

US EPA ARCHIVE DOCUMENT

SUMMARY OF MSDGC REAL ESTATE ACQUISITION PROCEDURES FOR SEWER PROJECTS

The following is a brief summary of the process MSD will follow in the acquisition of real property for a combined sewer overflow reduction project. This includes a discussion of what your rights are as a property owner, and aims to provide answers to some of the questions that might arise when your land is needed for a sewer project. While most land acquisitions for sewer projects involve the purchase of easements, this discussion includes procedures involved when entire parcels of property, including buildings, are needed for the project.

General Acquisition Requirements

When a sewer project is being designed, plans are developed that determine the amount of land that will be necessary to purchase for the construction of the new project. When the plans are received, title searches are conducted to confirm ownership of the properties required. Then, the necessary analyses and determination of property values in the area are made.

It is MSD's hope that through discussion and mutual agreement, a satisfactory settlement can be reached regarding the land to be acquired. To this end, certain steps are required to assure that everyone's rights and interests are protected during this process. They are as follows:

(1) MSD will order an appraisal to determine the fair market value of the property acquired plus damages to the remaining property, if any. The appraisal is reviewed by people experienced with the appraisal process.

(2) MSD must make every reasonable effort to acquire the property in a timely manner.

(3) Every reasonable effort must be made to contact each property owner who will be presented with a written offer of the approved valuation for the required property.

(4) As a matter of policy, and in compliance with both Federal and State laws, MSD will offer the full fair market value for the property to be acquired.

(5) Any occupants of buildings to be acquired will be informed of their rights and benefits under the relocation assistance program required to be used for the project. (See the Relocation Assistance section for more details.)

(6) All owners must be informed of their rights under the law, and these rights must be fully protected by MSD. State and Federal laws prohibit discrimination on the grounds of race, color, religion, sex, national origin, age (40 years and over) or disability.

The Appraisal of Fair Market Value

The first major step in the acquisition of real estate by MSD is the real estate appraisal. In the appraisal, a qualified professional estimates the **fair market value** of your property. The term **fair market value** is defined by Ohio courts as the amount of money a property will bring if offered for sale on the open market. Because the determination of fair market value forms the basis on which a settlement is reached between the property owner and MSD, it is of fundamental importance that this amount be carefully estimated.

To estimate fair market value, an appraiser who is familiar with the value of real estate in your particular location or neighborhood, and who is experienced in appraising your type of property, will estimate fair market value. The appraiser does this by using various appraisal techniques, one of which consists of comparing your property to other similar properties which have been recently sold in your area. The price paid and conditions of each comparable sale are carefully investigated to estimate the fair market value of your property. To insure that the fair market value estimates include all pertinent facts and that the fair market value is sound and realistic, the value estimates are also reviewed by an experienced review appraiser.

You may be afforded the opportunity to accompany the appraiser on the inspection of your property. It is to your benefit to show the appraiser over your property and to tell him/her about all features that you think may affect its value. For example, you may wish to show the appraiser all buildings on the property, inside and out, and all improvements that you have made to the property, such as utilities or underground facilities, and all other items that might affect value. A sound estimated fair market value is the best assurance of a satisfactory settlement. MSD and the property owner have a very real interest in assuring that fair market value is obtained. As in all real estate transactions, communication and exchange of views are essential in reaching an agreement satisfactory to all parties.

Agreeing on a Settlement

MSD's representative in these discussions is the (Real Estate Specialist. The Real Estate Specialist's primary duty is to advise you, the owner, in every way possible in what may be an unfamiliar process of selling your property (or portions of your property) to MSD. In order to successfully fulfill these important assignments, the Real Estate Specialist collects various types of information. This knowledge, plus an understanding of the policies of the City and State of Ohio and the sequence of the proposed construction, enables the Real Estate Specialist to be most helpful to you, and particularly its effect upon your property. The Real Estate Specialist will answer or obtain answers to your questions. The Real Estate Specialist will make you an offer in writing, the first time he/she discusses value or money with you.

The offer is based on the approved fair market value estimate of your property. When agreement is reached, the Real Estate Specialist will have the necessary papers and documents prepared, assist you in filling them out and take steps necessary to obtain payment of the agreed purchase price. MSD will also help you arrange both the release of your mortgage, and other liens, associated with your property.

If an agreement cannot be reached, the Real Estate Specialist will explain your legal rights and the procedures involved in having your case tried by a local jury. More details about this procedure are explained in another section of this booklet under the title "Your Legal Rights." The Real Estate Specialist's duty is to minimize any confusion and inconvenience which could otherwise result from this process. It is MSD's sincere hope that when this matter is concluded, you will be able to say that you were treated both fairly and courteously.

