



## Procedural Issues (Just Compensation)

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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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## Procedural Issues (Just Compensation)

Reference Number: MTAS-1301

### ***Procedural Issues (Just Compensation)***

The general rule is that incidental damages and incidental benefits are to be estimated as of the date of the taking.<sup>[79]</sup> 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<sup>[80]</sup>. 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.

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#### **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*.

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