

Property Devoted to Public Use

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Property that is devoted to a public use cannot be condemned for another public use ^[51] in the absence of legislative authority permitting the condemner to take property already devoted to a public use. ^[52] The regulation of land uses under the police power, however, does not result in the property being devoted to a public use that would preclude condemnation. ^[53]

Notes:

[51] *Southern Railway Co. v. City of Memphis*, supra; *Memphis State Line Railroad Co. v. Forest Hill Cemetery Co.*, 116 Tenn. 400, 94 S.W.69 (1906).

[52] *Town of Dandridge v. Patterson*, 827 S.W.2d 797 (Tenn. App. 1991); *Duck River Electric Membership Corp. v. City of Manchester*, supra; *Williamson County v. Franklin & Spring Hill Turnpike Co.*, 143 Tenn. 628, 228 S.W. 714 (1920); *Mobile & Ohio Railroad Co. v. Mayor and Aldermen of Union City*, 137 Tenn. 491, 194 S.W. 572 (1917).

[53] *Metropolitan Government of Nashville and Davidson County v. Denson*, Docket No. 01-A-01-9005-CV-00174 (Tenn. Ct. App. M.S. October 17, 1990), app. denied, (January 28, 1991).

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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