Relocation Assistance

If you are required to move because the property you occupy is purchased by MSD for construction of the sewer improvement, you may be entitled to Relocation Assistance. Relocation Assistance is designed to aid all displaced persons. Advisory assistance is available to anyone who is displaced and financial assistance is available to those who qualify. Many types of advisory assistance are available including advice concerning available replacement properties, types of financing, moving information, referral to public and private agencies and other assistance as required for those displaced by sewer projects.

Qualified displaced persons may also be eligible for financial assistance in the form of moving expenses for their personal property, and in the case of a residential displacement, supplement housing payments. Displaced persons eligible for moving expenses may receive payment determined by a fixed rate schedule; or the displaced person may elect to be reimbursed for the actual and reasonable expenses incurred in moving. Certain other costs such as transportation, storage, and insurance on personal property while in transit may be reimbursable.

Residential displacees who meet occupancy requirements may be eligible for a supplemental housing payment to assist them in purchasing or renting a decent, safe and sanitary replacement dwelling. In the case of an owner, the payment is in addition to the amount MSD pays for the purchase of the home being acquired. The payment to a residential tenant is an amount determined by MSD needed to make up the difference between the rent now being paid and the rent required to be paid for a comparable unit for a specified period. Each monetary allowance has maximum amounts established by law. Those maximums,

as well as the payments applicable to your specific situation, will be explained to you by a qualified Relocation Specialist who will be assigned to your case.

Businesses, farms and non-profit organizations that meet occupancy requirements may also be eligible for reimbursement of moving expenses, or for an alternative payment in lieu of moving expenses, as well as other payments provided by law.

No one will be required to move for at least 90 days after a written offer has been made for the purchase of the property they occupy. Furthermore, you will be given specific notice, if necessary, at least 30 days in advance of the exact date that you will be required to move.

If you are required to move, a Relocation Specialist will contact you to explain the Relocation program and to answer questions. The Relocation Specialist's purpose is to give you professional help by advising you of the requirements for each type of payment to which you may be entitled.

Your Legal Rights

The Ohio Constitution permits MSD to acquire your property for a sewer project provided that you are paid just compensation. There is no requirement that you reach a settlement with MSD or the sale of your property. To fully protect your rights, the laws of Ohio provide that just compensation (the fair market value of your property) may be determined by a local jury, if you so choose.

In the event that you and MSD do not reach an agreement regarding the value of your property, MSD will initiate such action in the name of Hamilton County as is necessary to acquire the property by appropriation. An action will then be filed in the Hamilton Court of Common Pleas.

If you wish to contest the valuation of your property, you must file an answer to MSD's Petition for Appropriation. It is important that a timely answer be filed with the Court. The court will then set a date for the appropriation trial where a jury will hear testimony from you and MSD in the proceeding. Negotiations may continue at all times. If agreement is reached prior to trial, a formal settlement may be reached with Court approval. However, MSD may not use or demolish your structures until the appropriation case is decided by the Court.

Frequently Asked Questions

Why Are Public Meetings Held?

A public meeting gives you and local officials the opportunity to have an open discussion regarding the need for the proposed project and to discuss the merits of the design. An official transcript is made of these comments, and the Director of MSD and his staff review the proceedings in order to make a proper determination.

May A Survey Or Soil Testing Crew Enter My Property Without My Permission?

Yes, the law of Ohio permits surveyor soil testing crews authorized by the Director of MSD to enter upon any lands. However, as a matter of policy and law, the surveyor soil testing crews are required to provide notice to you before entering your land. The law also provides that compensation be paid for damages or injury to the premises caused by these crews.

Can The Crews Tell Me About The Improvement?

The crews are obtaining information which the engineers will use as a basis for locating and designing the proposed improvement. They are not able to give you information that has any final or official status. As soon as definite information is available, you will be officially notified and contacted by a representative of MSD.

When Will I Know How An Improvement Will Affect My Property?

General information is discussed at the public meetings but not the specific details. When the acquisition process begins, the Realty Specialist will discuss exactly how the sewer project will affect your property.

May I Keep My Buildings and Move Them?

Yes, if you make arrangements with the Real Estate Specialist who calls upon you. It will be your responsibility to remove, at your own expense, any buildings that you desire to keep. The salvage value of the buildings you retain will be deducted from the amount to be paid to you by MSD.

What Will I Get For My Property?

After the fair market value for your property has been determined, a Real Estate Specialist will discuss with you the fair market value of the property to be purchased. When an agreement is reached between you and MSD, a closing statement is prepared and you receive a cash payment for your equity. All costs for title reports, recording of instruments and transfer fees will be paid solely by MSD.

