

Preface

The purpose of this book is to serve as a handbook for public sector attorneys and land acquisition staff as well as appraisers. It is a practical how-to-do-it manual which guides the reader, step-by-step, from project inception until the eminent domain complaint has been filed and served and possession of the property has been secured.

Public sector attorneys will find this handbook of procedures a helpful guide around the rocks and shoals of eminent domain practice which might otherwise defeat a public entity's right to take, delay acquisition, or make the acquisition unnecessarily costly.

While written from the standpoint of public entity needs, attorneys who represent owners may find that they can better represent their clients if they understand the practices of their governmental counterparts.

Appraisers, whether appraising for a public entity or a property owner whose property is being acquired by eminent domain, will find the portions of the book devoted to appraisal issues a highly useful and practical guide to meeting the strict evidentiary rules relating to the market value of property. It is essential that any professional who appraises for an eminent domain purpose understand fundamental condemnation law, as well as what is admissible evidence in an eminent domain action. What an appraiser might otherwise rely on to support his or her opinion in a less formal appraisal practice might be inadmissible or even result in the exclusion of the appraiser's opinion in an eminent domain trial.

Some of the recommendations directed at public entity attorneys are related to work that is actually performed by either acquisition or engineering staff in many public agencies. Acquisition staff will find the handbook helpful in working within what must seem to be an unduly costly and cumbersome legal process that is triggered when staff is unable to acquire a parcel by early negotiation. The book should also help public entity staff avoid pitfalls which could make the acquisition process unnecessarily costly.

The goal of this handbook is to be a step-by-step, how-to-do-it eminent domain practice manual, and not a textbook on condemnation law. There already exist two useful California eminent domain law texts.

The recommendations and practice suggestions described in the book in many cases were learned from mistakes the author has either observed or made himself over many years of condemnation practice.

This book necessarily deals with relatively common eminent domain issues. It cannot be a substitute for the guidance and advice of eminent domain legal counsel to respond to issues raised by special cases, ambiguous case law, and complex matters.

It has been the author's good fortune to have worked with a remarkably competent group of eminent domain practitioners, both as adversaries and as colleagues. With only a few exceptions, my adversaries have been impeccable warriors whose civility and courtesy have been models of professional conduct.

To my adversaries and colleagues, I wish to express my appreciation for teaching me much of what I know about eminent domain law and humankind. In particular, I wish to thank Joseph A. Montoya, a

former Caltrans Chief Counsel, who was my trial mentor and a giant in the courtroom, and Charles O. Lamoree, Vacaville City Attorney, Kevin D. Allmand, Santa Clara County Transit District Senior Assistant Counsel, and Sharon L. Anderson, Contra Costa County Deputy Counsel, for their assistance and thoughtful insights on the real world of public entity counsel.

—Richard G. Rypinski

I recall consulting this book on numerous occasions when I first began practicing eminent domain law, and found it extremely helpful in quickly giving me the background I needed to begin practicing this area of law with confidence. It is an honor and a privilege to be given the opportunity to provide the first update to his book in over than twelve years.

Richard G. Rypinski, co-author of this book, and author of its original and second edition, retired from the practice of law before this edition came to fruition. However, in considering recommendations for this third edition, I was fortunate to have Mr. Rypinski's assistance.

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—Alan A. Sozio



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