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Condemnation comp not just for landowners

By Jennifer A. Cranston



In a prior column, I described principles of condemnation, also known as “eminent domain.”

Here’s a quick refresher: Under the laws of eminent domain, the government has the power to take (condemn) private property for public purposes. When it exercises this power, the government must pay “just compensation,” which is typically measured by the fair market value of the property taken.

We typically talk about the landowner’s right to compensation, but other parties may be entitled to payment as well.

For example, if there is a mortgage on the property, the bank may have a superior (i.e., better than the landowner’s) right to the compensation paid by the government. Similarly, the county in which the property is located is typically included as a defendant in condemnation lawsuits because the county is entitled to collect unpaid property taxes from the condemnation award.

If the property is leased, the tenant may have a right to be compensated as well. The terms of the lease usually govern the

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respective rights of the landlord and tenant in the event of a condemnation. Even if the lease provides that the landlord is entitled to all of the compensation for the taking of the property, the government may still be required to reimburse the tenant for relocation expenses.

Other parties who may have a compensable interest in the condemned property include neighbors who use the property for access to their own property or those whose water or mineral rights will be impacted by the taking.

Thus, even though most condemnation cases focus on compensation for the landowner, it’s important to remember that the law also protects the rights of other parties who have an interest in the land.

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