

CHAPTER 34
ACQUISITION NEGOTIATION STATEMENT OF RIGHTS

61—34.1(6B) Statement of property owner’s rights. Iowa Code section 6B.2A(1) mandates that an acquiring agency provide a statement of rights to owners of record who may have all or a part of their property acquired by condemnation. It also directs the attorney general to adopt rules prescribing a statement of rights which an acquiring agency may use to meet its obligation. Pursuant to that directive, the following statement of property owner’s rights is adopted:

STATEMENT OF PROPERTY OWNER’S RIGHTS

Just as the law grants certain entities the right to acquire private property, you as the owner of the property have certain rights. You have the right to:

1. Receive just compensation for the taking of property. (Iowa Constitution, Article I, section 18)
2. An offer to purchase which may not be less than the lowest appraisal of the fair market value of the property. (Iowa Code section 6B.54(3))
3. Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency’s determination of just compensation is based not less than ten days before being contacted by the acquiring agency’s acquisition agent. (Iowa Code section 6B.45)
4. An opportunity to accompany at least one appraiser of the acquiring agency who appraises your property when an appraisal is required. (Iowa Code section 6B.54(2))
5. Participate in good-faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (Iowa Code section 6B.2B)
6. Retain legal counsel of your choosing at your expense for the purpose of bringing a court action to challenge the exercise of eminent domain authority or the condemnation proceedings in accordance with the provisions of law. (Iowa Code section 6B.3A; Iowa Code section 6A.24)
7. A determination of just compensation by an impartial compensation commission and the right to appeal its award to the district court if you cannot agree on a purchase price with the acquiring agency. (Iowa Code section 6B.4; Iowa Code section 6B.7; Iowa Code section 6B.18)
8. Payment of the agreed upon purchase price or, if condemned, a deposit of the compensation commission award before you are required to surrender possession of the property. (Iowa Code section 6B.25; Iowa Code section 6B.26; Iowa Code section 6B.54(11))
9. Reimbursement for expenses incidental to transferring title to the acquiring agency. (Iowa Code section 6B.33; Iowa Code section 6B.54(10))
10. Reimbursement of certain litigation expenses: (a) if the award of the compensation commissioners exceeds 110 percent of the acquiring agency’s final offer before condemnation; and (b) if the award on appeal in court is more than the compensation commissioners’ award. (Iowa Code section 6B.33)
11. To the greatest extent practicable, be provided at least 90 days’ written notice to vacate occupied property prior to construction or development of a public improvement. (Iowa Code section 6B.54(4))
12. Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of the payments. (Iowa Code section 316.9; Iowa Code section 6B.42)

The rights set out in this statement are not claimed to be a full and complete list or explanation of an owner’s rights under the law. They are derived from Iowa Code chapters 6A, 6B and 316. For a more thorough presentation of an owner’s rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

[ARC 2979C, IAB 3/15/17, effective 4/19/17]

61—34.2(6B) Alternate statement of rights. Rule 61—34.1(6B) is not intended to prohibit acquiring agencies from providing a statement of rights in a different form, a more detailed statement of rights, or supplementary material expanding upon an owner’s rights.

[ARC 2979C, IAB 3/15/17, effective 4/19/17]

These rules are intended to implement Iowa Code section 6B.2A(1).

[Filed 9/17/99, Notice 8/11/99—published 10/6/99, effective 11/10/99]

[Filed ARC 2979C (Notice ARC 2877C, IAB 1/4/17), IAB 3/15/17, effective 4/19/17]