



A Business Owner's Survival Guide to Eminent Domain

**10 Things You Must Know When
the Government Wants Your Property**

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What is Eminent Domain and What are My Rights as a Business Owner?



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Where in the course of human events, it becomes necessary to dissolve the political bands which have connected them with another State, to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

That among these are Life, Liberty and the pursuit of Happiness. — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as shall seem to them most likely to promote their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly, all experience has shown that the abuses and violations of Rights are necessary to excite the People to alter or abolish them.

WE THE PEOPLE

insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity. We do hereby certify that the following is a true and correct copy of the original as the same appears in the records of the Department of State.



What is Eminent Domain?

- Eminent Domain is the power of the government to take or “condemn” property for public use, without the owner’s consent.
- Business owners are entitled to compensation when the government takes property where the business operates.
- The “government” includes cities, counties, states; as well as agencies such as Caltrans, local transit agencies, water districts, and utility companies.

**STRICTLY
PRIVATE
NO ACCESS**

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Will I be able to stop the eminent domain process?

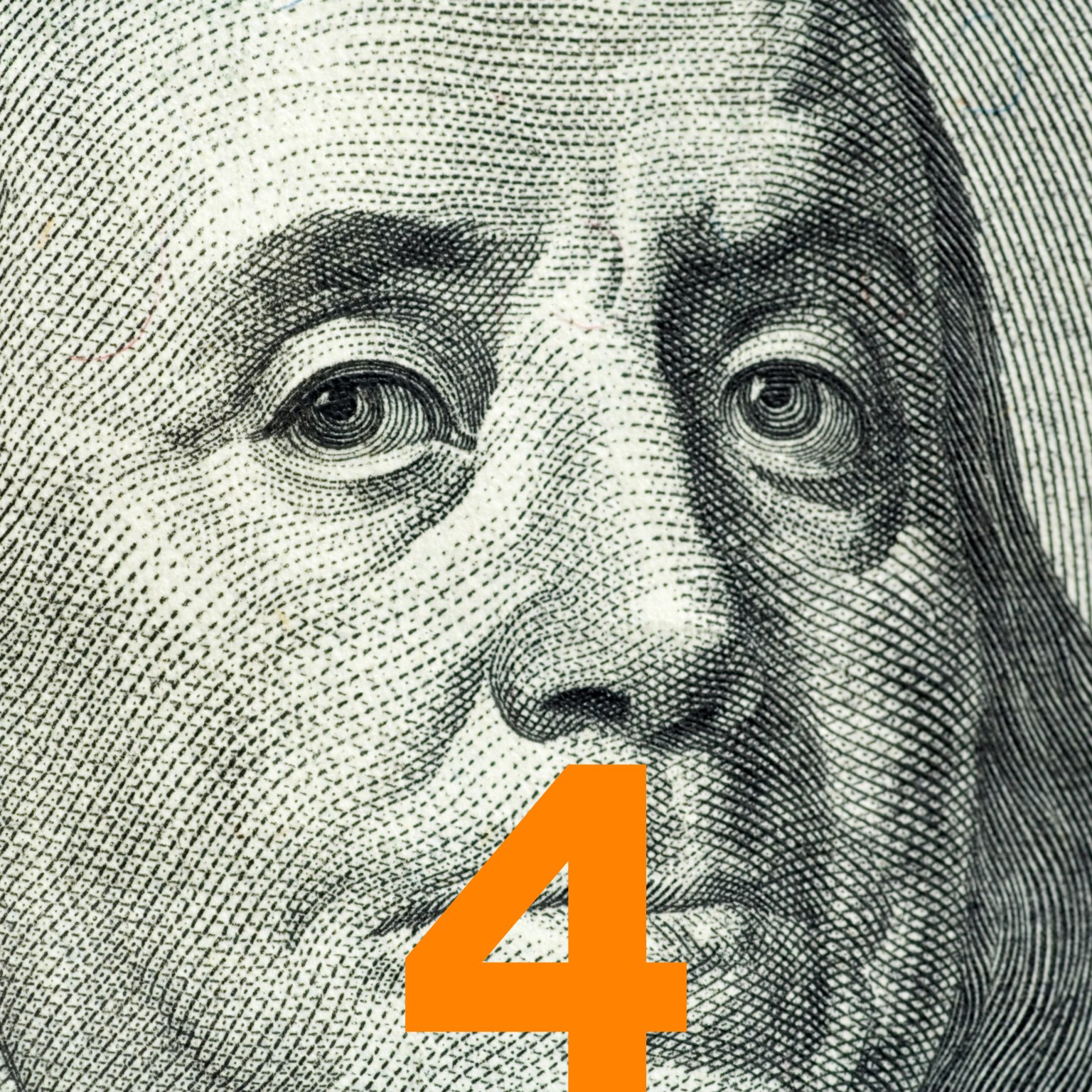
- You are entitled to challenge the government's taking of the property, but absent unusual circumstances, it is very rare to be able to stop the government from taking property under eminent domain laws.
- You may be able to slow or delay the taking of the property if the government fails to follow proper procedures.
- This process can be complicated and challenging to navigate. Consulting with an eminent domain attorney can help guide you, and, if necessary, the attorney can assist you in challenging the government's right to take your property, and fight to get you the best possible result.



