



Eminent domain is the power of the government to condemn private property for a public use, subject to payment of just compensation. The process in Arizona is driven primarily by statute. Therefore, while eminent domain attorneys are familiar with the various steps, the details and logistics of a condemnation case can be confusing and frustrating for many. The following general description of the process is intended to provide a helpful guideline, but any party involved in a potential taking should consult with a lawyer familiar with eminent domain early in the process.

The condemnation process can be broken down into the following seven steps:

1. Pre-condemnation investigation and preparation. The government first identifies the property needed for the public project and its ownership, and obtains surveys and appraisals of the property it needs to acquire.
2. Pre-condemnation negotiation. The government is required by statute to make an offer to the owner, accompanied by an appraisal. This pre-filing offer often forms the basis for negotiation and settlement without the need for litigation.
3. Initiation of a condemnation lawsuit. If the government cannot obtain all of the property by negotiation, it can condemn through the courts. The government must name all parties with any compensable interest in the land being condemned.
4. Immediate possession. Some condemning bodies have the right to possess the property early in the lawsuit in exchange for payment of a reasonable estimate of just compensation. Once paid, the court signs an order of immediate possession, which gives the government the right to take possession of the property and start work on the project.
5. Disclosure and discovery. To prepare for trial, each party must disclose its case to the other side as well as engage in discovery, including depositions of experts. At some point during this step, the parties typically participate in mediation or a settlement conference.
6. Trial. After discovery is complete, the parties should be ready to present their evidence at a trial. Most condemnation cases are tried to a jury.
7. Final order of condemnation. At the end of the case, either the judge or a jury will have determined the amount of just compensation owed by the government. Once the government pays this amount, the judge signs a final order of condemnation, which is the document that transfers title to the government.

A more detailed timeline and flow chart illustrating these steps are provided below. The timeline is color coded to match the corresponding step in the flow chart.

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ARIZONA EMINENT DOMAIN TIMELINE

Event / Task Description	Statute / Rule	Timeframe ¹
Condemning entity ("Plaintiff") identifies all property to be acquired	A.R.S. § 12-1115	Varies by entity and project
Plaintiff orders title report to identify owner, lessees, lienholders and other parties with potentially compensable interest	A.R.S. § 12-1117	1–2 weeks
Plaintiff contacts owner regarding entry to conduct survey	A.R.S. § 12-1115	1–2 weeks
Plaintiff conducts survey and obtains legal description		1–2 weeks
Plaintiff obtains appraisal		30–90 days
Plaintiff sends pre-filing offer to owner and lessees of record	A.R.S. § 12-1116	1 week
Possible settlement negotiations based on pre-filing offer		
Plaintiff prepares and files pleadings to initiate lawsuit – complaint, summons, compulsory arbitration certificate, and notice of lis pendens	A.R.S. §§ 12-1116, 1117, and 1119	At least 20 days after pre-filing offer
Plaintiff submits application for immediate possession and proposed order to show cause to court, if Plaintiff has immediate possession authority*	A.R.S. § 12-1116	At or immediately following initiation of lawsuit
Plaintiff records notice of lis pendens with county recorder's office		At or immediately following initiation of lawsuit
Plaintiff serves summons and complaint on defendants (and order to show cause, if applicable)*	Arizona Rule of Civil Procedure 4	Within 120 days of filing of complaint (and within timeframe set forth in order to show cause, if applicable)
Defendant property owner (and other persons with compensable interest in the property) files answer or other responsive pleading (i.e., motion to dismiss, disclaimer of interest, etc.)	Arizona Rules of Civil Procedure 4.2 and 12; A.R.S. § 12-1120	20 days from date of in-state service 30 days from date of out-of-state service
Plaintiff obtains and records order for immediate possession (if applicable)*	A.R.S. § 12-1116	20–60 days from filing of application for immediate possession
Plaintiff and defendants exchange initial disclosure statements	Arizona Rule of Civil Procedure 26.1	Within 40 days of the filing of a responsive pleading

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Plaintiff and defendants confer and submit joint report to court (with proposed discovery and disclosure deadlines)	Arizona Rule of Civil Procedure 16	Within 60 days of answer filed by any defendant or 120 days of initiation of lawsuit (whichever is earlier)
Plaintiff and defendants engage in discovery (including depositions and document production) and exchange supplemental disclosure statements and expert opinions	Arizona Rules of Civil Procedure 26–37	3–6 months for expedited cases 7–12 months for standard cases 1–2 years for complex cases
Plaintiff and defendants attend settlement conference or private mediation**		During or immediately following discovery
Trial		Commences 60–90 days after close of discovery and lasts 1–30 days
Plaintiff obtains judgment**		10–30 days after trial or settlement
Plaintiff pays judgment		10–30 days after entry of judgment
Plaintiff obtains final order of condemnation		10–30 days after defendant files satisfaction of judgment
Plaintiff records certified copy of final order of condemnation with county recorder's office	A.R.S. § 12-1126	Promptly upon receipt of certified order from court
Plaintiff files and records release of lis pendens		Promptly upon recording final order of condemnation

