

[Read this online](#)

Allen Matkins

Real Estate Tip



K. Erik Friess
Orange County
(949) 851-5478
rfriess@allenmatkins.com



[Watch the Video](#)

About Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP is a California law firm with more than 220 attorneys practicing out of seven offices in Orange County, Los Angeles, Century City, San Diego, Del Mar Heights, San Francisco and Walnut Creek. The firm's broad-based areas of focus include construction, real estate, land use, environmental, corporate, finance, business litigation, tax, bankruptcy and creditors' rights, labor and employment and intellectual property. [More...](#)

Related Practices

- [Land Use, Environmental and Natural Resources](#)
- [Litigation](#)
- [Real Estate](#)



Allen Matkins is recognized by *Chambers and Partners*

Eminent Domain: What To Do – And Not Do – When The Government Seeks To Condemn Your Property Or Business

This alert applies to all property owners.

May 4, 2011

You get a notice in the mail or a knock at the door: it's the government with news that your property or business is in the way of a government project – the new school, the freeway widening, the new power line. The government tells you it is prepared to use its power of eminent domain to condemn some or all of your property or business. What do you need to do? And what do you need to avoid doing?

You are not powerless. You have rights, rights specifically protected by the United States Constitution and other laws. Here are some of the basic DOs and DON'Ts that you will need to know to protect your rights and to be compensated fairly:

DOs

1. Do Be Informed:

- Do communicate with the government and keep track of the progress and status of the project that will require the taking of your property.
- Do know what your rights are and what the eminent domain process will entail.
- Do work with the appraiser sent by the government in order to make sure they are well-informed about the unique aspects of your property or business.

2. Do Be Proactive:

- Do see if you can get changes in the project that will minimize or avoid impacts to your property.
- Do get your leases in order and make sure that the condemnation provisions are favorable to you, or at least that you fully understand their implications.
- Do get all of your property and business records in order so that you can document your damages.
- Do ask for copies of the government's appraisal and of the government's plans and studies related to its project.
- Do keep copies of all materials and correspondence provided to you by the government.
- Do continue to maintain your property and business and take appropriate steps to increase the value of them.

- #1 Real Estate Law Firm in California (2002 – 2010)
- Construction Group is ranked as one of the best in California (2009 and 2010)
- Labor & Employment Group is ranked as one of the best in California (2010)
- Environmental Group is ranked as one of the best in California (2010)

3. Do Get Experienced Assistance:

- Do retain an appraiser very experienced with eminent domain and with the property or business type you have.
- Do retain an attorney experienced in eminent domain and valuation.

DON'Ts

1. Don't Panic.

- Don't avoid the government and ignore the potential that your property might be taken for a project.
- Don't be afraid of eminent domain litigation.
- Don't run out and get your own appraisal.

2. Don't Trust That The Government Has Your Best Interests At Heart.

- Don't simply accept that the government's valuation is proper and reflects full compensation.
- Don't accept the government's assertions that it can't be flexible.

3. Don't Give Away Too Much To The Government.

- Don't make statements about what you think your property or business is worth.
- Don't turn over your tax returns or business records to the government.
- Don't share with the government any appraisals that you have had prepared.
- Don't grant possession to your property.
- Don't allow testing for toxics or other explorations of your property.

It is important to remember that even the best intended government agency will have as its first and foremost goal to get its project built on time and under budget. Making sure that your rights as a property or business owner are protected will not be the government's top priority. You will have to watch out for yourself. And ensuring that you are protected and properly compensated will require organized and proactive communication, negotiation, and, potentially, litigation.

For more information about the eminent domain process and ways to protect your interests, we would be happy to send you our handbook: "The Government Wants Your Property, Now What? The Basics of Eminent Domain for Property and Business Owners." Please contact Rick Friess for a copy at rfriess@allenmatkins.com.

© 2011 Allen Matkins Leck Gamble Mallory & Natsis LLP. All rights reserved. This email is intended for general information purposes only and should not be construed as legal advice or legal opinions on any specific facts or circumstances. This email was sent by: Allen Matkins Leck Gamble Mallory & Natsis LLP, 515 S. Figueroa Street, 7th Floor, Los Angeles, California 90071. To stop receiving this publication, click on the "unsubscribe" button.