

26 **78B-6-511**, as last amended by Laws of Utah 2018, Chapter 371

27 

---

28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **57-12-13** is amended to read:

30 **57-12-13. Procedure for acquisition of property.**

31 (1) (a) As used in this section, "fee simple owner" means the owner of a fee simple  
 32 interest in real property.

33 (b) "Fee simple owner" does not include a tenant, lienholder, or other claimant of an  
 34 interest in real property.

35 (2) Any agency acquiring real property as to which it has the power to acquire under  
 36 the eminent domain or condemnation laws of this state shall comply with the following  
 37 policies:

38 ~~[(1)]~~ (a) Every reasonable effort shall be made to acquire expeditiously real property by  
 39 negotiation with the fee simple owner.

40 ~~[(2)]~~ (b) Real property shall be appraised before the initiation of negotiations, and the  
 41 fee simple owner or his designated representative shall be given an opportunity to accompany  
 42 the appraiser during his inspection of the property.

43 ~~[(3)]~~ (c) Before the initiation of negotiations for real property, an amount shall be  
 44 established which is reasonably believed to be just compensation therefor, measured by an  
 45 undivided \$ → **[fee simple interest in the property as a whole] interest in the real property being**  
 45a acquired ← \$ , and such amount shall be offered to

46 the fee simple owner for the property. In no event shall such amount be less than the lowest  
 47 approved appraisal of the fair market value of the property. Any decrease or increase of the fair  
 48 market value of real property prior to the date of valuation caused by the public improvement  
 49 for which such property is acquired or by the likelihood that the property would be acquired for  
 50 such improvement, other than that due to physical deterioration within the reasonable control  
 51 of the fee simple owner, will be disregarded in determining the compensation for the property.  
 52 The owner of the real property to be acquired shall be provided with a written statement of, and  
 53 summary of the basis for, the amount established as just compensation. Where appropriate the  
 54 just compensation for real property acquired and for damages to remaining real property shall  
 55 be separately stated.

56 ~~[(4)]~~ (d) No owner shall be required to surrender possession of real property acquired

212 (1) (a) At any time after the commencement of suit, and after giving notice to the  
213 defendant as provided in the Utah Rules of Civil Procedure, the plaintiff may file a motion with  
214 the court requesting an order permitting the plaintiff to:

215 (i) occupy the premises sought to be condemned pending the action, including appeal;  
216 and

217 (ii) to do whatever work on the premises that is required.

218 (b) Except as ordered by the court for good cause shown, a defendant may not be  
219 required to reply to a motion for immediate occupancy before expiration of the time to answer  
220 the complaint.

221 (2) The court shall:

222 (a) take proof by affidavit or otherwise of:

223 (i) the value of the premises sought to be condemned, measured by an undivided ~~Ŝ~~ → [fee  
224 simple interest in the premises as a whole] interest in the premises sought to be condemned ←Ŝ ;

225 (ii) [the] any severance damages that will accrue from the condemnation to the  
226 undivided ~~Ŝ~~ → [fee simple interest in the premises as a whole] interest in any remaining property  
226a not sought to be condemned ←Ŝ ; and

227 (iii) the reasons for requiring a speedy occupation; and

228 (b) grant or refuse the motion according to the equity of the case and the relative  
229 damages that may accrue to the parties.

230 (3) (a) If the motion is granted, the court shall enter its order requiring that the plaintiff,  
231 as a condition precedent to occupancy, file with the clerk of the court a sum equal to the  
232 condemning authority's appraised valuation of the property sought to be condemned as  
233 described in Subsection (2)(a)(i).

234 (b) That amount shall be for the purposes of the motion only and is not admissible in  
235 evidence on final hearing.

236 (4) (a) Upon the filing of the petition for immediate occupancy, the court shall fix the  
237 time within which, and the terms upon which, the parties in possession are required to  
238 surrender possession to the plaintiff.

239 (b) The court may issue orders governing encumbrances, liens, rents, assessments,  
240 insurance, and other charges, if any, as required.

241 (5) (a) The rights of just compensation for the land taken as authorized by this section  
242 or damaged as a result of that taking vests in the parties entitled to it.