

## Effect of Street Closure on Property Owners

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Dear Reader:

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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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The closure or abandonment of a street does not affect any private rights abutting landowners might have with respect to access to the easement. *Cartwright v. Bell*, 418 S.W.2d 463 (1967); *Stokely v. Southern Railway*, 418 S.W.2d 255 (1967); *Knierim v. Leatherwood*, 542 S.W.2d 806 (1976); *Jacoway v. Palmer*, 753 S.W.2d 675 (Tenn. App. 1987).

However, it has been held that while a municipality has the near unfettered right to close a municipal street, the closing may be a compensable taking of property. *Sweetwater Valley Memorial Park v. City of Sweetwater*, 372 S.W.2d 168 (1963); *Cash & Carry Lumber Company v. Olgiati*, 385 S.W.2d 115 (1964). But minor inconvenience accruing to abutting property owners upon the closing of a street does not necessarily amount to a compensable taking. Under *Cash & Carry Lumber Company*, there had to be an allegation that “reasonable egress and ingress would be destroyed.” In *Sweetwater*, it is said that It is well settled in this State and elsewhere that the *destruction or serious impairment* of a landowner’s right of ingress or egress is a taking of property for which compensation must be paid. [Citations omitted] Thus, if the closing of the northeast end of Anderson Street destroys or seriously impairs complainant’s right of ingress and egress, it may bring an action to recover compensation for this taking. See § 23-1423, T.C.A., and authorities cited thereunder. Such an action normally is known as inverse condemnation. [Citation omitted] But the complainant cannot enjoin the closing of a street [At 170] [Emphasis is mine].

Although the question of the inconvenience of the access in *Cash & Carry Lumber Company* related to the city’s discretion in the closing of the street, that case suggests that inconvenient access must rise to the level of unreasonableness before it constitutes a taking.

Any person claiming title to land presumed to be owned by the state shall have the right to file an action at law in inverse eminent domain within two years from the date actual possession is taken, saving, however, to unknown owners and nonresidents, 12 months after actual knowledge of possession, not exceeding two years, and saving to persons under the disabilities of infancy and unsoundness of mind, 12 months after the disability is removed, but not exceeding two years, except those claims required to be asserted as a compulsory counterclaim. T.C.A. § 54-22-105.

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