



Eminent Domain Data Questionnaire Results

The States policies for Eminent Domain and Condemnation in the
Transportation Enhancements program.

Prepared by the National Transportation Enhancements Clearinghouse
July 27, 2006

Alabama

Submitted By: Colson, Cecil [mailto:colsonc@dot.state.al.us]

- Does the state prohibit using transportation enhancement funds for condemnation / eminent
- Are all TE projects prohibited?
- Are Trail Projects prohibited from using eminent domain / Condemnation
- Are Trail projects and any other bicycle and pedestrian facility projects prohibited?
- Are other TE categories prohibited?
- Description of other categories prohibited:

Comments on Eminent Domain:

Alabama does not have a formal policy on condemnation, but we have never condemned property for a TE project and I doubt that we ever will.

Alaska

Submitted By: Lohrey, John <FHWA>

- Does the state prohibit using transportation enhancement funds for condemnation / eminent
- Are all TE projects prohibited?
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- Are Trail projects and any other bicycle and pedestrian facility projects prohibited?
- Are other TE categories prohibited?
- Description of other categories prohibited:

Comments on Eminent Domain:

Alaska does not prohibit using Transportation Enhancement funds for condemnation/eminent domain, but the State has a strict interpretation that to acquire property through condemnation/eminent domain the DOT must show the property is "necessary" for transportation. The DOT has sometimes not wanted to go to court to argue that an enhancement-funded facility is "necessary" for transportation.

Delaware

Submitted By: Niezgoda Jeff (DelDOT) [Jeff.Niezgoda@state.de.us]

- Does the state prohibit using transportation enhancement funds for condemnation / eminent
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- Are other TE categories prohibited?
- Description of other categories prohibited:

Comments on Eminent Domain:

Because the TE program is a community based and supported program from the initial stages of a project, we do not feel it would be best served to force condemnation to accomplish a project. If a situation presented itself, we would work with the affected parcel owner to determine where the problem exist, determine if there is a compromise, see if something could be worked out or simply modify the project to eliminate the need. If nothing could be done to eliminate the problem we would eliminate the project. Donation is the way to go!

Florida

Submitted By: Bob Crim, P.E. bob.crim@dot.state.fl.us

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

There is no prohibition, but on the other hand, TE funds are not used often for this purpose. Generally, TE projects are selected and funded where ROW is not needed or is being acquired by the sponsor, following the Uniform Act.

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

Illinois

Submitted By: Milam, Tim J [mailto:Tim.Milam@illinois.gov]

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

Illinois allows the purchase of ROW/Land Ac for our ITEP projects. Improvements must be on public property. We do not allow the purchase of buildings. I know of no restriction on the use of enhancement funds for condemnation procedures.

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

Iowa

Submitted By: nancy.anania@dot.iowa.gov

No restrictions on the use of eminent domain or condemnation

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

Kansas

Submitted By: Kaye Jordan-Cain [Kaye@ksdot.org]

- Does the state prohibit using transportation enhancement funds for condemnation / eminent
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- Are other TE categories prohibited?
- Description of other categories prohibited:

Comments on Eminent Domain:

It is our policy not to participate in ROW acquisition especially when it appears that condemnation may be necessary. Condemnation would appear to contradict community support and buy-in, wouldn't it?

Louisiana

Submitted By: ValHorton@dotd.louisiana.gov

- Does the state prohibit using transportation enhancement funds for condemnation / eminent
- Are all TE projects prohibited?
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- Are Trail projects and any other bicycle and pedestrian facility projects prohibited?
- Are other TE categories prohibited?
- Description of other categories prohibited:

Comments on Eminent Domain:

Transportation Enhancement projects should be ones which have the backing of the community and the affected property owners. If they don't, then they should be either relocated, route changed, negotiated with owner or in extreme cases cancelled. What occurs depends on the project type.

