

**§177. Procedure in exercise of right of eminent domain**

The right of eminent domain granted in section 176 may be exercised only after complying with the following procedures. [PL 2007, c. 563, §1 (NEW).]

**1. Notice.** The airport authority shall provide notice as provided in this subsection.

A. The owner or owners of record must be notified under this subsection of:

- (1) The determination of the directors that they will exercise the right of eminent domain;
- (2) A description and scale map of the land or easement to be taken;
- (3) The final amount offered for the land or easement to be taken, based on the fair value, as estimated by the airport authority; and
- (4) The time and place of the hearing provided in subsection 2. [PL 2007, c. 563, §1 (NEW).]

B. Notice under this subsection may be made:

- (1) By personal service in hand by an officer duly qualified to serve civil process in this State; or
- (2) By certified mail, return receipt requested, to the owner's last known address. [PL 2007, c. 563, §1 (NEW).]

C. If the owner or owners are not known or if they cannot be notified by personal service or certified mail, notice under this subsection may be given by publication in the same manner as provided in subsection 2. [PL 2007, c. 563, §1 (NEW).]

D. Notice under this subsection must be made to any tenants in the same manner as for the owner. [PL 2007, c. 563, §1 (NEW).]

[PL 2007, c. 563, §1 (NEW).]

**2. Hearing.** The board of directors shall hold a public hearing on the advisability of the proposed exercise of the right of eminent domain under this section. Notice of the hearing must be made by publication in a newspaper of general circulation in the area of the taking and must be given once a week for 2 successive weeks, the last publication to be at least 2 weeks prior to the time appointed for the hearing. The hearing notice must include the time and place of the hearing, a description of the land or easement taken and the names of the owners, if known. [PL 2007, c. 563, §1 (NEW).]

**3. Proceedings.** An airport authority, in exercising the right of eminent domain conferred upon it by section 176, shall file in the office of the county commissioners of the county in which the property to be taken is located and cause to be recorded in the registry of deeds in that county plans of the location of all lands, real estate, easements or interest therein, and rights to be taken, with an appropriate description and the names of the owners, if known.

A. Entry may not be made on any private lands, except to make surveys, until title has vested in the airport authority under this section. [PL 2007, c. 563, §1 (NEW).]

B. When for any reason the airport authority fails to acquire property that it is authorized to take and that is described pursuant to this subsection, or if the location so recorded is defective and uncertain, the airport authority shall correct and perfect the description of the location and file a new description. In such a case, the airport authority is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the airport authority is not liable for any acts that would have been justified if the original taking had been lawful. [PL 2007, c. 563, §1 (NEW).]

[PL 2007, c. 563, §1 (NEW).]

**4. Appeal.** If any person sustaining damages by any taking by an airport authority under section 176 does not agree with the airport authority upon the sum to be paid for the property, either party, upon petition to the county commissioners of the county in which the property is located, may have the damages assessed by the county commissioners. The procedure and all subsequent proceedings and rights of appeal are according and subject to the same restrictions, conditions and limitations as are or may be prescribed by law in the case of damages by the laying out of highways by the county commissioners, except:

A. Title to the lands, real estate, easements or interests therein and other property and rights to be taken do not vest in the airport authority under this section until payment to the owner of the amount awarded or, if such payment is refused upon tender, until tender of the amount is made to the treasurer of the county in which the lands and interests are located, for escrow at interest for the benefit of the owner pending final determination of the amount to which the owner is entitled; and [PL 2007, c. 563, §1 (NEW).]

B. In the event of an appeal of the amount awarded as damages for a taking under this section:

(1) The petition for assessment of damages must be filed with the clerk of the county commissioners, by either party, within 30 days following the filing and recording of plans of the location of all the property, facilities and rights taken; and

(2) If the return of the county commissioners has not been made within 120 days following the filing of the petition for assessment, the county commissioners are conclusively presumed to have confirmed the award of damages by the airport authority and either party may, within 30 days following that 120-day period, appeal the amount of the damages awarded by the airport authority to the Superior Court. [PL 2007, c. 563, §1 (NEW).]

[PL 2007, c. 563, §1 (NEW).]

#### SECTION HISTORY

PL 2007, c. 563, §1 (NEW).

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