

UNDERSTANDING THE REAL ESTATE ACQUISITION PROCESS



FOR PROPERTY OWNERS & OCCUPANTS



The City of Tucson Department of Transportation (TDOT) is committed to creating and operating a safe and reliable system for moving people and goods throughout our community, enhancing economic prosperity, and preserving the quality of our environment and communities.

THIS MODERN TRANSPORTATION AND TRANSIT SYSTEM:



IS REGIONAL

The Pima Association of Governments (PAG) coordinates regional planning for dynamic growth with its nine member jurisdictions: Pima County, Tucson, South Tucson, Marana, Oro Valley, Sahuarita, the Tohono O’odham Nation and Pascua Yaqui Tribe.

In 2006, Pima County voters approved a \$2.1 billion, 20-year Regional Transportation Authority (RTA) plan, funded by a countywide half-cent excise tax – a critical funding source for investing in regional transportation projects.

The City of Tucson, in conjunction with PAG and RTA, works to create and maintain this seamless regional system.



PROMOTES SAFETY

New or improved roadways with better sight distance, appropriately-sized driving lanes, and easier grades enhance our lives and property. Transportation projects that combine smart planning, good design, and thoughtful engineering promote safety for the traveling public.



OFFERS MULTI-MODAL OPTIONS

Modern transportation projects and systems allow motorists, pedestrians, bicyclists and transit riders innovative and efficient ways to connect across the region.



DRIVES ECONOMIC VITALITY

As our transportation system is improved, public and private investment expands, tourism and recreation are enhanced, businesses grow and thrive, and new industrial and residential developments are encouraged.

The City of Tucson Department of Transportation (TDOT) and Real Estate Program

prepared this information to describe the processes* the City will follow when purchasing your property for a transportation project.

As you go through this acquisition process, be assured that we are committed to:

- Treating those citizens involved – owners and occupants – in a fair and just fashion
- Spending public funds fairly and equitably according to applicable laws and regulations
- Providing just compensation and applicable relocation and acquisition benefits to those involved in a timely, professional and fair manner

*processes comply with 49 CFR Code of Federal Regulations as well as Arizona Revised Statutes

WHY DOES TDOT NEED MY PROPERTY?

Numerous factors are considered when planning for transportation systems. Modern transportation engineering involves long-range planning to assure enough capacity to serve our community today and in the future. The coordinated efforts of planners, right of way agents, design engineers and traffic engineers are necessary to establish the location and design that will be of the greatest public benefit and safety.

The final alternative selected takes into consideration feasible engineering, safety, economics, public well-being and the least amount of injury and inconvenience to the public. A certain amount of private property must be acquired to provide a safer and more modern transportation system. When property is selected to be acquired, all other alternatives have been considered and it has been determined that the affected site is the best location for the transportation improvement. TDOT seeks your understanding and cooperation in this matter.

As the owner of real estate needed for the construction of a transportation project that benefits the community, you are a major contributor to the improvement of Tucson's regional and local transportation system.

