

## CHAPTER 117

## EMINENT DOMAIN

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**117.043 COMPELLING DELIVERY OF POSSESSION.**

Subdivision 1. **Conditions required for court to issue relief.** A court having jurisdiction over an eminent domain proceeding may issue an order compelling delivery of possession of the property under any of the following conditions:

(1) the court has issued an order authorizing transfer of title and possession and the petitioner has paid or deposited its approved appraisal value under section 117.042; or

(2) the petitioner has acquired title of the real estate.

If one of these conditions is met, the court may issue an order compelling delivery of possession of the property upon: (1) the affidavit of the petitioner; (2) notice to the occupants of the acquired real estate and others claiming a right to remain in possession of it; and (3) a hearing. Notice of the hearing must be given in the same way as notice of a motion under the rules of civil procedure. In case of hardship the court may delay enforcement of an order compelling delivery of possession for a period not to exceed seven days. Unless otherwise allowed by the court, the matter must be considered solely on the basis of arguments of counsel and affidavits.

Subd. 2. **Award of fees and costs.** Following notice and hearing, if the occupant, in bad faith, has failed to deliver possession of the real estate in accordance with either an order issued under section 117.042 or an order issued under this section, the court, upon application by the petitioner, may award to the petitioner, and against the occupant, the attorney fees, costs, and disbursements that were actually incurred by the petitioner in getting possession of the real estate.

**History:** 1987 c 287 s 1

**117.085 COMMISSIONERS, POWERS, DUTIES.**

The commissioners, having been duly sworn and qualified according to law, shall meet as directed by the order of appointment and hear the allegations and proofs of all persons interested touching the matters to them committed. They may adjourn from time to time and from place to place within the county, giving oral notice to those present of the time and place of their next meeting. All testimony taken by them shall be given publicly, under oath, and in their presence. They shall view the premises, and any of them may subpoena witnesses, which shall be served as subpoenas in civil actions are served, and at the cost of the parties applying therefor. If deemed necessary, they may require the petitioner or owner to furnish for their use maps, plats, and other information which the petitioner or owner may have showing the nature, character, and extent of the proposed undertaking and the situation of lands desired therefor. In proper cases they may reserve to the owner a right of way or other privilege in or over the land taken, or attach reasonable conditions to such taking in addition to the damages given or they may make an alternative award, conditioned upon the granting or withholding of the right specified. Without unreasonable delay they shall make a separate assessment and award of the damages which in their judgment will result to each of the owners of the land by reason of such taking and report the same to the court. The commissioners, in all such proceedings, may in their discretion allow and show separately in addition to the award of damages, reasonable appraisal fees not to exceed a total of \$500. Upon request of an owner the commissioners shall show in their report the amount of the award of damages which is to reimburse the owner and tenant or

lessee for the value of the land taken, and the amount of the award of damages, if any, which is to reimburse the owner and tenant or lessee for damages to the remainder involved, whether or not described in the petition. The amounts awarded to each person shall also be shown separately.

**History:** 1987 c 339 s 1

#### **117.48 CRUDE OIL PIPELINE COMPANIES, EMINENT DOMAIN.**

The business of transporting crude petroleum, oil, their related products and derivatives including liquefied hydrocarbons, or natural gas by pipeline as a common carrier, is declared to be in the public interest and necessary to the public welfare, and the taking of private property therefor is declared to be for a public use and purpose. Any corporation or association qualified to do business in the state of Minnesota engaged in or preparing to engage in the business of transporting crude petroleum, oil, their related products and derivatives including liquefied hydrocarbons, or natural gas by pipeline as a common carrier, is authorized to acquire, for the purpose of such business, easements or rights-of-way, over, through, under or across any lands, not owned by the state or devoted to a public purpose for the construction, erection, laying, maintaining, operating, altering, repairing, renewing and removing in whole or in part, a pipeline for the transportation of crude petroleum, oil, their related products and derivatives including liquefied hydrocarbons, or natural gas. To such end it shall have and enjoy the right of eminent domain to be exercised in accordance with this chapter, and acts amendatory thereof, all of which provisions shall govern insofar as they may be applicable hereto. Nothing herein shall be construed as authorizing the taking of any property owned by the state, or any municipal subdivision thereof, or the acquisition of any rights in public waters except after permit, lease, license or authorization issued pursuant to law.

**History:** 1987 c 353 s 4

#### **117.49 APPROVAL OF PROCEEDINGS BY COMMISSIONER OF NATURAL RESOURCES.**

In the event that the right to exercise the power of eminent domain in accordance with this chapter, is granted by law to any person, corporation or association qualified to do business in the state of Minnesota engaged in or preparing to engage in the business of transporting crude petroleum, oil, their related products and derivatives including liquefied hydrocarbons, or natural gas by pipeline as a common carrier, the right shall not be exercised by such person, corporation, or association until the plans of the project for which the exercise of the power of eminent domain is proposed shall have first been submitted to and approved by the commissioner of natural resources. The plans shall be submitted in sufficient detail so that the commissioner can make a determination as to the impact that the proposed project will have on the environment. The commissioner of natural resources shall make a comprehensive review of such plans and make detailed comments on the effect that such project, if pursued, would have on the environment, including recommendations for changes or alterations, if any, that would be required before such project would be approved by the commissioner. Failure of the commissioner to approve or disapprove the plans so submitted within 90 days after submission shall be deemed approval of the plans and the power of eminent domain may thereupon be exercised for such project. This section does not apply to use of eminent domain in regard to a pipeline for which a routing permit is required by section 1161.015.

**History:** 1987 c 353 s 5

#### **117.52 UNIFORM RELOCATION ASSISTANCE.**

Subdivision 1. **Lack of federal funding.** In all acquisitions undertaken by any acquiring authority and in all voluntary rehabilitation carried out by a person pursuant to acquisition or as a consequence thereof, in which, due to the lack of federal financial participation, relocation assistance, services, payments and benefits under the Uniform

Relocation Assistance and Real Property Acquisition Policies Act of 1970, Statutes at Large, volume 84, page 1894 (1971), United States Code, title 42, section 4601, et seq., are not available, the acquiring authority, as a cost of acquisition, shall provide all relocation assistance, services, payments and benefits required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and those regulations adopted pursuant thereto by the United States Department of Housing and Urban Development, and either (1) in effect as of January 1, 1984, or (2) becoming effective after January 1, 1984, following a public hearing and comment. Comments received by an acquiring authority within 30 days after the public hearing must be reviewed and a written response provided to the individual or organization who initiated the comment. The response and comments may be addressed in another public hearing by the acquiring authority before approval.

*[For text of subs 2 and 3, see M.S.1986]*

**History:** 1987 c 80 s 1