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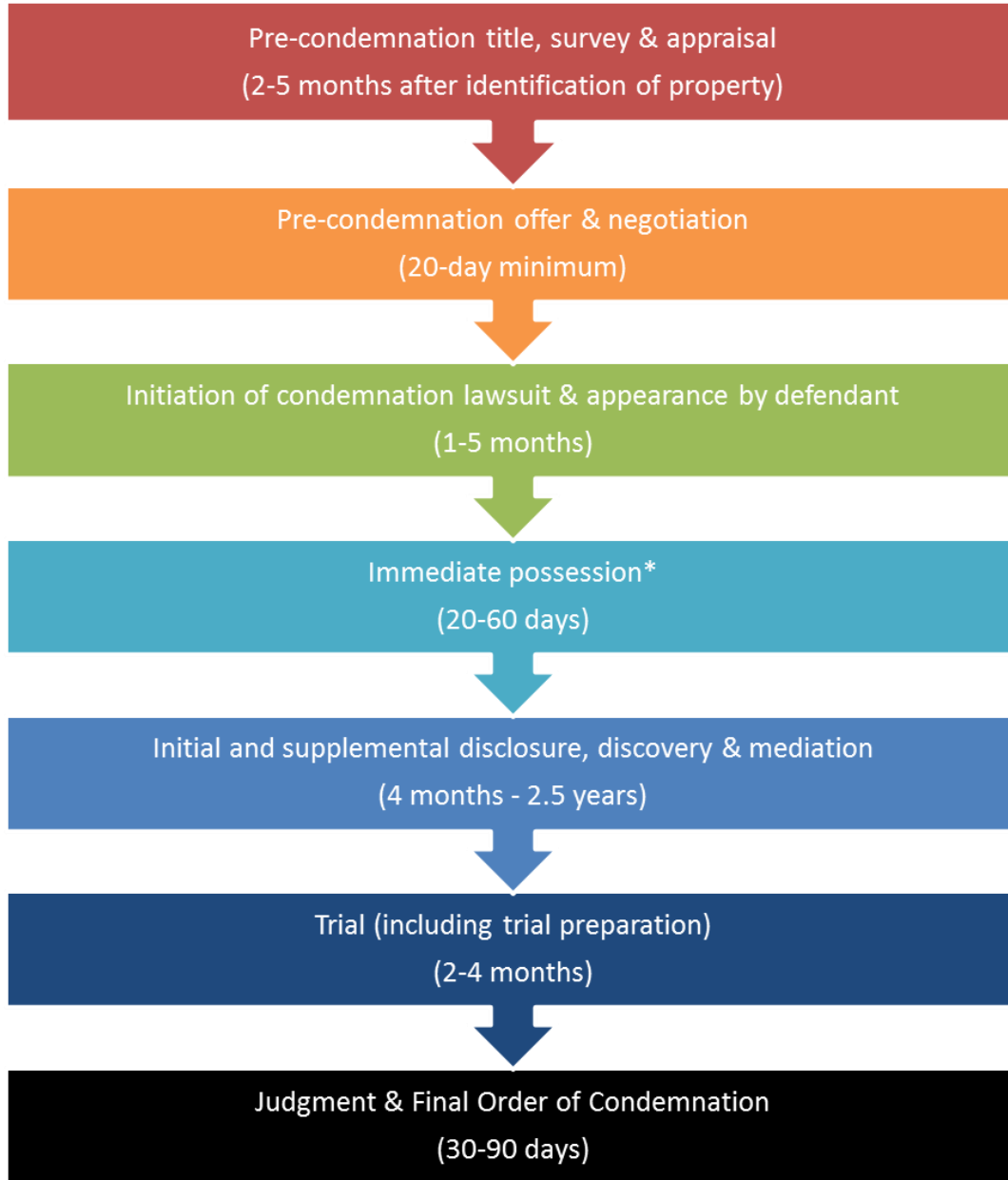
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ARIZONA EMINENT DOMAIN FLOWCHART



* Not all condemning entities have authority to obtain legal possession prior to a jury's determination of damages. Those without the right of immediate possession either wait until the final order of condemnation is recorded or negotiate an early possession agreement with the defendant. In addition to obtaining legal possession, in order to obtain physical possession, condemning entities may also be required to comply with the notice and relocation procedures set forth in A.R.S. § 11-961 et seq. and 42 U.S.C. § 4621 et seq.

** If the parties reach agreement on the price and terms of compensation at any time following the initiation of the condemnation lawsuit, they may either (1) stipulate to a form of judgment and obtain a final order of condemnation from the court or (2) stipulate to a dismissal of the lawsuit and proceed with a private settlement agreement (and acquisition through escrow, if desired).

¹These timeframes are intended to convey general information only. Each condemnation case involves unique facts and circumstances that can affect the timing of litigation tasks and deadlines and, therefore, should be analyzed on a case-by-case basis.

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