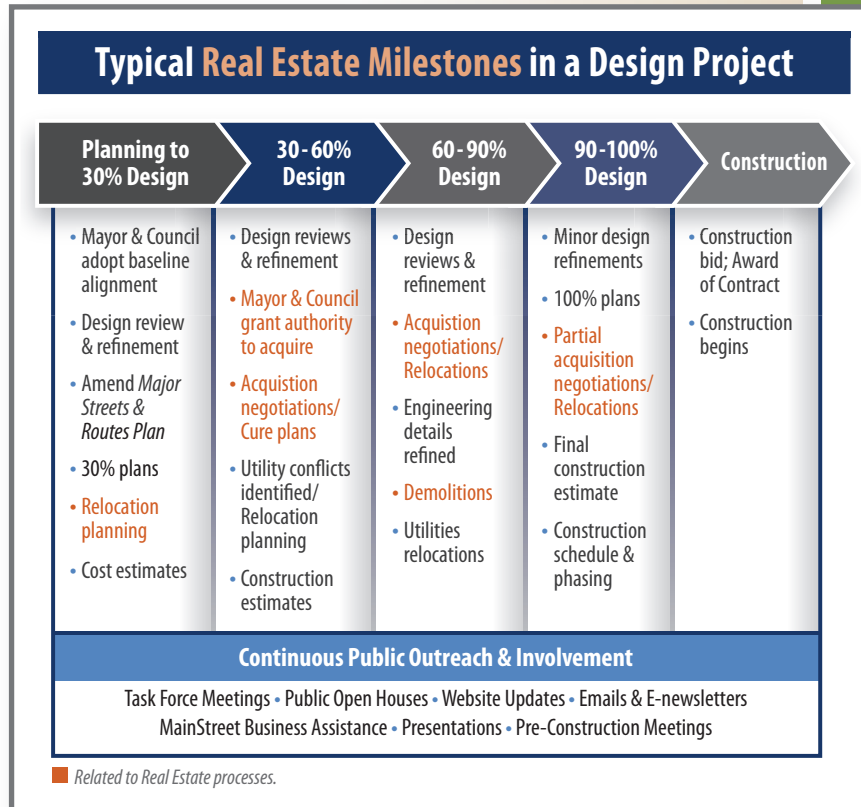
TIP

The team is here to help. If you have questions, ask them.

HOW ARE ROADWAY DESIGN AND REAL ESTATE PROCESSES CONNECTED?

Aspects of the real estate acquisition process are linked and dependent on a project's design plan and status. Design projects are phased and could take years to complete. Typically, a project design has distinct milestones: a planning process, submittal of 30% design plans, submittal of 60% design plans, submittal of 90% design plans, and submittal of final design plans before the start of construction-related activities.

As the project's design is reviewed and refined, the amount of private property needed to be acquired related to the project is also refined. The relocation planning and acquisition processes occur in the context of these project design milestones but are fluid and on-going.



NOTIFICATION

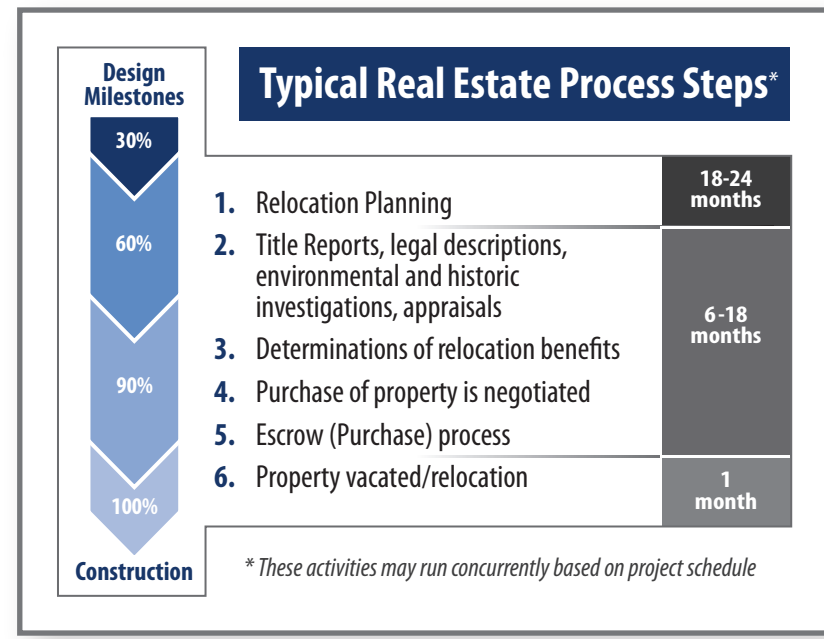
When a transportation route is selected and approved by Mayor and Council, transportation design begins. Owners and occupants of potentially affected property will be notified by letter and invited to make interview appointments with TDOT consultant **Tierra Right of Way Services**.



Tierra Right of Way Services is a business that provides real estate-related services and that is under contract to the City of Tucson, through the Real Estate Program Office. Tierra has a team of dedicated professionals who work on City of Tucson projects.

Relocation interviews allow **Relocation Agents** to understand what your particular needs might be to move from the project area. The Agent will also answer any questions concerning the relocation procedure and inform you of your legal rights. General guidance about the acquisition process may also be given.

TIP
Pay attention to your mail and schedule your interview if you get a letter.



How Does Relocation and Reimbursement Work?	City/ Tierra	Occupant
1. Determine relocation benefits eligibility	×	
2. Obtain bids for move	×	
3. Determine entitlements (\$ values of benefits)	×	
4. Provide 90-day Notice to Vacate	×	
5. Select replacement site	assists	×
6. Coordinate move; pay expenses		×
7. [Movers] disconnect, move personal property		×
8. [Movers] reconnect personal property		×
9. Submits claim for reimbursement		×
10. Reimbursement paid	×	

RELOCATION

If you are required to move from your property, a relocation agent will contact you to provide relocation advisory services and assist you throughout the process. You will not be eligible for **Relocation Benefits** prior to the written offer to purchase the property needed for the project. Relocation benefits are based on eligibility and are not a factor in the negotiation process.

