisal.

Q: Are there any advantages in selling the property to the Rail Authority?

A real estate purchase by the Rail Authority is handled in the same way as any private sale of property. However, there can be financial advantages in selling the property to the Rail Authority, including that there will be a fair market value transaction, there are no seller's expenses, and there may be relocation or other benefits depending on specific circumstances.

Q: How is payment of partial acquisition handled?

When only a part of the property is needed for a project, the total payment will be for the property the Rail Authority actually purchases and for any loss in market value to the remaining property.

Q: Will there be enough time to select another home after the Rail Authority makes its purchase?

Yes, however, property owners should act promptly after they receive the written offer from the Rail Authority. The Rail Authority offers assistance in finding new homes and will provide at least 90 days notice in writing before a property owner is required to move.

Q: Do I have to pay income tax on the gain of my property value as a result of eminent domain proceedings?

Under federal and California income tax law, 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 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 exceeds the cost of replacement property, which must be purchased by the seller within certain time limits.

Q: Will I lose the favorable property tax basis under the provisions of Proposition 13?

California laws generally provide that property tax relief shall be granted to any real property owner who acquires comparable replacement property due to displacement by eminent domain proceedings. Note that time limits have been set in these regulations which may affect a property owner's eligibility to retain the favorable current real property tax status.

Q: How will the transactions be settled?

The vast majority of Rail Authority's property transactions are settled by contract. However, if agreement cannot be reached with the property owner, the Rail Authority may initiate the eminent domain process, and may eventually be required to initiate condemnation proceedings. Condemnation lawsuit documents are prepared by the Rail Authority and filed with the court in the county where the property is located.

Q: What happens in a condemnation trial?

*The purpose of the trial is to determine the amount of **just compensation** (not the right to condemn the property). The trial is usually conducted before a judge and jury. The jury will determine the amount of compensation. In the cases that the parties choose not to have a jury, the judge will decide the amount of compensation. When the Rail 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.*

Q: Who pays the condemnation trial costs?

The Rail Authority pays for the costs of its attorney. It will also pay the jury fee and certain of the property owner's cost that are recoverable by law. Property owners pay for the costs of their attorney. However, if after a trial that judge determines that the Rail Authority's offer was unreasonable, the property owner may receive reimbursement of litigation expenses.

Q: Where Can I find additional information regarding eminent domain?

Visit www.cityofsanmateo.org/highspeedrail. Click on the menu item "High Speed Rail Authority Click Links" and scroll to the "HSRA Booklet on Eminent Domain Guidelines."

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.