



## Measure of Damages

---

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,

The University of Tennessee  
Municipal Technical Advisory Service  
1610 University Avenue  
Knoxville, TN 37921-6741  
865-974-0411 phone  
865-974-0423 fax  
[www.mtas.tennessee.edu](http://www.mtas.tennessee.edu)

## Table of Contents

Measure of Damages .....	3
--------------------------	---

## Measure of Damages

**Reference Number:** MTAS-1313

The normal measure of damages in an inverse condemnation case is the same as in any other condemnation case. <sup>[89]</sup> Where a permanent regulatory taking has occurred, the measure of damages is as previously discussed. Where a temporary taking occurs, the property owner is entitled to the value of the use of the property during the time of the temporary taking. <sup>[90]</sup> The value of the temporary use of property normally is measured by the difference in rental value resulting from the imposition of the regulation. <sup>[91]</sup> Some courts, however, have permitted the property owner to recover in excess of the rental value of the property based on the fair market value of the right to develop the property. <sup>[92]</sup>

---

### Notes:

[89] *McKinney v. Smith County*, 1999 WL 1000887 (Tenn. App. 1999); *Shelby County v. Barden*, *supra*.

[90] *City of Tampa v. Ridner*, 852 So.2d 270 (Fla. App. 2003); *First English Evangelical Lutheran Church v. County of Los Angeles*, *supra*; *Yuba Natural Resources, Inc. v. United States*, 904 F.2d 1577 (Fed Cir. 1990); *Wheeler v. City of Pleasant Grove*, 896 F.2d 1347 (11th Cir. 1990) (Wheeler IV); *Wheeler v. City of Mt. Pleasant Grove*, 833 F.2d 267 (11th Cir. 1987) (Wheeler III); *Nemmers v. City of Dubuque*, 764 F.2d 502 (8th Cir. 1985); *Front Royal and Warren County Industrial Park Corp. v. Town of Front Royal*, 749 F.Supp. 1439 (W.D. Va. 1990).

[91] *Kimball Laundry Co. v. United States*, 338 U.S. 1, 69 S. Ct. 1434, 93 L.Ed. 1765 (1949); *Yuba Natural Resources, Inc. v. United States*, *supra*; *Front Royal and Warren County Industrial Park Corp. v. Town of Front Royal*, *supra*.

[92] *Wheeler v. City of Pleasant Grove*, *supra*, (Wheeler IV); *Nemmers v. City of Dubuque*, *supra*. See also *Corrigan v. City of Scottsdale*, 149 Ariz. 538, 720 P.2d 513 (1986) (discussing a variety of measures of damages for temporary takings).

---

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.

**Source URL (retrieved on 08/04/2020 - 7:55pm):** <http://www.mtas.tennessee.edu/reference/measure-damages>