When applicable, you will receive payment for moving expenses. In some instances, you will receive replacement housing payments as determined by state and federal regulations.

NEGOTIATION FOR THE PURCHASE OF REAL PROPERTY

When the design of the transportation improvements is 30% complete, the Mayor and City Council grant authority to begin acquisition negotiations, and impacted property owners are identified and funding is authorized.

As the design moves from 30% to 100% complete, **Right of Way Agents** meet with property owners to begin purchasing property. The agents will contact you to set up these negotiation meetings. During these meetings, the agents advise you how a proposed roadway project will affect your property. They will review with you the property history, accuracy of property lines, buildings as shown on the plans, and all property areas in an effort to make certain the property is properly appraised or evaluated.

What is the Acquisition Process?

Property appraisal

- The value is determined through the appraisal process

Written offer to purchase

- Includes written offer, acquisition, and relocation packages
- 90 day notice to vacate is provided

Negotiation

- City negotiates in good faith with all owners and treats all parties fairly and consistently
- Property owner can hire independent appraiser for negotiations
- The project has limited negotiation authority
- Legal action may be necessary if settlement cannot be reached

Escrow

- The seller is responsible for all mortgage payments and tenants are responsible for rental payments until the transaction closes and records
- The property transfers to the City and the Seller is paid compensation

Property Vacated

- Once City obtains possession/ownership of the property, the occupant will have 30 days to vacate the property

APPRAISAL OF REAL PROPERTY

You will be contacted by an appraiser who will appraise a right of way agent who will perform an evaluation of the **Property** affected by the transportation project. The appraiser will prepare an independent and impartial appraisal based on an inspection of your property to determine the value of **Just Compensation** for the needed property rights.

The appraiser must perform an inspection of your property prior to the completion of the appraisal valuation.

You will be given the opportunity to accompany the appraiser on this inspection. We encourage you to be present during the inspection of your property to provide any information you believe affects your property value.

When the **Appraisal** is complete, an independent review appraiser will perform a complete review to make certain all elements affecting property value are considered and an accurate estimate of value is established. Any relocation benefits will also be provided in a separate written package.

Depending upon the complexity of the situation and the nature of the right of way acquisition, an evaluation may be made, instead of an appraisal to estimate the **Fair Market Value** of the property being acquired. This evaluation will involve an analysis of recent sales of similar properties in the area and will not require contact with you prior to the evaluation being made.

TIP

Attend the inspection tour of your property with the appraiser.

WRITTEN OFFER TO PURCHASE

A right of way agent will provide an offer to you in writing that will represent the full amount of the approved appraisal or evaluation. This breakdown is helpful for tax purposes. This written offer includes:

- 1** The amount offered as **Just Compensation**. In the case of a **Partial Acquisition**, the compensation for the real property to be acquired, and compensation for damages to the remaining real property will be listed. Any relocation benefits will also be provided in a separate written offer.
- 2** A description and location identification of the property to be acquired.
- 3** An identification of buildings, structures and/or other improvements (including removable building equipment and trade fixtures) that are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement will identify any separately held ownership interests in the property, such as a tenant-owned improvement, and indicate that such interest is not covered by the offer.

IF THERE IS AN UNECONOMIC REMNANT

An uneconomic remnant is a parcel of real property left to the owner after a partial acquisition, which the agency has determined has little or no value or utility to the owner. Should the acquisition of your property result in an uneconomic remnant, the City of Tucson will offer to acquire it along with the property required to construct the transportation project.

TDOT will absorb costs associated with recording fees, transfer fees, and the pro-rata portion of any prepaid real property taxes.



SETTLEMENT AND CLOSING

If you accept the offer by the City of Tucson and can convey clear title, you may expect payment within 60 days from the day all necessary documents are signed. It is your responsibility, however, to satisfy any outstanding Liens and encumbrances on the property. These encumbrances are normally paid during the closing process.

Typically, the escrow agent handling your close of escrow will secure a release from the lien holder prior to closing when there is a partial acquisition of property. You are eligible to be reimbursed for a portion of your current real property taxes, which will be prorated at the time of closing. You will be asked to provide tax receipts to the escrow agent handling your parcel.

The sale of property for Public Purposes comes under the Internal Revenue Service (IRS) classification of "Involuntary Conversion." It is suggested that you contact the nearest IRS office to learn of the requirements with regards to your federal income taxes.

