

**SUMMARY OF THE RIGHTS OF AN OWNER
WHEN ADA COUNTY HIGHWAY DISTRICT SEEKS TO ACQUIRE PROPERTY THROUGH ITS
POWER OF EMINENT DOMAIN.**

(1) The Ada County Highway District has the power under the constitution and the laws of the state of Idaho and the United States to take private property for public use. This power is generally referred to as the power of "eminent domain" or condemnation. The power can only be exercised when:

(a) The property is needed for a public use authorized by Idaho law;

(b) The taking of the property is necessary to such use;

(c) The taking must be located in the manner which will be most compatible with the greatest public good and the least private injury.

(2) The Ada County Highway District must negotiate with the property owner in good faith to purchase the property sought to be taken and/or to settle with the owner for any other damages which might result to the remainder of the owner's property.

(3) The owner of private property to be acquired by the Ada County Highway District is entitled to be paid for any diminution in the value of the owner's remaining property which is caused by the taking and the use of the property taken proposed by the District. This compensation, called "severance damages," is generally measured by comparing the value of the property before the taking and the value of the property after the taking. Damages are assessed according to Idaho Code.

(4) The value of the property to be taken is to be determined based upon the highest and best use of the property.

(5) If the negotiations to purchase the property and settle damages are unsuccessful, the property owner is entitled to assessment of damages from a court, jury, or referee as provided by Idaho law.

(6) The owner has the right to consult with an appraiser of the owner's choosing at any time during the acquisition process, at the owner's cost and expense.

(7) The Ada County Highway District shall deliver to the owner, upon request, a copy of all appraisal reports concerning the owner's property prepared by the Ada County Highway District. Once a complaint for condemnation is filed, the Idaho Rules of Civil Procedure control the disclosure of appraisals.

(8) The owner has the right to consult with an attorney at any time during the acquisition process. In cases in which the Ada County Highway District condemns property and the owner is able to establish that just compensation exceeds the last amount timely offered by the Ada County Highway District by ten percent (10%) or more, the Ada County Highway District may be required to pay the owner's reasonable costs and attorney's fees. The court will make the determination whether costs and fees will be awarded.

(9) The summary of rights is deemed delivered when sent by United States certified mail, postage prepaid, addressed to the person or persons shown in the official records of the county assessor as the owner of the property. A second copy will be attached to the appraisal at the time it is delivered to the owner.

(10) If the Ada County Highway District desires to acquire property pursuant to Chapter 7, Eminent Domain, of Title 7, Idaho Code, the Ada County Highway District or any of its agents or employees shall not give the owner any timing deadline as to when the owner must respond to the initial offer which is less than thirty (30) days. A violation of the provisions of this subsection shall render any action pursuant to this Chapter 7, Eminent Domain, of Title 7, *Idaho Code*, null and void.

(11) Under section 7-711(2)(b), Idaho Code, damages may be assessed for damages to a business. In order to recover for damages to a business, the property sought to be taken by the Ada County Highway District must constitute only a part of a larger parcel, the business must be owned by the person whose lands are sought to be taken or be located upon adjoining lands owned or held by such person, the business must have more than five (5) years standing, and the taking of a portion of the property and the construction of the improvement in the manner proposed by the Ada County Highway District must reasonably cause the damages. Business damages are not available if the loss can reasonably be prevented by relocation of the business or by taking steps that a reasonably prudent person would take, or for damages caused by temporary business interruption due to construction. Compensation for business damages shall not be duplicated in the compensation otherwise available to the property owner under paragraphs (2), (3) and (4) of this Summary. Section 7-711(2)(b), Idaho Code, sets forth the procedures an owner claiming business damages must take, and the timing thereof, in the event the negotiations to purchase the property and settle damages are unsuccessful and an action in condemnation is filed by the Ada County Highway District.

(12) Nothing in this summary of rights changes the assessment of damages set forth in section 7-711, Idaho Code.