Maryland

Submitted By: Mary Keller

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- Are Trail projects and any other bicycle and pedestrian facility projects prohibited?
- Are other TE categories prohibited?
- Description of other categories prohibited:

Comments on Eminent Domain:

Michigan

Submitted By: Bryan Armstrong [ArmstrongB@michigan.gov]

No restrictions on the use of eminent domain or condemnation

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

There are no eminent domain restrictions

Mississippi

Submitted By: jpierce@mdot.state.ms.us

No restrictions on the use of eminent domain or condemnation

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

Mississippi has no restrictions against the use of condemnation for transportation enhancement projects.

New Hampshire

Submitted By: Kinter, Harry S <FHWA>

No restrictions on the use of eminent domain or condemnation

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

New Hampshire has no such prohibition.

New York

Submitted By: Robert Hillje [rhillje@dot.state.ny.us]

No restrictions on the use of eminent domain or condemnation

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

In New York State we only prohibit using transportation funds for condemnation/eminent domain for the Recreational Trails Program.

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

North Carolina

Submitted By: Denese Lavender [dlavender@dot.state.nc.us]

No restrictions on the use of eminent domain or condemnation

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

North Carolina's Enhancement Program has no known prohibition on condemnation.

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

North Dakota

Submitted By: Bennett R. Kubischta

No restrictions on the use of eminent domain or condemnation

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

North Dakota does not have a written policy regarding the use of eminent domain on TE projects; however, our unwritten policy is that we do not use eminent domain and there would have to be extraordinary circumstances in order for us to use eminent domain.

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

Oregon

Submitted By: [Patricia.R.FISHER@odot.state.or.us]

No restrictions on the use of eminent domain or condemnation

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

Condemnation is an eligible part of the ROW acquisition phase, and necessary on some projects.

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

Pennsylvania

Submitted By: Accurti, Dante [mailto:daccurti@state.pa.us]

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

Texas

Submitted By: Barrie Cogburn

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

The use of eminent domain to acquire real property is not allowed by TxDOT. It's a public relations nightmare. If the project is not fully supported by the entire community, we don't want to be part of it. We have too many other proposed projects that are clean and straightforward.

Vermont

Submitted By: Curtis B. Johnson

No restrictions on the use of eminent domain or condemnation

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

We have not addressed this issue, since in the history of our program there has never been a political entity willing to exercise such an option, due to political sensitivities. We have had cases where eminent domain would make a project feasible, but then the project was scrapped because the municipality did not wish to exercise eminent domain. We do not as yet have any explicit policy on eminent domain.

Virginia

Submitted By: Chenault, H. W. 'Winky'

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

The State prohibits the use of TE funds for condemnation, but there has been at least one case in which a local government used its power of eminent domain for condemnation of a property. Local funds were used to cover the cost. On the other hand, we had a project dropped by a local government because it chose not to move forward with the project when the need for eminent domain proceedings became apparent.

West Virginia

Submitted By: Harold Simmons

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Are all TE projects prohibited?

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

However if the property has been acquired through condemnation / eminent domain using other funds, TE funds can be used to develop the site.

No restrictions on the use of eminent domain or condemnation

Does the state prohibit using transportation enhancement funds for condemnation / eminent

Comments on Eminent Domain:

Wyoming has not had any such cases.

Are all TE projects prohibited?

Are Trail Projects prohibited from using eminent domain / Condemnation

Are Trail projects and any other bicycle and pedestrian facility projects prohibited?

Are other TE categories prohibited?

Description of other categories prohibited:

Questionnaire:

WE WOULD APPRECIATE YOUR RESPONSE TO THE FOLLOWING QUESTIONS (further explanation below). Please reply ONLY to ntec@enhancements.org [no need to fill everybody's email]. NTEC will compile the responses.

Does your State [Name: _____] prohibit using Transportation Enhancement funds for condemnation / eminent domain ?

NO _____ YES _____

If YES: Please check: the State prohibits using TE funds for condemnation / eminent domain for:

___ All TE projects

___ Some kinds of TE projects [check which apply]

___ Trail projects

___ Trail projects and any other bicycle and pedestrian facility projects

___ Other specific TE categories [please specify _____]

___ Usually prohibit TE funds for condemnation / eminent domain, with the following exceptions where eminent domain is allowed [please specify]: _____

Other comments: