

Notice

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

Table of Contents

Notice.....	3
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Notice

Reference Number: MTAS-1272

Notice (Jury of View Procedure)

Notice of the filing of the condemnation petition must be given to each respondent at least 30 days before the taking of any additional steps. T.C.A. § 29-17-104. If the defendant's name or address is unknown, or if he or she is not a resident of the state, notice should be given as for suits in chancery court. T.C.A. § 29-17-104. ^[25] Although notice by publication is also authorized for non-residents of the state, the due process clause of the Fourteenth Amendment to the United States Constitution requires more than notice by publication when the name and address of a non-resident defendant are known or very easily ascertainable. ^[26] The notice should advise the defendant of the filing of the petition and the date scheduled for presenting the petition to the court for issuance of the writ of inquiry. ^[27]

The notice of the filing of the petition is in lieu of the summons that is normally issued in civil actions. ^[28] The manner of service of the notice is not specified in the applicable statutes; however, Rule 71 of the Tennessee Rules of Civil Procedure provides that those rules will be applicable to the extent they are not in conflict with or do not contradict or contravene the provisions of the applicable statutes. Therefore, service of the notice, accompanied by a copy of the petition for condemnation, can be accomplished in any manner authorized by Rule 4 of the Tennessee Rules of Civil Procedure. A return of the notice, like a return of a summons, should be completed in compliance with Rule 4.03 of the Tennessee Rules of Civil Procedure.

If the right to take has not been challenged within 30 days after the giving of notice, the condemner may take possession of the property. If the right to take is challenged, the court must promptly determine as a matter of law whether there is a right to take. If the court determines there is a right to take, it must issue a writ of possessions if necessary. T.C.A. § 29-17-104.

Notes:

[25] The due process clause of the Fourteenth Amendment to the United States Constitution does not permit service by publication where the defendant's name is known or is very easily ascertainable. *Love v. First National Bank of Clarksville*, 646 S.W.2d 163 (Tenn. Ct. App. 1982).

[26] *Baggett v. Baggett*, 541 S.W.2d 407 (Tenn. 1976).

[27] *Griffith and Stokes, supra*, at p. 23.

[28] *Johnson v. Roane County*, 212 Tenn. 433, 370 S.W.2d 496 (1963).

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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