



# Land Acquisition

## FREQUENTLY ASKED QUESTIONS (FAQs)

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## Introduction

The Water Security Agency is a unique organization in Canada – bringing together the majority of government’s core water management responsibilities in one place. We manage the province’s water supply, protect water quality, ensure safe drinking water and treatment of wastewater, own and manage 72 dams and related water supply channels, reduce flood and drought damage, protect aquatic habitat and provide information about water.

Working in the fields of engineering, hydrology, hydrogeology, public policy, habitat protection, water resource allocation and regulations, WSA ensures the sustainability and quality of Saskatchewan’s surface and ground water supplies while protecting drinking water supplies from the source to the tap. Sustainable water supplies support growth, a healthy environment and quality of life for the people of Saskatchewan.

To improve the quality of life for the people of Saskatchewan, Public Improvement projects are necessary. Public Improvements projects often require additional land to be successful. In the planning and design phases of Public Improvement projects, land required to complete construction is determined. When land required is privately owned, WSA representatives will contact Landowner(s) to discuss purchase or access agreements. Representatives will explain the project, the requirements and why private land is needed. They will also take the time to answer questions and understand concerns that Landowners may have.

In acquiring private land for Public Improvement projects, WSA makes a reasonable effort to reach mutually-acceptable agreements to purchase private land. This document helps to answer some of the frequently asked questions (FAQs) about private land acquisition by WSA.

## Definitions

For this FAQ, the following is a list of key terms:

- **Agent (Land/Right of Way):** A person duly appointed to acquire Land for Public Improvement projects.
- **Appraisal:** A formal opinion of value.<sup>1</sup>
- **Appraiser:** A member of a reputable professional body, such as the Appraisal Institute of Canada (AIC), who is qualified to opine Compensation (in part or in whole).
- **Arbitrator:** An independent person or body appointed to settle a dispute. An arbitrator's decision is binding.
- **Binding Appraisal:** An alternative form of dispute resolution whereby an independent Appraiser is appointed by a Landowner and WSA to determine Compensation.
- **Compensation:** Payment, either in terms of cash or cash equivalents, due to a Landowner for Land acquired by WSA.
- **Expropriation:** The acquisition of Private Land by statutory means without a requirement for Landowner consent.
- **Land:** Includes any estate, term, easement, right or interest in, to, over or affecting land.
- **Land Acquisition:** The act of obtaining Land for Public Improvement projects.
- **Landowner:** A person who has an estate, term, easement, right or interest in, to, over or affecting Land.
- **Legal Survey:** The act of describing Land boundaries and features in accordance with applicable legislation.
- **Market Value:** "The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which [Land] should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and the seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress."<sup>2</sup>
- **Mediator:** A person who attempts to help negotiating parties reach a consensus agreement. A mediator has no power to make binding decisions.
- **Mediation:** Dispute intervention intended to help resolve a dispute. Mediation is non-binding.
- **Negotiations:** The process of attempting to purchase Land in accordance with WSA's Land Acquisition Policy.
- **Private Land:** Land that can be expropriated by the Crown.
- **Public Improvement:** Anything for the purpose of which WSA may expropriate Land.
- **Right-of-Way:** Land that that supports linear Public Improvement such as canals and pipelines.
- **Severance Damages:** The value loss caused to remainder Lands by the severance of Land required for Public Improvement.
- **Water Infrastructure:** Any water control or conveyance infrastructure project in Saskatchewan designed, maintained, developed, operated or regulated by the Government of Saskatchewan for the conveyance, sustainability, treatment, retention, allocation or use of water resources.

<sup>1</sup> Appraisal Institute of Canada (2022). Canadian Uniform Standards of Professional Appraisal Practice

<sup>2</sup> Appraisal Institute of Canada (2022). Canadian Uniform Standards of Professional Appraisal Practice

## **Project Design**

### **1. Why is my Land required?**

- WSA acquires Land that is needed to support Public Improvement. When planning for new development, engineers and planners work to determine the optimal location for Public Improvement and what Land is required.
- Some examples of when Private Land is required include:
  - developing irrigation canals and supporting utilities;
  - completing water control upgrades to maintain and control water levels; and
  - requiring access to water control or conveyance infrastructure.
- If your Land is required, WSA's Agents will provide information to explain the project and why your Land is required.

### **2. How are Land requirements determined?**

- Land requirements are determined by design. And the design is determined by several factors including environmental considerations and topography.