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How does the eminent domain process work?

- The government may send appraisers or other agents to talk to you about your business – remember that these appraisers work for the government, not you.
- You may receive an offer for relocation assistance or notices of upcoming hearings – do not ignore them! Experienced attorneys can refer you to licensed appraisers and others who can provide important expertise to strengthen your claims.
- Developing a proactive strategy is key – eminent domain discussions can linger for years, but once the process begins, it may be too late.



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What compensation am I entitled to?

- You may recover for lost “business goodwill.”
- A business may accrue “goodwill” as a result of its location, reputation, and ability to attract and keep customers.
- Compensation for business goodwill may be awarded if a business loses these benefits as a result of the taking.
- You may also be entitled to compensation for the value of lost fixtures and equipment, and depending on lease terms, part of the compensation for the real property.



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Am I entitled to less if I only lease? What if I own the property *and the business?*

- Even if you do not own the property, you may recover for losses to your business. The terms of your lease may affect your compensation.
- If you also own the property, you are entitled to “just compensation” for the property, which is its “Fair Market Value.”
- Fair Market Value means the highest price a buyer would pay on the open market.
- It is important to remember that you do not have to accept the government’s initial offer of compensation. You may make a counter-offer and assert a higher value for your business and property.

CLOSING

THIS STORE

EVERYTHING

MUST GO

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Will the government help relocate my business?

- You may be entitled to recover some of the costs of moving your business and reestablishing it at a new location.
- There may be alternative methods by which experienced professionals can ensure you receive the maximum amount of recovery related to the displacement and relocation of your business.



What if the government wants only part of the property used by my business?

- Sometimes the government needs only a portion of the property – like a piece of the parking lot.
- You may be entitled to compensation if your business loses value because it is on a smaller parcel or from other changes such as loss of visibility, impaired access, or development potential due to the project.



What immediate action can I take to protect my rights and maximize compensation for my business?

- You must take reasonable steps to preserve business goodwill.
- This means trying to relocate if relocation would result in retaining goodwill (i.e., keeping customers).
- Even if you relocate, your business may still suffer a loss of business goodwill due to a loss of customers, loss of income or increased expenses at the new location.
- You are entitled to recover any such losses that could not have been reasonably prevented.



Can I negotiate with the government on my own without a lawyer?

- You are entitled to protect your own interests, but in many cases, owners will obtain a better recovery if represented by knowledgeable attorneys.
- Keep in mind that the government has its own team of lawyers and other experts to help protect its interests.
- You may be able to maximize the compensation you will receive by having your own team working for you.



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Where should I go for assistance?

Nossaman's Eminent Domain attorneys have an unrivaled track record of success in representing California landowners and have recovered hundreds of millions of dollars in compensation on their behalf. Our team is one of the largest single eminent domain groups in the State – regularly achieving top-notch results in eminent domain proceedings, starting even before the government files the action.

Nossaman will not only work for you but may be able to arrange for your case to be handled on a contingency fee basis, which means you do not pay attorneys' fees unless you get more than the government offers.

For a free consultation to discuss your rights as a landowner with one of our experienced eminent domain attorneys, contact us at **844.806.2800** or eminentdomain@nossaman.com.

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