



# Improving Our Public Places



# Working Together

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“It was a smooth, fair process and I was absolutely pleased with the outcome. The City kept me involved and information was shared every step of the way. I was never in the dark.”

**Bill DiVito, property owner**

The City of Tucson’s job is to ensure the safety and quality of life of all its citizens. This involves providing services like water and garbage collection, as well as building and improving public places such as streets, police and fire substations, libraries, and parks. Sometimes, these public projects require the acquisition of private property - a process called eminent domain. The City of Tucson follows a step-by-step process to make sure that private property owners are compensated fairly and caused as little inconvenience as possible.

The City of Tucson believes two key objectives should be met when acquiring private property for a public purpose:

1. The citizens of Tucson are assured that public funds are spent fairly and equitably in conformance with applicable laws and regulations.
2. Private owners affected by such public projects will receive just compensation for any property purchased by the City, and that all relocation and acquisition benefits to which they are entitled shall be paid by the City in a fair, professional, and timely manner.



This brochure will help you become familiar with the process of purchasing private property for public projects, and will let you know what to expect during your interactions with the Real Estate Division of the City of Tucson. *It is our sincere desire that the information contained in this brochure will provide you with confidence in the process, and that at the conclusion of our transaction, you will feel that you were treated in a fair and just fashion by the City.*

## **WHY MIGHT THE CITY NEED MY PROPERTY?**

**W**hen planning a public project, planning personnel, property agents, design engineers/architects, and traffic engineers work together to establish the location and design that will be of greatest benefit and safety to citizens. The final project design takes into account a number of factors: the public's well-being, feasible engineering, safety and economic concerns, and minimizing inconvenience to affected private citizens.

A certain amount of private property is sometimes needed by the City to bring about a public project. The decision to acquire private property is always made after careful analysis, using a long-range planning process. Long range planning is a “big picture” approach to our community’s needs, which assures that public projects will serve Tucsonans today and in the future. It can take a year or more from the time planning begins to the start of construction, depending upon the complexity of the project. Often, one of the final steps necessary prior to construction is acquisition of private property rights.

## **WHAT ARE THE CITY’S RESPONSIBILITIES TO ME OR MY TENANTS?**

If the City acquires property from a private citizen, the City must:

- Treat all property owners and tenants impartially without regard to race, color, religion, sexual orientation, gender, or national origin.
- Fully explain how the compensation offer was determined.
- Provide relocation advisory assistance, and relocation expense reimbursements in accordance with federal, state, and local regulations.

“I was treated well and kept informed throughout the entire process, and I definitely felt that I received a fair price for the property.”

**Rick Borane, broker**

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## **WHEN WILL I BE CONTACTED REGARDING ACQUISITION AND RELOCATION?**

**W**hen a project location is selected and approved and the design is nearing completion, all affected property owners are contacted by a property agent of the City. In many instances, this is the first official contact the property owner will have with a representative of the City. These City employees or consultants working on behalf of the City are trained to explain plans and advise how a proposed project will affect your property. The property agent must get important information from you on the initial visit. This information includes property condition and other issues to make certain the property will be properly evaluated. The agent will spend time with you to get this information and answer questions concerning the acquisition procedure.

A relocation agent also will contact you if you or your tenants are required to move from the property. You will also receive a relocation brochure and full explanation of your relocation benefits (as will any tenants of yours). The relocation brochure will explain advisory assistance, payment of moving costs, replacement property search expenses, replacement housing payments, and rent supplements or down payment supplements, if applicable.



## **WILL I RECEIVE A FAIR PRICE FOR MY PROPERTY?**

**Y**es. It is the City's responsibility to pay fair market value for any private property it acquires. In all cases, the City will have an appraisal or estimate made on each property affected by a public project. The City employs both qualified staff and consultant appraisers. The appraiser makes an independent and impartial appraisal based on many factors, including an inspection of the property. You will be given the opportunity to accompany the appraiser on this inspection. In making the appraisal, the appraiser investigates and analyzes recent sales of similar properties in the area. The appraiser also compiles and obtains information concerning building costs, rental values and all other necessary information to provide an accurate estimate of the fair market value of your property. If the City needs only a portion of the property, the amount of compensation you will be offered is the difference between the fair market value

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of the entire property, immediately before the acquisition, and the fair market value of the remaining property immediately after the acquisition. If property is acquired in its entirety, the City will pay full fair market value for the property.

Depending on the complexity of the situation and the nature of the acquisition, an estimate may be made, instead of an appraisal, to determine the fair market value of the property right being acquired. This estimate will involve an analysis of recent sales of similar properties in the area and will still include an inspection of the property. When the appraisal or estimate is complete, a complete review will be done by another party to ensure that all elements affecting the property value are considered and an accurate estimate of value is established.



