



City of Lowell - Law Department

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City Manager Kevin J. Murphy
Mayor Edward J. Kennedy, Jr.
Members of the City Council

RE: Eminent Domain Procedures

Dear Mr. Manager, Mayor Kennedy and Members of the City Council:

I write in response to a request for a summary of eminent domain procedures. Pursuant to Massachusetts General Laws, c.79 the Lowell City Council is empowered to take real estate by eminent domain so long as it is in furtherance of a public purpose. Takings for school construction or expansion are a recognized governmental purpose.

Among the procedures to be satisfied as part of the eminent domain process the following are critical steps to be satisfied in order to perfect a taking: an Order of Taking must be adopted by the city council describing the land, the interest and the purpose of the taking; a public hearing must be held by the council and prior to the hearing the requisite notice to both the public and to abutters; a recording of the Order of Taking must be made within 30 days of its approval; an award of damages based on at least one appraisal of the fair market value of the property at the time of the taking, as well as an award of reasonable moving costs of personal property must be made to the property owner within 60 days from the date damages vests.

Should a property owner wish to challenge the pro tanto, or the initial payment made by the City, a complaint must be filed in Superior Court within 3 years from the date damages vested. In the event that an award is made which exceeds the initial amount paid by the City, the former property owner is entitled to pre- and post- judgment interest.

I trust this answers your inquiry into this matter.

Very truly yours,

Christine P. O'Connor
City Solicitor