Before We Build

A citizen's guide to right-of-way acquisition

Snohomish County

Public Works

INTRODUCTION

"The Puget Sound region is growing rapidly, and Snohomish County has been the focus of much of that growth. As the population increases, so does the need to widen existing roads and expand the transportation network. In working to accommodate these demands, one priority of the Department of Public Works is to meet the requirements of new development with the least possible inconveni- ence to existing residents.

This brochure answers some questions you might have if a county project requires some or all of your property. It will explain why we need the land, how you will be compensated and what options you have. We understand that the purchase of land for public purposes has the potential to be a disruptive and difficult experience. Our intent is that acquisition of needed property be as fair, smooth and painless as possible."

Steven E. Thomsen, P.E.
Director of Public Works

NOTE: Since roads are the most common Public Works project, this booklet will speak in terms of acquiring right-of-way for a county road. With minor variations, these same procedures apply to the acquisition of property for any Public Works project.

WHAT'S GOING ON?

"Why do you need my property?"

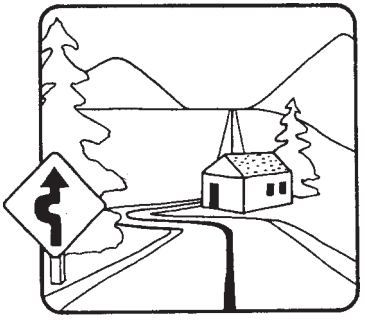
As more people move into Snohomish County, there is a corresponding growth in traffic and the use of county roads. Many existing roads that were adequate to handle the demands of the 1960s and 70s are becoming overcrowded, creating traffic congestion and hazardous conditions. Snohomish County's population was 606,024 in 2000 and is expected to reach 932,951 by 2025, an increase of 54%. Without improvements, roads and other public facilities will become increasingly inadequate.

There are two ways to improve traffic capacity and safety: build new roads and widen existing ones. In the first instance, a complete new right-of-way must be acquired; in the second, the existing right-of-way often is not wide enough to accommodate additional lanes, and more land must be obtained. Either way, the additional land needed usually belongs to private citizens.

"What is 'right-of-way?'"

In this usage, "right-of-way" is land owned, dedicated to or purchased by the County (or other agency) for Public Works projects that have been developed to serve the needs of the citizens of the county.

A road right-of-way must be wide enough to contain the travel lanes, shoulders, drainage facilities and, where provided, sidewalks. At intersections, right-of-way width needs may be greater to accommodate turning lanes and safety requirements.



"Why can't you miss me?"

In designing a road, our engineers consider many factors: geography and soils, lakes and streams, traffic patterns, safety, cost and other items. One of the most important is the impact on local residents. In the design process, we work to minimize the number of properties impacted, while insuring the safety and efficiency of the finished road.

"Will my entire property be needed?"

Not necessarily. In most cases, and especially where a road is being widened, only a portion of a parcel is needed. To minimize impacts to you and costs to the taxpayer, the County acquires only as much land as necessary.

"Can acquisition of part of a property increase the value of the remainder?"

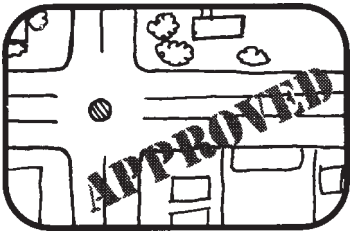
It is quite possible that after County acquisition of property for a public project, the remaining property would demand a greater price than it would have before, because of changes to the accessibility, exposure, or other factors.

"Will the County take my property without compensation?"

No. You have the legal right to receive just compensation for the needed property. When a property owner and the County cannot reach an agreement, the matter is decided by a court of law as part of the eminent domain process. In such cases, the court will determine "just compensation" (the payment of fair market value for real estate & improvements needed for public projects.)

"When will I know how much of my property is needed?"

The exact alignment of a road and which properties will be affected can only be determined after public meetings are held, and the final design and right-of-way plans are approved. Participation in public meetings will help you know how a project is developing and some of the possible options. The law requires that the details of right-of-way acquisition be discussed only after the exact amount of right-of-way has been identified and the amount of just compensation determined.



