

STATEMENT OF RIGHTS

As indicated in the attached notice, a governmental entity is attempting to acquire property rights from you for a public use. In accordance with state law, this notice was prepared by the Georgia Department of Community Affairs to help ensure that you understand your rights in connection with this acquisition effort.

Georgia law requires the governmental entity to make reasonable efforts to negotiate with you to acquire these property rights. However, if you and the governmental entity are unable to reach mutually agreeable terms through good-faith negotiations, the governmental entity may file a condemnation action to acquire these property rights through the power of eminent domain.

Prior to Exercising the Power of Imminent Domain through Condemnation Proceedings

Prior to exercising the power of eminent domain, a governmental condemnor must take the following actions:

- Not less than 15 days before any meeting at which a resolution approving the exercise of eminent domain is to be considered, post a sign, if possible, in the right of way adjacent to each property that is subject to the proposed use of the eminent domain power stating the time, date, and place of such meeting;
- Attempt to serve the condemnee personally with notice of the meeting not less than 15 days before any meeting at which such resolution is to be considered, unless service is acknowledged or waived by the condemnee. If the attempted service is unsuccessful, service of notice may be satisfied by mail or statutory overnight delivery to the property owner at the address of record and, if different from the property owner, to the parties in possession of the property, return receipt requested;
- Ensure that any notice that is required by law to be published be placed in the county legal organ, but such notice shall not be published in the legal notices section of such newspaper; and,
- If you (condemnee) and the governmental entity are unable to reach mutually agreeable terms through good-faith negotiations, the governmental entity may file a condemnation action to acquire these property rights through the power of eminent domain.

The governmental entity must document, by an appropriate method, the time when it decided to condemn your property. The governmental entity may not file a condemnation action concerning your property until at least 30 days after that decision is made.

Condemnation

If a governmental entity brings a condemnation action to acquire property rights that you own, the governmental entity will file a condemnation petition in the Superior Court of the county where your property is located; and you will be served with a copy of the condemnation petition. The petition will inform you that unless waived by all parties, there will be a **hearing** in court, in the judge's chambers, or by telephone for the appointment of a special master to hear the condemnation matter. This appointment hearing must take place not less than 10 days nor more than 30 days after the condemnation petition has been filed with the court. When the judge

appoints a special master, the judge will then order that a **condemnation hearing** before the special master be held not less than 30 days nor more than 60 days after the appointment of the special master.

You have the right to hire an attorney to represent your interests in connection with the condemnation action. During the hearing before the special master, you will have the opportunity to challenge the governmental entity's evidence and, if you wish, to cross-examine the governmental entity's witnesses and call other witnesses to present evidence concerning your perspective of the case.

Our Georgia Constitution provides that private property may not be taken from you without **just and adequate compensation** being paid to you first. You are entitled to recover the **fair market value** of the property rights acquired by the governmental entity as just and adequate compensation. Where only part of a parcel of land is acquired, you may also be entitled to recover **consequential damages** for any reduction in the market value of the remaining property that results from the acquisition. In addition, if you are displaced from your property, you may be entitled to **relocation costs**.

Appeal

Once a special master hears the condemnation case, the special master will file an award with the court. The special master must mail a copy of this award to you or your attorney and all other parties in the case. If you are not satisfied with the award that the special master makes, you may file an **appeal** for a jury trial on value issues, exceptions on non-value issues for review by the court, or both a value appeal and non-value exceptions. Any value appeal and any non-value exceptions must be filed within 13 days after the award is mailed.

At any point before title to property rights in your property vests in the governmental entity, you may submit a **motion** asking the court to determine whether the governmental entity's exercise of the power of eminent domain is for a public use and whether the governmental entity has the legal authority to exercise the power of eminent domain. You must file the motion with the court. A **sample** of this kind of motion is attached to this Statement of Rights. In the court's decision on the motion, the governmental entity has the burden of proving public use and its legal authority to condemn.

SAMPLE

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____)	
_____,)	
Plaintiff,)	
)	CIVIL ACTION
v.)	
)	FILE NO. _____
_____)	
_____,)	In Rem Condemnation Proceeding
Defendant.)	

DEFENDANT'S MOTION PURSUANT TO O.C.G.A. § 22-1-11

Comes now _____, Defendant in the above-styled
condemnation proceeding, and files this motion before the vesting of title and in accordance with
O.C.G.A. § 22-1-11 to:

[Check Where Appropriate]

_____ Challenge whether the exercise of the power of eminent domain by Plaintiff is for a
public use.

_____ Challenge whether Plaintiff has the legal authority to exercise the power of eminent
domain.

Defendant requests that a hearing on this motion be set at the first possible instance and
that a copy be served by mail on all parties to this action.

This _____ day of _____, 20__.

Defendant
Address: _____

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing motion on other parties to this action or their counsel by mailing a copy to each of the following:

This _____ day of _____, 20____.

Defendant

SAMPLE

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____)	
_____,)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	FILE NO. _____
)	
_____)	In Rem Condemnation Proceeding
_____,)	
)	
Defendant.)	

RULE NISI

Defendant has filed a motion pursuant to O.C.G.A. § 22-1-11 in this condemnation proceeding and has asked the Court to set a hearing on the motion. Notice is hereby given that the Court will hold a hearing on the motion on _____, 2006, at _____ .m. in Courtroom _____ of the _____ County Courthouse.

This _____ day of _____, 20__.

Judge [or Clerk or Deputy Clerk]
Superior Court of _____ County