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## **WILL I RECEIVE A WRITTEN OFFER FOR MY PROPERTY?**

**Y**es. After the just compensation amount is established, a City property agent will contact you. The offer for your property will be a value supported by the appraisal or estimate. Fairness dictates that all owners be treated equally, which is why offers and settlements must be based on proven, factual property values and not on the owner's skill, or lack of skill, in negotiating and trading. The present system assures that you will not be at a disadvantage if you are inexperienced in real estate transactions. If additional facts come to our attention that will lead to a revision in the just compensation amount, the adjustment will be made. You will be encouraged to provide any information you would like considered in the valuation process.

City agents will deal only with you, with your attorney or your representative. Negotiations are not normally done through real estate firms or others who do not have a direct interest in your property. The City is not responsible for real estate commissions and if an agent or representative is used, their fee is your responsibility. Similarly, should you choose to secure a broker/agent or attorney to assist you in a real estate transaction, the City will not pay any commissions or fees related to their services - those expenses are your responsibility.

An offer and draft purchase agreement for the full amount of the approved appraisal or estimate will be made to you by a property

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agent. The offer will be accompanied by a summary statement of just compensation. The breakdown in the statement is helpful for tax purposes, and will include:

1. The amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and compensation for damages and benefits, if any, to the remaining real property will be separately stated.
2. A copy of the appraisal or estimate.
3. A description and location of the property and type of property rights to be acquired, and a request to enter the property as soon as possible, if reasonable and possible.
4. An identification of buildings, structures and/or other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement will identify any separately held ownership interest in the property, such as a tenant-owned improvement, and indicate that such interest is not covered by the offer.

Sometimes a purchase of a portion of private property would leave the owner with an “uneconomic remnant.” An uneconomic remnant is a piece of property remaining

“It was a win-win situation. I was well compensated for my property, and I felt that I was contributing to the greater good. The new fire station makes sense because it helps protect the people and properties in that area.”

**Andy Romo, property owner**



after a portion has been purchased, which would have little or no remaining value. If the acquisition of only a portion of a property would leave you with an uneconomic remnant, the City will offer to acquire the full parcel.

## **WHAT IF I INCUR ADDITIONAL EXPENSES?**

**T**he City will pay for all reasonable transaction expenses associated with a purchase, such as recording fees, transfer fees and loan payoff fees, escrow, title and closing costs, and the pro-rated portion of any prepaid real property taxes. The City will pay for the initial appraisal or estimate. Should you desire your own appraisal or estimate, it would be at your expense. Should you choose to secure a broker/agent or attorney to assist you in a real estate transaction, the City will not pay any commissions or fees related to their services - those expenses are your responsibility.

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## WHAT MUST I DO TO REACH A SETTLEMENT WITH THE CITY?

If you accept the offer by the City and can convey clear title, in most cases you may expect payment within 30 days from the date an agreement is signed. It is your responsibility, however, to satisfy any outstanding liens and encumbrances on the property to provide clear title. These encumbrances are normally paid at the time of closing of the transaction. Usually the property agent and assigned escrow officer handling your file will secure a release from the lien holder as a part of the closing.

The sale of property for public purposes comes under the Internal Revenue Service (IRS) classification of “Involuntary Conversion,” as a settlement in lieu of condemnation (the exercise of eminent domain authority of the City). It is suggested that you contact an accountant or tax specialist of your choice to learn of the federal income tax impact of your settlement. There are some advantages granted to you in such cases, in terms of additional time provided to secure ownership in similar property and reduce capital gains tax obligations.

When applicable, occupants of your property will receive payment for moving expenses. Again, a relocation specialist trained in applying federal and local relocation rules and regulations will provide you with a complete outline of relocation eligibility.

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## HOW LONG DO I HAVE TO LEAVE MY PROPERTY ONCE THE PROPERTY IS ACQUIRED?

If you are displaced from your property, you will be given a minimum of 90 days written notice to leave the property from the time an offer is made, and a minimum of 30 days once a settlement is closed and payment is received (or from the time the property is condemned, if that action is necessary).

## WHAT IF AN AGREEMENT IS NOT REACHED WITH THE CITY?

It is the City’s policy to make every reasonable effort to acquire property by negotiations. Ninety-five percent of all property transactions made by the City are resolved via settlement, without need for any legal process. In the event the City is unable to reach an agreement with a property owner, the City will institute the necessary court procedures with the Pima County Superior Court. The City will promptly deposit the full amount of estimated just compensation with the Court when the condemnation proceedings are filed. Any time after the action is instituted, you may still accept a settlement of the case, in lieu

“The process went quickly and I was glad to help because I think the new fire station is going to be a big plus for the area. I was given three years to reinvest my money from the condemned property, so I was able to take my time and buy another property that I really liked. That took the pressure out of reinvesting.”

**Ray Rivas, property owner**







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