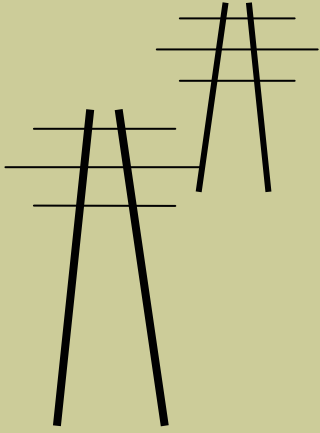


# MORTGAGE COMPANIES TAKE EMINENT DOMAIN \$\$\$\$\$\$



One more thing landowners need to be aware of — if you're looking at a payment for your easement, or in an eminent domain proceeding, **BEWARE** — mortgage companies are taking landowner payments. It used to be very, very rare, but now it's becoming the norm as mortgage companies are looking for revenue, and as landowners more frequently have little equity.

## **READ YOUR MORTGAGE'S FINE-PRINT — NOW! LONG BEFORE IT'S AN ISSUE!**

Excerpts from the Mpls. Star Tribune, June 19, 2009:

### **Government takes land, banks take cash**

In tough economic times, more homeowners who lose ground to eminent domain are finding that stressed mortgage holders are pocketing the proceeds.

By MARIA ELENA BACA, Star Tribune — published June 19, 2009

Harold and Sharon Tieden were unhappy from the outset that they would lose a 12-foot swath of their Blaine back yard and a row of mature pines to an expansion of Radisson Road. Still, they began negotiations with Anoka County, planning to use the settlement to rebuild a berm, move trees and rocks, and maybe build a fence.

But like many other homeowners losing ground to eminent domain this year, they have found that they can't even count on the cold comfort of a settlement check.

When they sign the papers, the check, it turns out, will likely go instead to their mortgage holder.

In an unusual twist brought about by stressed lenders and highly leveraged real estate, homeowners across the metro who are facing the loss of land due to eminent domain projects are increasingly getting notices from banks claiming rights to the proceeds. In the past, such notices were sent so rarely that county officials never saw a need to keep track of how often it happened.

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### **Lenders guard their interests**

Most homeowners' mortgage contracts include language that allows lienholders the option to claim proceeds from a condemnation process. In an economic environment of stressed banks and highly leveraged real estate, people are finding that the banks are exercising that option.

Minnesota statute defines owner broadly, as anybody considered to have a financial interest in a property. All are entitled to notice of an eminent domain claim, and all are entitled to compensation if there's a settlement. And depending on the fine print in homeowners' mortgage contracts, sometimes the mortgage company has first dibs to part or all of a settlement intended to compensate owners for lost property values.

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Depending on the terms of the contract, the settlement sometimes is applied to the mortgage principle, but that's scant consolation to folks who agreed to a settlement with plans for the money.

...

"If there's one thing the bank hates is that you're going to take the money from the condemnation and use it as a windfall and use it for a trip to Florida," [attorney Mark] Savin said. "If you have the ability to negotiate with them, you want to make the argument that you'll restore the property because that restores the value of the collateral."

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Remember the "Buy the Farm" law — Minn. Stat. 216E.12, Subd. 4  
In Minnesota, if you're facing condemnation, you can force them to  
**BUY THE FARM!**

## **Legalelectric**

Legal Advocacy & Energy Consulting  
P.O. Box 176  
Red Wing, MN 55066

Phone: 612.227.8638  
email: [overland@legalelectric.org](mailto:overland@legalelectric.org)  
[www.nocapX2020.info](http://www.nocapX2020.info)  
[www.legalelectric.org](http://www.legalelectric.org)