MISSOURI OFFICE OF THE
PUBLIC COUNSEL

MISSOURI CONDEMNATION PROCESS SUMMARY

01 PRE-FILING REQUIREMENTS

The initial written notice of intent to take property must be sent 60 or more days before a court filing. For partial takings, the landowners' receipt of this notice opens a 30-day window for proposing alternative locations on the property. A written offer by the entity seeking to take property must be made 30 or more days before a court filing. For all takings, landowners and the entity seeking to take the property can negotiate for the sale of the property during this timeframe. If an agreement is reached, the case will not proceed to the next steps.

02 CIRCUIT COURT FILING

If the landowner and the entity seeking to take the property do not reach an agreement, a condemnation petition may be filed by the entity. The court must provide at least 10 days notice of the condemnation hearing to the landowner. During this filing period, the landowner has the right to oppose the necessity of the taking. It is important that the landowner files a responsive pleading prior to the Court issuing the order following the condemnation hearing. It is possible to request additional time to file either an answer or motion to dismiss.

03 CONDEMNATION HEARING

COURT STEP 1

At this stage, the court determines if the entity seeking to take the property has authority to condemn the property and if it met the pre-filing requirements. If the court determines the entity may lawfully condemn the property, the second phase of the court process begins.

04 DAMAGES ASSESSMENT

COURT STEP 2

The court appoints three 'disinterested' commissioners to view the property and issue a report on the value of the taking within 45 days of their appointment. Commissioners must notify all parties 10 days before the property viewing to give the parties a chance to present information and accompany them. All parties to the condemnation action have 30 days to file a response (aka "exception") to the Commissioners' report if they do not agree with the valuation.

05 PAYMENT AND POSSESSION

The entity will pay the amount awarded by the Commissioners to the clerk of the court, who will notify the landowner within 5 days of receiving the payment. The entity may take possession and put the land to the public use after payment. The landowner has 10 days after receiving notice of the payment to deliver possession of the property or ask for an extension to vacate (90 days maximum). Relocation assistance may be available in some circumstances.

06 FINAL COMPENSATION DETERMINATION

COURT STEP 2 (CONT.)

If any party files a response, the issue of damages will be submitted to a jury or the court for determination. Damages are determined by the method that produces the highest amount for the landowner. The methods are fair market value, homestead property, heritage value, and in some special cases involving agricultural or horticultural property, 150% of fair market value.

This summary provides a high-level overview of the typical condemnation process from start to finish. The condemnation process is broken into two phases; pre-filing requirements and a two-part court process. The court process will determine 1.) if the condemning authority can legally exercise eminent domain authority, and if so, 2.) the appropriate amount of damages owed to the property owner. For a more thorough explanation of the process, please consult the Missouri Condemnation Overview write up, Missouri statutes in Chapter 523, or Missouri Rule of Civil Procedure 86.

AT ANY STAGE OF THIS PROCESS YOU HAVE THE RIGHT TO PERSONAL LEGAL COUNSEL, YOUR OWN APPRAISAL, AND THE RIGHT TO ASK FOR GENERAL GUIDANCE ON THE CONDEMNATION PROCESS AND PROCEDURES FROM THE MISSOURI OMBUDSMAN FOR PROPERTY RIGHTS. OMBUDSMAN GUIDANCE IS NOT LEGAL ADVICE.