



## Statute of Limitations

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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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# Table of Contents

Statute of Limitations .....	4
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## Statute of Limitations

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Inverse condemnation suits must be commenced within one year after the land has been actually taken possession of and the work of the proposed internal improvement begun. T.C.A. § 29-16-124. <sup>[93]</sup> In establishing the date the taking occurred, which commences the running of the statute of limitations, the courts consider the date of the actual injury to the property or the date the owner had reasonable notice or knowledge of the injury. <sup>[94]</sup>

These general rules are somewhat difficult to apply where the private property is taken due to a public improvement located on adjacent property or is due to a regulatory taking. The statute of limitations was found not to bar a suit filed five years after a public improvement was completed on adjacent property but filed within one year of the date flooding occurred on the private property. <sup>[95]</sup> In a case involving a taking of airspace due to aircraft overflights, the court found that the operative date for the purposes of the statute of limitations was the date that direct overflights of low-flying aircraft commenced over private property, instead of the date the property for the airport was condemned or the date the construction of the airport was completed. <sup>[96]</sup>

The statute of limitations does not commence until the landowner knows or should have known that the injury to his or her property was permanent in nature. <sup>[97]</sup> Thus, where a property owner received repeated assurances from the condemner over a two-year period that flooding caused by highway construction would be corrected, the court held that the statute of limitations did not bar the suit since the court found that the suit was filed within one year of the date the property owner discovered that the condemner had failed to correct the problem. <sup>[98]</sup>

A similar result was obtained in a case involving a municipal ordinance that limited the height of buildings that could be constructed in an airport glide path. <sup>[99]</sup> The court rejected the municipality's argument that the passage of the ordinance commenced the running of the statute of limitations, holding instead that the statute began to run only when the owner's property was injured by the taking and not when he or she had notice of the taking. <sup>[100]</sup>

In instances where the condemner nonsuits a condemnation case after commencing construction of a public improvement, the statute of limitations began to run on the date the nonsuit was entered rather than the date construction was commenced. <sup>[101]</sup>

### Notes:

[93] *Vowell Ventures v. City of Martin*, 47 S.W.3d 434 (Tenn. App. 2000); *Pleasant View Utility District v. Vradenburg*, *supra*; *Shelby County v. Barden*, *supra*; *Knox County v. Moncier*, *supra*; *Armistead v. Clarksville- Montgomery County School System*, *supra*; *Murphy v. Raleigh Utility District of Shelby County*, *supra*; *Doty v. American Telephone & Telegraph Co.*, *supra*; *Burchfield v. State*, *supra*; *Osborne Enterprises, Inc. v. City of Chattanooga*, *supra*; *Jones v. Cocke County*, *supra*; *Morgan County v. Neff*, *supra*.

[94] *Knox County v. Moncier*, *supra*; *Osborne Enterprises, Inc. v. City of Chattanooga*, *supra*; *Jones v. Cocke County*, *supra*; *Davidson County v. Beauchesn*, 39 Tenn. App. 90, 281 S.W.2d 266 (1955); *Morgan County v. Neff*, *supra*. *Guerra v. State*, 2005 WL 3369187 (Tenn. App. 2005).

[95] *Jones v. Cocke County*, *supra*.

[96] *Johnson v. City of Greeneville*, *supra*.

[97] *Knox County v. Moncier*, *supra*. *Guerra v. State*, 2005 WL 3369187 (Tenn. App. 2005) .

[98] *Knox County v. Moncier*, *supra*. See also *Leonard v. Knox County*, 146 S.W. 3d 589 (Tenn. App. 2004).

[99] *Osborne Enterprises, Inc. v. City of Chattanooga*, *supra*.

[100] *Osborne Enterprises, Inc. v. City of Chattanooga*, *supra*.

[101] *Armistead v. Clarksville-Montgomery County School System*, *supra*.

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