



Procedural Issues (Just Compensation)

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

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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The general rule is that incidental damages and incidental benefits are to be estimated as of the date of the taking.^[79] However, since incidental damages and incidental benefits are premised on the impact to the remainder of the property resulting from construction of the public improvement, proof showing the damage or benefits occurring after the taking has been permitted in instances where the trial occurs long after the public improvement has been completed^[80]. Property owners whose property is being acquired for street, road, highway, freeway, or parkway purposes are entitled to obtain a continuance of the condemnation case until the public improvement is completed to eliminate uncertainty as to the incidental damages or incidental benefits that may occur as the result of the construction. T.C.A. § 29-17-1001. If the condemnation case is tried before the project is completed, maps, drawings, and photographs of the land may be introduced at trial as long as the evidence would not be misleading. T.C.A. § 29-17-1002.

Notes:

[79] *State v. Rascoe, supra*; But see *City of Parsons v. Goff*, (Tenn. Ct. App. W.S. August 4, 1982); *Smith, Commissioner v. Paducah*, (Tenn. Ct. App. W.S. August 20 1976).

[80] *State v. Rascoe, supra*; *City of Parsons v. Goff, supra*; *Smith, Commissioner v. Paducah, supra*.

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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