

An aerial, isometric-style illustration of a lush green landscape. A bright blue river winds through the center of the scene. The banks are lined with various types of trees, including tall evergreens and smaller deciduous trees. A small white house with a red roof is situated on the right bank. The overall scene is bright and vibrant, with a clear sky and a well-maintained environment.

The Nuts and Bolts of Condemnation Proceedings

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Eminent Domain Perspectives



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Eminent Domain Authority

“Private property may be taken for public use, but not until a just compensation, to be ascertained in the manner prescribed by law, shall be paid therefor.”

Idaho Constitution - Article I, Section 14

*Eminent Domain Statutes - Idaho Code,
Title 7, Chapter 7*

Types of Condemnation Actions

- * **Direct Condemnation** – Initiated by Government or Condemnor to Acquire Private Property
- * **Inverse Condemnation** – Initiated by Landowner in Response to Government Action That May Constitute a Physical Taking
- * **Regulatory Taking** – Initiated by Landowner in Response to Government Regulatory Action



Key Concepts

Just Compensation

- Idaho Constitution, Article I, § 14; Idaho Code §§ 7-701, *et seq.*
- Just Compensation
 - = FMV of Property Taken (Total Take)
 - = FMV of Property Taken + Damages (Partial Take)
- Business Damages





Key Concepts

Fair Market Value

Amount Agreed Upon by a Willing Buyer and Willing Seller



Cash Price



Willing Seller/Willing Buyer - Fully Informed



Open Market Place Free of Constraints



Reasonable Exposure to the Market



Highest and Most Profitable Use



Key Concepts

Highest and Best Use

Compensation Determined Based Upon Highest and Best Use to Which Property Can Reasonably Be Put



Legally Permissible



Physically Possible



Economical Feasible



Maximally Productive



Key Concepts

Larger Parcel





Key Concepts

Most Injurious Use





Key Concepts

Project Influence







Special and General Benefits

* Severance Damages May Be Offset By Special Benefits

* General Damages, Which Benefit The Public, May Not Be Offset

Early Possession of Property

Idaho Code § 7-721

* Expedited Hearing

* Evidentiary Proceeding

* Elements

- Power of Eminent Domain
- Public Purpose
- Necessity
- Good Faith Negotiation
- Compensation for Possession



Burden of Proof/ Order of Proof

- * Landowner Bears Burden of Proving HBU and FMV
- * Order of Proof is Altered or Even Reversed
- * Court's Discretion to Decide Order



Judge/Jury Issues and Bifurcated Proceedings

- * All issues are for the Court to Decide, EXCEPT Just Compensation
- * Jury Decides Just Compensation
- * Issues May be Decided in Bifurcated Proceedings, on Summary Judgment, or at Trial







**“Nail
Houses”**