An advantage in reaching a settlement with the City is that you receive full prompt payment. You will not pay real estate commissions, title insurance, abstract costs, legal or appraisal fees unless you hire an attorney or appraiser.

It is the TDOT's sincere goal to reach an amicable agreement with each property owner and acquire property through negotiated settlements. However, **if after negotiations, we are unable to agree on the price to be paid for your property, TDOT must consider acquisition through the court system, which is referred to as a condemnation proceeding.** The acquisition of the property will be controlled by the legal process in accordance with Title 12, Chapter 8, Article 2 of the Arizona Revised Statutes.

The City will follow the necessary court procedures required in Pima County. The City will promptly deposit the full amount of the estimated just compensation (appraised value) with the Clerk of Court when the condemnation proceedings are filed. Possession of the property is then granted to the City.

If you wish to contest the compensation amount:

- Consider securing the services of an attorney to file a timely answer to the complaint filed by the City.
- Satisfy all liens and encumbrances against the property, whether the right of way claim is concluded by agreement or by court action.

RETENTION OF IMPROVEMENTS

If there are buildings and/or other improvements located on the land needed for right of way purposes, you will be given first option to retain these improvements. **You may keep the buildings and/or improvements considered as real estate at the appraised retention value and move the buildings and/or improvements on remaining property outside of the acquisition areas, or you may choose to move the buildings and/or improvements to a site located away from the proposed transportation project.**

PROPERTY VACATE DATE

For residential owner-occupants or residential tenants, you will have a minimum of 90 days written notice to vacate from the date a comparable replacement dwelling has been provided to you by your relocation agent, and your offer of relocation benefits has been made to you.

For business owners or tenants, you will have a minimum of 90 days from the date the written 90-day Notice to Vacate is provided to you.

IF YOU HAVE QUESTIONS....

If a transportation project requires acquisition of your private property it may mean navigating uncharted territory, raise concerns and generate many questions. Representatives from TDOT and the City Real Estate Team are available to answer your questions and provide you additional information regarding the process to complete public acquisitions and relocations as needed for public projects.

Relocation Questions:

Tierra Right of Way Services*/Tucson Office
(520) 319-2106
www.tierra-row.com

Real Estate Questions:

City of Tucson Real Estate
(520) 791-4181
www.tucsonaz.gov/real-estate

** Tierra is an independent contractor of the City of Tucson.*

USEFUL TERMS

An **appraisal** is a written statement prepared independently and impartially by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Condemnation is the legal process of acquiring private property for public use or purpose through the government's power of eminent domain. Condemnation usually is not used until all attempts to reach a mutually satisfactory agreement through negotiations have failed. An agency then goes to court to acquire the needed property.

Eminent domain is the right of the government to take private property for public use. In the United States, just compensation must be paid for private property acquired in connection with publicly funded programs or projects.

Fair market value is the value of property based upon the price that a willing and informed buyer will pay for the property to a willing and informed seller in an arm's length transaction.

Just compensation is the price an agency must pay to acquire real property. An agency official must establish just compensation to be offered for the property, which amount may not be less than the amount established in the approved appraisal report as the market value for the property. If the owner and City cannot agree on the amount of just compensation, the amount will be determined in court.

A **lien** is a legal claim of one person upon the property of another person to secure the payment of a debt or the satisfaction of an obligation. Examples include mortgages, mechanic's liens and tax liens. As a general rule, liens must be paid in full when the property is sold.

Partial acquisition is an acquisition by the government that involves less than the entire parcel of property owned by the owner.

Property is something which is owned. It is divided into two categories: real property and personal property. Typically eminent domain situations only allow compensation for real property. Real property consists of land and all of the improvements that have been constructed on the land and permanently affixed to it.

Public purpose is the justification which the government must establish in its powers of eminent domain to acquire private property. Examples that satisfy public purpose include roads, parks, schools, other public buildings, or any other endeavor where the project's purpose serves a public good or need.

A **Relocation agent** meets with property owners or occupants to evaluate and determine their needs should they be required to move from the project area. Relocation agents will advise on relocation procedures and benefits that may be available.

Relocation benefits are payments which the government must make to owner of a parcel or any occupant of a parcel who must move to a new location because the acquisition will not allow that occupant/owner to continue to utilize the parcel of property. Relocation benefits are intended to compensate an occupant/owner for costs that are incurred moving a household or business to the new location where those costs would not have been incurred in the absence of the displacement.

Right of way agents may negotiate with land owners on behalf of governments that wish to acquire the private property. Right of way agents evaluate third-party appraisals and negotiate the acquisition of private property rights in good faith with landowners.

