



EXPROPRIATION YOU HAVE RIGHTS!

IMPARTIALITY / ENGAGEMENT / RESPECT
COMPETENCE / INDEPENDENCE



WHY DOES EXPROPRIATION HAPPEN? WHERE DOES THE RIGHT TO EXPROPRIATE COME FROM?

If the public interest requires you to cede all or part of your property, for example for the construction of a water and sewer system, the installation of a high-voltage line, the development of a park, or the extension of a road, the rules governing expropriation¹ apply to you.

IF IT HAPPENS TO YOU

The expropriating party (Minister of Transport, municipality or other body authorized by law) will acquire all or part of the property by negotiating an agreement with you or by expropriating it.

If you agree on the conditions and the price, it is settled. If there is no agreement, the expropriating party will initiate the compulsory acquisition process or forced acquisition process by sending you a notice of expropriation.

You have two options:

You can contest the right to expropriate, that is, claim that the expropriating party is not entitled to undertake expropriation procedures. In this case, you must apply to the Superior Court of Quebec within a maximum of 30 days after receiving the notice of expropriation. It is up to the Superior Court to rule on the right to expropriate. If it recognizes the expropriating party's right, the Tribunal administratif du Québec will then decide the amount of the indemnity you are entitled to receive.

Whether or not you contest the right to expropriate, you may go before the Tribunal to state your disagreement with the offer presented to you by the expropriating party within 15 days of the date you received the notice of expropriation. The Tribunal shall fix the compensation amount to which you are entitled.

1. The applicable legislation is the *Expropriation Act* (CQLR, chapter E-24).

WHAT ARE THE MAIN STEPS TO DETERMINE THE AMOUNT YOU WILL BE PAID?

➤ Step 1: Receipt of notice of expropriation

The notice of expropriation you have received contains the following details:

- The number of the lot to be expropriated;
- The specific reasons for the expropriation;
- A notification of the 15-day period you have to inform the Tribunal that you disagree with the offer presented to you by the expropriating party (referred to as the "appearance" in the notice of expropriation and in step 4 of this brochure);
- A notification of the 30-day period you have to contest the right to expropriate before the Superior Court;
- A notification of your obligation to provide the expropriating party, within 15 days of the receipt of the notice, a written declaration of the names and addresses of lessees or occupants in good faith in the property to be expropriated (for example, a person having a right of way) and the conditions of their lease or right of occupancy, if any.

➤ Step 2: Registration of notice of expropriation

Within 20 days of the date you received the notice, the expropriating party must register the notice in the Land register of Québec.

With the notice, the expropriating party must include a copy of the deed authorizing the expropriation and the documents it filed with the Tribunal. If the expropriating party does not comply with these conditions, you can ask the Land register of Québec to have the registration of the notice of expropriation cancelled.

➤ **Step 3: Notifying lessees and occupants**

After it receives the information requested in the notice of expropriation, the expropriating party has 15 days to send a notice to the lessees and occupants in good faith informing them of the expropriation procedures in progress and to send a certified copy of this notice to the Tribunal. The expropriating party is required to tell them in this notice that, if they disagree, they must inform the Tribunal within 15 days of receiving the notice.

➤ **Step 4: Appearance before the Tribunal**

After receiving the notice of expropriation, you or your lawyer have 15 days to appear in writing before the Tribunal. To do so, you must file a document (letter, email, fax) informing the Tribunal that you have received a notice of expropriation and that you wish to contest the offer made to you by the expropriating party. You must also provide your contact information and, if you wish to be represented, your lawyer's contact information.

➤ **Step 5: Submission of detailed offer**

In the months following the date you received the notice of expropriation, the expropriating party must officially file a detailed offer of the proposed amount with the Tribunal. The detailed offer explains the various amounts offered, such as, for example, an amount for the loss of your property, an amount for you to relocate, etc.

