

§815. Abandonment of purpose; rights of condemnee

Notwithstanding any other provision of law, if an entity that has taken property by eminent domain fails to use the property for the project or purpose for which that property was taken, the condemnee or the condemnee's heirs have a right of first refusal to purchase the property as provided in this section. The right may be exercised at a price equal to the total compensation paid to the condemnee for the taking plus an adjustment for any improvements made to the property and for changes in inflation based upon the Consumer Price Index. The right of first refusal automatically terminates once the property is used for the project or purpose for which that property was taken. The purpose of a taking may be passive in nature, including conservation or preservation. [PL 2013, c. 368, Pt. Q, §1 (AMD).]

1. Reaffirmation of public purpose. If a property has not been used for the purpose for which it was taken after 8 years from the date of condemnation, the entity must reaffirm the need to retain the property for that purpose by giving notice to the public of its continuing intent to use the property for that purpose. Notice to the public is by publication twice consecutively in a daily or weekly newspaper having general circulation in the municipality or political subdivision in which the property is located. If the purpose of the taking was to construct improvements, the property is deemed as being used for that purpose upon the commencement of substantial on-site construction activity. After the initial reaffirmation, for so long as the property has not been used for the purpose for which it was taken, the entity must reaffirm the need to retain the property every 3 years. Reaffirmation under this subsection does not constitute a retaking of the property, and this section does not require the entity to make additional payments to the condemnee or the condemnee's heirs. If the entity fails to reaffirm the need to retain the property, the entity must notify the condemnee or the condemnee's heirs as described in subsection 2.

[PL 2001, c. 328, §2 (NEW).]

2. Notification of right of first refusal. If the need to retain the property is not reaffirmed as required by subsection 1, the entity using eminent domain must give written notice of the right of first refusal provided by this subsection to the condemnee or the condemnee's heirs by certified mail, return receipt requested, or by any other method that produces written evidence of receipt. Notice is sufficient under this subsection if the signed receipt is returned or the certified mail is returned as refused by the recipient.

A. If after reasonable diligence the address of the condemnee or the condemnee's heirs can not be determined, the notice is sufficient if it is published twice consecutively in a daily or weekly newspaper having general circulation in the municipality or political subdivision in which the property obtained by eminent domain is located. [PL 2001, c. 328, §2 (NEW).]

B. If, within 90 days of the issuance of the written notice or the second publishing date as required by this subsection, the condemnee or the condemnee's heirs have either refused the right of first refusal on the property or failed to respond to the notice, then the entity may dispose of the property in any manner allowed by law free and clear from any rights provided by this section. [PL 2001, c. 328, §2 (NEW).]

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3. Waiver of rights under this section. Notwithstanding any other provision of this section, the condemnee or the condemnee's heirs may waive or release any rights provided under this section at any time.

[PL 2001, c. 328, §2 (NEW).]

4. Exemptions. This section does not apply to property taken by eminent domain if that property:

A. Was taken in whole or in part using federal funds or the eminent domain authority to take the property was derived from federal law; [PL 2001, c. 328, §2 (NEW).]

B. Does not meet state or municipal lot size or frontage requirements; [PL 2001, c. 328, §2 (NEW).]

C. Was taken to expand existing corridors used for transportation or utility purposes including highways, bridges, railroad lines or utility lines; or [PL 2001, c. 328, §2 (NEW).]

D. Was taken before October 1, 2001. [PL 2001, c. 328, §2 (NEW).]
[PL 2001, c. 328, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 328, §2 (NEW). PL 2013, c. 368, Pt. Q, §1 (AMD).

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