After the right-of-way plan is approved by the County Executive, it is made available for public review in our offices. When the appraisal has been completed and reviewed, a right-of-way agent will contact you and explain in detail the scope of the project, how the project will impact you and the just compensation determined for your property. The agent will address any questions and/or concerns you have about the project or compensation.

"May I donate the property instead of selling it?"

Yes, if you decide to give the County the necessary property without compensation, this can easily be arranged. Such transactions may provide you with tax benefits and can save the County the costs of appraisals and acquisitions, as well as property costs. If you are considering donation, please notify the right-of-way agent early in the process.

JUST COMPENSATION

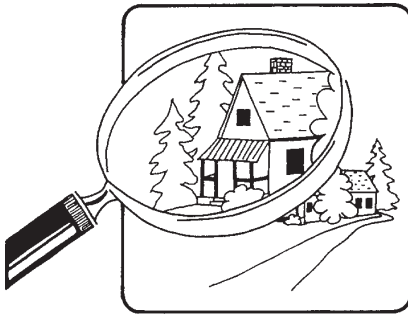
"What is 'just compensation?'"

"Just compensation" is the payment of fair market value for real estate and improvements needed for public projects.

"How is the amount of just compensation determined?"

Your property will be appraised to determine its fair market value. This is defined as the amount of money which would be paid for the property by a willing and informed buyer (who does not

have to buy) to a willing and informed seller (who does not have to sell). Many factors influence fair market value. An appraiser will carefully inspect the home, business, farm or property that will be needed. You will be invited to join the appraiser when he/she visits your property. The appraiser will try to arrange a time that is convenient to both of you. It is to your advantage to point out features that you feel affect the value of your property.



"Who prepares the appraisal?"

Appraisals are prepared by either a County appraiser or an independent appraiser under contract to the County. In all cases, the appraiser will have considerable training and experience. The appraisal report is reviewed by a review appraiser. If the appraisal is sound and adequately supported, the reviewer will prepare a *Determination of Value* (DV), which states the amount of just compensation.

"What will the County pay for?"

The County will pay the property owner fair market value for land, buildings or other improvements within the needed right-of-way. In calculating fair market value, the "before and after rule" is followed. This appraisal procedure measures the difference in value of an entire property *before* and again *after* the proposed acquisition and project construction. The difference in value is paid to the owner and is referred to as "just compensation." Its purpose is to make the owner monetarily whole. "Damages" (a decrease in value of the remaining property) may occur, requiring additional payment for economic loss. Just as "special benefit" (an increase in value due to enhancements from the construction) may be credited against the just compensation.

"How will I learn how much I am due?"

The County right-of-way agent will present an official offer to you and will answer any questions you have concerning the offer. The offer will be for the amount stated as "just compensation" in the *Determination of Value*.

"Will I have to pay tax?"

Gain from a purchase of all or a portion of your property may be subject to federal income tax. This is a technical matter about which you should consult an attorney or tax consultant.

IF THE PRICE IS RIGHT

"What happens when I accept the County's offer?"

The right-of-way agent will have you sign the necessary legal documents and the County's *Real Property Voucher*. Then the agent will clear the title, getting releases from banks, mortgage holders or other parties with interest in the property. Once the title has been cleared, the paperwork is processed for approval and signature by the County Public Works Director. Upon completion, payment will be sent to you.

"Who pays the cost of the sale?"

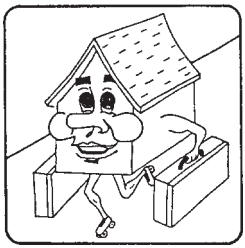
The County pays for all costs related to the purchase of the required property.

"*What happens if I have to move?*"

If the County's purchase of your property requires you to move, the agent will give you a copy of the *Relocation Assistance Brochure* and will explain any applicable benefits to you. A relocation specialist will assist you through the relocation process.

"*How much warning will I have before I have to move?*"

Normally, you will have at least ninety days from the date on which payment for your property becomes available.



"*May I keep my house and move it elsewhere?*"

Yes. As long as it does not interfere with the road construction schedule, you may elect to move your home to a new site.

