

## CHAPTER 163

## COUNTY HIGHWAYS

163.12 Alternative procedure for acquisition.

**163.12 ALTERNATIVE PROCEDURE FOR ACQUISITION.***[For text of subd 1, see M.S.2000]*

Subd. 1a. **Petition, notice, and access to information.** (a) Upon passage of the resolution specified in section 163.11, subdivision 2, a petition must be presented to the district court of the county in which the land is located. The petition must describe each tract of land through which the highway passes; state the purposes for which the land is proposed to be taken, and list the names of all persons appearing of record or known to the county to be the landowners.

(b) Notice of the objects of the petition and of the time and place of presenting the notice must be served, together with a copy of the resolution, upon each occupant of each tract of land through which the highway passes at least 20 days before the hearing under subdivision 1b. If an owner is not a resident of the state, or the owner's place of residence is unknown to the county, service may be made by three weeks' published notice following the filing of an affidavit on behalf of the county by the county's agent or attorney stating that the county:

(1) believes that the owner is not a resident of the state; and

(2) has either mailed a copy of the notice to the owner at the owner's last known residence address or, after diligent inquiry, the owner's place of residence cannot be ascertained by the county.

If the state is an owner, the notice must be served upon the attorney general. An owner not served as provided in this subdivision is not bound by the proceeding, except if the owner voluntarily appears in the proceeding.

(c) Within ten days of an owner's demand, the owner must be furnished a right-of-way map or plat of all that part of the owner's land to be taken. Any applicable plans or profiles that the county possesses must be made available to the owner for inspection.

Subd. 1b. **Finding of necessity.** When proof of service of the notice required in subdivision 1a is filed with the court, the court shall hear all competent evidence offered for or against granting the petition at the time and place fixed in the notice or otherwise set by the court. On finding that the proposed taking is necessary and authorized by law the court shall order the proceedings to commence pursuant to the remaining provisions of this section.

Subd. 2. **Time and place for hearing.** Upon order by the court under subdivision 1b to commence the proceedings the board shall fix the time and place it will meet. Notice of the meeting, together with a copy of the resolution, shall be served upon each occupant of each tract of land through which the highway passes at least ten days before the meeting. Ten days' posted notice of the meeting shall also be given. Proof of service and affidavit of posting shall be filed with the county auditor.

*[For text of subs 3 to 10, see M.S.2000]***History:** 2001 c 139 s 1-3