If you accept the detailed offer, all you need to do is reach an agreement with the expropriating party on the terms and conditions for payment and the transfer of the expropriated property. At that time, you must submit a notice (letter, email, fax) to the Tribunal's secretariat indicating that an out-of-court settlement has been reached. The file will then be closed.

If you refuse the detailed offer, the following steps apply.

➤ **Step 6: Submission of detailed claim**

If you refuse the detailed offer, you must file a detailed claim for the amount you would like to receive with the Tribunal. Your detailed claim must cover all of the amounts you are claiming as a result of the

expropriation, such as, an amount for the loss of your property, another for the loss of your business, if applicable, an amount for moving expenses. In that case, you will be summoned to a hearing. The Tribunal will hear the parties and the expert witnesses, if any, and will determine the final amount of the indemnity.

➤ **Step 7: Sending a notice of transfer and taking of possession**

If you have not contested the right to expropriate before the Superior Court and the expropriating party wishes to take possession of your property before the Tribunal has determined the final amount of the indemnity, the expropriating party must give you a notice of transfer which will officially dispossess you of your property, in whole or in part.

Subsequently, the expropriating party must register the notice of transfer in the Land register of Québec. The notice of transfer must meet the following conditions:

- You have received a detailed offer;
- You have been paid a provisional indemnity (see Step 8);
- At least 90 days have passed since the notice of expropriation was registered (see Step 2);
- The date on which the expropriating party wishes to take possession of the expropriated property – that is, the date by which you must leave the property – is indicated.

➤ **Step 8: Payment of provisional indemnity**

While waiting for the Tribunal to determine the final amount of the indemnity, the expropriating party may have the property transferred and take possession of it. To do so, however, it must pay you, your lessees and occupants a portion of the amount offered, which is called a "provisional indemnity".

In the case of an owner of a residential immovable, the provisional indemnity can not be less than 70% of the amount offered or less than 70% of the municipal assessment of the expropriated property (or the part of the property), whichever amount is greater. In the case of lessees and occupants of a residential immovable, the expropriating party must pay a provisional indemnity equal to three months' rent.

If the expropriated property is used for industrial, business or agricultural purposes, the Tribunal will determine the provisional indemnity upon application to do so and this application will be decided by preference.

The provisional indemnity is yours to keep. Even if you have collected this amount, you have the right to claim more than what was paid. However, if the amount of the provisional indemnity is higher than the final amount granted by the Tribunal, the legislation provides that you must remit the difference to the expropriating party.

In the event of a discontinuance

Before paying provisional compensation, the expropriator may decide it no longer wants to expropriate your property. However, it may do so only with leave of the Tribunal. In this case, it must submit a petition to the Tribunal and notify you of its intentions. The Tribunal will summon the parties to a hearing. If you wish, you will be able to express your point of view at this time.

In the event that the Tribunal authorizes the discontinuance, the expropriator must notify you, your lessees, and those who have rights about it. If you ask for it, the Tribunal may grant you an amount for injury (travel expenses, expert fees, steps taken, trouble, hardship, etc.) resulting from the expropriator's discontinuance. You must submit your application to this effect within 90 days after receiving the notice of discontinuance.

After paying provisional compensation, the expropriator may not decide it no longer wants to expropriate your property, unless it entered into an agreement with you on the conditions of the discontinuance. Without this agreement, the expropriator may not discontinue.

Hearing

If you and the expropriating party do not reach an agreement, the Tribunal may invite you to a conciliation session, or convene you to one if you and the other parties have requested it. Otherwise, the Tribunal will set a hearing date.

If either you or another interested party would like to call an expert witness to testify, the expert's report must be sent 30 days before the date of the hearing to the Secretariat of the Tribunal, along with a copy for each party involved and for each judge in charge of the matter. Unless authorized by the Tribunal, you cannot call this expert to be heard if you have not respected this procedure. A written notice must be attached to technology-based documents, indicating to the parties that they have 5 days to ask for a paper form of that document.

