



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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Petition for Condemnation

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://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

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Petition for Condemnation

Reference Number: MTAS-1270

Petition for Condemnation (Jury of View Procedure)

The petition for condemnation must be filed in the county in which the property is located. T.C.A. § 29-16-104. The petition must name as defendants all parties having any interest in any way in the property being acquired. T.C.A. § 29-16-106. All parties must be named as defendants for the condemnation proceedings to bind the parties, with the exception of unborn remaindermen, who are bound if all living parties in interest are parties. T.C.A. § 29-16-106. ^[12] Thus, to obtain clear title to the property, the condemner should name as defendants the spouse of the property owner, ^[13] any person owning a life estate or reversionary or remainder interest in the property, ^[14] any lessee of the property, ^[15] any holder of a recorded mortgage, ^[16] and any holder of any other interest in the property, including a purchase contract of which the condemner is aware. ^[17] The name and residence addresses of all defendants, if known, should be listed in the petition, and if the name or address is unknown, that fact should be stated in the petition. T.C.A. § 29-16-104.

The body of the petition for condemnation should set forth the statute, private act, or charter provision giving the condemner the general power to acquire property by eminent domain and should cite the jury of view statutes as the specific statutory procedure being used by the condemner to acquire the property in question. ^[18] The petition should also identify the specific ordinance or resolution of the county or municipal legislative body authorizing the acquisition of the property under the power of eminent domain.

The nature of the project for which the property is being acquired should be described. T.C.A. § 29-16-104. The petition should recite that the project is for a public use, is in the public interest, and that the acquisition of the property is necessary to complete the project. ^[19] The particular interest in the property, either a fee interest or an easement, should be identified. T.C.A. § 29-16-104. An accurate legal description of the property should be included, along with a corresponding map or plat attached as an exhibit if available. T.C.A. § 29-16-104. ^[20] Also, any known encumbrances upon the property should be specified. Finally, the petition should contain a prayer that a copy of the petition be served on the defendants and a suitable portion of the land or the rights of the defendants be awarded to the condemner. T.C.A. § 29-16-104.

Notes:

[12] *Sanford v. Louisville & Nashville Railroad Co.*, 225 Tenn. 350, 469 S.W.2d 363 (1971).

[13] *Brady v. Correll*, 20 Tenn. App. 224, 97 S.W.2d 448 (1936).

[14] *Colcough v. Nashville and Northwestern Railroad Co.*, 39 Tenn. 171 (1858).

[15] *Union Railway Co. v. Hunton*, 114 Tenn. 609, 88 S.W. 182 (1905); *Lamar Advertising of Tennessee, Inc. v. Metropolitan Development and Housing Authority*, 803 S.W.2d 686 (Tenn. Ct. App. 1990); *City of Morristown v. Sauls*, 61 Tenn. App. 666, 457 S.W.2d 601 (1969).

[16] *State v. Holland*, 51 Tenn. App. 344, 367 S.W.2d 791 (1962).

[17] *Cheatham v. Carter County, Tennessee*, 363 F.2d 582 (6th Cir. 1966).

[18] *Middle Tennessee Electric Membership Corp. v. Batey*, Docket No. 89-233-II (Tenn. Ct. App. M.S. January 31, 1990).

[19] *Noell v. Tennessee Eastern Power Co.*, 130 Tenn. 245, 169 S.W. 1169 (1914); Griffith and Stokes, *Eminent Domain in Tennessee*, p. 22 (Rev. Ed. July 1979).

[20] *State ex rel. Shaw v. Shofner*, 573 S.W.2d 169 (Tenn. Ct. App. 1978).

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