The appraiser will determine a "salvage value" (how much the house is worth if removed from the property) and you will be paid the difference between that amount and the fair market value. If this choice interests you, please mention it to the agent as soon as possible, so that you will have as much time as possible to make the necessary arrangements.

You should be aware that any time a house is moved there may be additional expenses in order for the relocated structure to meet the current building codes. Before deciding to move your home, you should consult the County's Community Development Division.

IF THERE ARE DISAGREEMENTS

"What if I feel the offer is too low?"

Explain to the right-of-way agent why you feel you should receive a higher amount. Point out any items of value you believe were overlooked in the appraisal. The County may reconsider its offer if you show good reason for such a change.

The right-of-way agent will offer you the opportunity to obtain an evaluation or second opinion of the County's offer. Within certain guidelines, the County will pay up to $750 toward the cost of the evaluation, with a copy of the evaluation and your paid receipt.

If this evaluation is adequately supported, contains no major errors and shows that a change in compensation is warranted, the review appraiser may prepare a new *Determination of Value*. Following the review, the right-of-way agent will present you with the County's final offer.

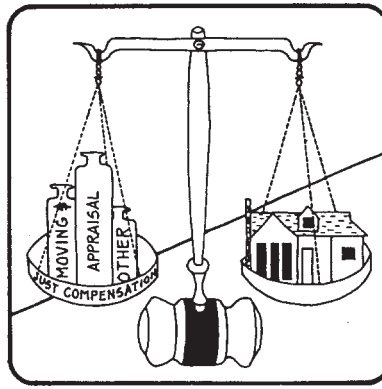
If you find the final offer unacceptable, the agent may recommend that the parcel be acquired by court action.

"Can I prevent my property from being acquired?"

The State Constitution grants the County the right of "eminent domain" (the right to acquire property for public use upon payment of just compensation.) Without this right, local governments could not make necessary improvements to public facilities.

If the County cannot reach an agreement with a property owner on a purchase price, the County will file a legal action to acquire the property by eminent domain. As part of this proceeding, the County

must prove to the court that the property is for a public use. If the court is not convinced of this, the property cannot be used in the project.



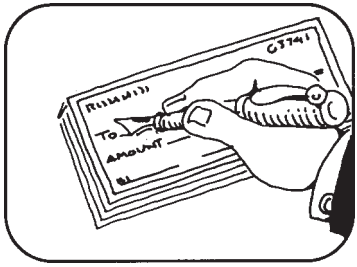
"What happens if I go to court?"

The County recommends you retain the services of a competent attorney to represent you. Your attorney may wish to employ expert witnesses to support your position. The County will be represented by the Prosecuting Attorney's office, the County appraiser and by expert witnesses.

Trials are held in Snohomish County Superior Court. The verdict is binding on both parties unless there is valid basis for an appeal.

"Will the court action delay payment to me?"

Before trial of the case, an initial hearing is held to establish a public use. At this time, the County may request that you sign an *Order of Immediate Possession and Use*, which will allow work to proceed while the court determines a final settlement. If asked, and if the possession and use of the property is agreed upon, then the County will deposit the amount of its final offer with the court, and you can arrange to withdraw your share.



"Will I be able to recover the costs of the trial?"

Under certain conditions, the court will establish an amount which the County must pay for the owner's reasonable attorney and expert witness fees. To receive such payment, the owner must grant immediate possession and use of the property to the County (if requested) or must receive a verdict exceeding the final County offer by at least 10%.

How can I get more information?"

For additional information please call or write to us.

Snohomish County Public Works
Right-of-Way
3000 Rockefeller Ave., M/S 607
Everett, WA 98201
(425) 388-6678 or
1-800-562-4367, ext. 6678
(TTY: 425-388-3700)

Snohomish County hereby gives notice that it is the policy of the County to ensure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and Related Statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the grounds of race, color, sex, national origin, disability, age or religion, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which Snohomish County received federal financial assistance.

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has the right to file a formal complaint with the County and such complaint must be in writing and filed with the County Title VI Specialist within one hundred eighty (180) days following the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from this office at no cost to the complainant by calling (425) 388-3488.

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