During the hearing, both you and the expropriating party can question the witnesses you have chosen (appraisers, engineers, agronomists, surveyors, etc.). Moreover, you must provide the Tribunal with the documents needed to justify the amount you claim. It is up to the expropriating party to establish that the amount it offered for the expropriated property is sufficient. However, you or your lessees and occupants must justify the amounts claimed for any other damage, loss or expenses caused directly by the expropriation.

Decision by the Tribunal

The final amount of the indemnity determined by the Tribunal is intended to provide full and fair compensation without either enriching or impoverishing you. The amount includes the value of the immovable or part of the immovable expropriated, including any improvements or additions made. It also includes compensation for any adverse effects caused directly by the expropriation: moves and undertakings, loss of rent, expert fees, trouble and inconvenience, etc.

For the lessees or occupants of a residential building that is expropriated, the Expropriation Act provides for an amount equal to three months' rent and moving expenses, unless they establish that the adverse effects suffered justify a larger amount.

Moreover, in the case of a partial expropriation, if you believe that the remainder of your property can not be used suitably as a result of the expropriation, you can ask the Tribunal to order the expropriation of an additional piece or the entire property, if any. You will be compensated accordingly. It is your responsibility, however, to prove any damage, loss or injury you have suffered.

PAYMENT OF FEES AND DISBURSEMENTS

You may be represented by a lawyer and consult experts (appraisers, engineers, agronomists, surveyors, etc.). The expropriating party must reimburse you, in whole or in part, for the fees of experts deemed useful and reasonable by the administrative judges who hear your case, for example, the fees of a chartered appraiser. The expropriating party will also generally reimburse legal costs, such as costs any compensation paid to witnesses.

However, your lawyer's fees will not be reimbursed other than in exceptional circumstances.

APPEALING THE DECISION

If you or the expropriating party are not satisfied with the determined amount, you can ask the Court of Quebec for leave to appeal the Tribunal's decision.

The request for permission to appeal the decision must be filed at the Court of Quebec in the district where the expropriated property or part of it is located, within 30 days of the Tribunal's decision. Once this time period has expired, you may lose your right to appeal, in which case the Tribunal's decision will be final.

YOUR CREDITORS

If individuals have rights in your property such as mortgages or other real rights, they are entitled to a portion of the amount.

In that case, the Superior Court receives the amount and distributes it to your creditors according to the method used when a property is seized.

Other possible proceedings

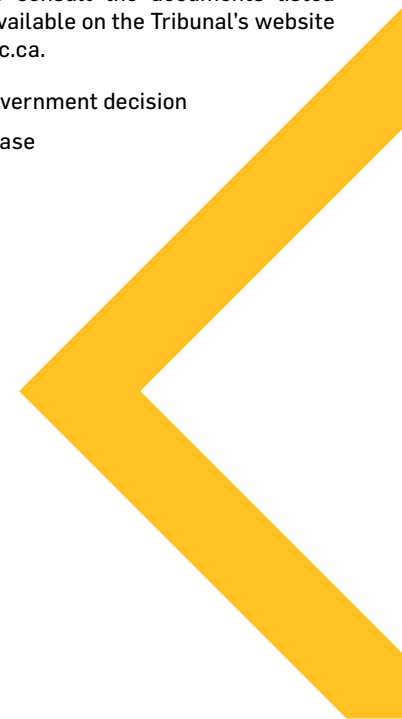
The *Expropriation Act* provides for other situations in which you may address the Tribunal administratif du Québec, including:

- the abandonment of the establishment of a reserve for a future expropriation. This means the expropriating party previously reserved its right to expropriate a property on a given date but now wishes to abandon that right;
- the relocation of structures to land owned by the expropriated party.

To guide you through the process

You are invited to consult the documents listed below, which are available on the Tribunal's website at www.taq.gouv.qc.ca.

- Challenging a government decision
- Preparing your case
- Conciliation
- The hearing



HOW TO CONTACT US

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Our staff is available to help you

Monday to Friday, 8:30 a.m. to 4:30 p.m.

