

### **6B.3 Application recording notice time for appraisal new proceedings.**

1. The proceedings shall be instituted by a written application filed with the chief judge of the judicial district of the county in which the land sought to be condemned is located. The application shall set forth:

- a.* A description of all the property in the county affected or sought to be condemned, by its congressional numbers, in tracts not exceeding one-sixteenth of a section, or, if the land consists of lots, by the numbers of the lot and block, and plat designation.
- b.* A plat showing the location of the right-of-way or other property sought to be condemned with reference to such description.
- c.* The names of all record owners of the different tracts of land sought to be condemned, or otherwise affected by such proceedings, and of all record holders of liens and encumbrances on such lands; also the place of residence of all such persons so far as known to the applicant.
- d.* The purpose for which condemnation is sought.
- e.* A request for the appointment of a commission to appraise the damages.
- f.* If the damages are to be paid by the state and the land to be condemned is within an agricultural area as provided in chapter 352, a statement disclosing whether any of that land is classified as class I or class II land under the United States department of agriculture natural resources conservation service land capability classification system contained in the agriculture handbook number 210, 1961 edition and, if so classified, stating that the class I or class II land is reasonably necessary for the work of internal improvement for which condemnation is sought.
- g.* A showing of the minimum amount of land necessary to achieve the public purpose and the amount of land to be acquired by condemnation for the public improvement. Any land to be acquired by condemnation beyond the necessary minimum to complete the project shall be presumed not to be necessary for a public use or public purpose unless the applicant can show that a substantial need exists for the additional property to achieve the public use or public purpose, or that the land in question constitutes an uneconomical remnant that has little or no value or utility to the owner, or that the owner consents to the condemnation.
- h.* A statement indicating the efforts made by the applicant to negotiate in good faith with the owner to acquire the private property sought to be condemned.

2. The applicant shall mail a copy of the application by certified mail to the owner at the owner's last known address, to any contract purchaser of record of the property, to any tenant known to be occupying the property, and to any record lienholder or encumbrancer of the property at the lienholder's or encumbrancer's last known address. The applicant shall also cause the application to be published once in a newspaper of general circulation in the county, not less than four nor more than twenty days before the meeting of the compensation commission to assess the damages. Service of the application by publication shall be deemed complete on the day of publication.

In lieu of mailing and publishing the application, the applicant may cause the application to be served upon the owner, contract purchaser of record, tenant known to be occupying the property, record lienholders, and record encumbrancers of the property in the manner provided by the Iowa rules of civil procedure for the personal service of original notice. The application shall be mailed and published or served, as above provided, prior to or contemporaneously with the mailing and publication or service of the list of compensation commissioners as provided in section 6B.4.

3. The applicant shall promptly certify that its application for condemnation has been approved by the chief

judge and shall file the original approved application with the county recorder in the manner required under section 6B.37. The county recorder shall file and index the application in the record of deeds and preserve the application as required by sections 6B.38 and 558.55. The filing and indexing constitute constructive notice to all parties that a proceeding to condemn the property is pending and that the applicant has the right to acquire the property from all owners, lienholders, and encumbrancers whose interests are of record at the time of the filing. After filing and indexing, the county recorder shall file a copy of the application with the office of secretary of state.

When indexed, the proceeding is considered pending so as to charge all persons not having an interest in the property with notice of its pendency, and while pending no interest can be acquired by the third parties in the property against the rights of the applicant. If the appraisal of damages by the commission pursuant to section 6B.14 is not made within one hundred twenty days of indexing, the proceedings instituted under this section are terminated and all rights and interests of the applicant arising out of the application for condemnation terminate. The applicant may reinstitute a new condemnation proceeding at any time. The reinstated proceedings are entirely new proceedings and not a revival of the terminated proceeding.

[R60, § 1230; C73, § 1247; C97, § 2002; C24, 27, 31, 35, 39, § **7824**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 472.3; 82 Acts, ch 1245, § 19]

84 Acts, ch 1065, § 1, 2

C93, § 6B.3

95 Acts, ch 216, § 25; 99 Acts, ch 171, §4, 42; 2000 Acts, ch 1179, §8, 9, 30; 2006 Acts, 1st Ex, ch 1001, §810, 49

#### **Footnotes**

Manner of service, R.C.P. 1.3021.315

2006 amendments to this section take effect July 14, 2006;  
2006 amendments to subsection 1, paragraph d, and subsection 2  
apply to applications for condemnation filed on or after July 14,  
2006; 2006 Acts, 1st Ex, ch 1001, §49