## **Land Acquisition**

### **3. What if I do not want to sell my Land?**

- When Land is required to support Public Improvement projects, WSA will discuss purchase with Landowners as a first step.
- If a mutually-acceptable agreement cannot be reached within a reasonable time and alternative Land is unsuitable for Public Improvement needs, WSA can exercise its legislative ability to acquire Land without Landowners' consent.
- WSA always compensates Landowners for Land acquired.

### **4. How much time do I have to agree to sell my Land?**

- An offer to purchase Private Land is only made after consultation with the Landowner. Once you have been presented with an offer to purchase, you will have 60 calendar days to respond to the offer. If you need additional time to work with a professional, WSA will provide an extension of up to 30 days. In total you will have a maximum of 90 calendar days after receiving a formal offer to purchase to provide your response to WSA's offer to purchase your Land.
- You will be notified of the expected timeline for an offer during your initial discussions with a WSA representative.

### **5. What if I change my mind and no longer want to sell?**

- In the rare event that a Landowner chooses to back out of an agreement, WSA is authorized by legislation to acquire Land for Public Improvement without the Landowner's consent. WSA will always compensate Landowners for Land acquired.

### **6. What if my Land is rented?**

- In working towards a fair outcome, WSA will consult all affected parties during the acquisition process. Compensation for Land will consider the different interests that exist at the time of purchase discussions.

### **7. What if I co-own my Land with someone else?**

- Where possible, WSA will work with all Landowners that are registered on the title during the acquisition process.

## Relocation

### 8. Will I be relocated?

- WSA makes every effort to minimize impact to Landowners. However, your house and or other improvements may be relocated to meet safety and design standards.
- If relocation is required, WSA will provide reasonable relocation expenses as part of your overall Compensation.

### 9. How long will I have to relocate?

- WSA works with Landowners during the purchasing discussions stage to establish a reasonable time for relocation. The time requirements will vary depending on individual situations.

## Compensation

### 10. How will Compensation be determined?

- Landowners' input will help to determine Compensation.
- Compensation for Land will be based on current market value and any applicable Severance Damages.
- To determine Compensation for the Land acquired, independent experts (Appraisers, agrologists, etc.) may be required.
- Consulting independent experts is not always necessary. In certain situations, Agents can reach a mutually-agreeable assessment of Compensation.
- Landowners' Compensation must comply with the Compensation requirements of *The Expropriation Procedure Act, 1978* (EPA).

### 11. How soon will I receive Compensation?

- If only part of your Land is acquired, WSA will advance 50 per cent of your Compensation within 6-8 weeks (about 2 months) of securing an interest on your Land title. The remaining Compensation will be paid once a legal survey confirms the Land required and title is transferred.
- If all your Land is acquired, you should receive 100 per cent payment within 6-8 weeks (about 2 months) of your Land title transferring to WSA.
- It is important to note that if there is a mortgage on your Land, your mortgagee may require Compensation be paid to them.

### 12. Do I need to hire a lawyer?

- Hiring a lawyer is optional.
- Lawyers can be helpful with explaining your rights and the actions you can take if you disagree with Compensation.
- Lawyers can also help you through the legal process of having Compensation resolved if you decide to make a Compensation claim through the courts.

## Appraisals

### 13. Can I hire an Appraiser?

- All Landowners have the option to consult an Appraiser.
- Landowners also have the option of agreeing with WSA to jointly instruct an Appraiser to determine Compensation. This option is at no cost to Landowners.

### 14. What if there are conflicting Appraisals?

- The preferred options to resolving conflicting market values are:
  - WSA and Landowner agree to let an Arbitrator decide Compensation;
  - WSA and Landowner agree to a Binding Appraisal; and
  - If the higher Appraisal is justifiable, WSA will compensate based on the higher Appraisal.

### 15. Will I be notified before an Appraisal is done on my Land?

- As part of the initial Landowner engagement process, Appraisers hired by WSA will be required to make reasonable efforts to contact and engage Landowners.

## Severance Damage

### 16. What types of damages are compensable?

- Severance Damages that are compensable include:
  - reduction in the market value of remainder Land;
  - increased farming operating costs;
  - damaged fencing;
  - mortgage penalties; and,
  - relocation expenses.

## Resolving Compensation Disputes

### 17. What if I am not satisfied with the Compensation offer?

- Options to reaching a mutually-acceptable agreement include Mediation, Arbitration, and Binding Appraisal. These options are subject to agreement by Landowners and WSA.
- If you choose to dispute Compensation, the EPA requires that you begin legal proceedings within two years after Expropriation.
- If you choose to file a court claim for Compensation, WSA is willing to continue evidence-based discussions towards reaching a mutually-acceptable agreement.
- It is important to understand that WSA is a trustee of public funds and by law must only compensate for Land based on evidence that is verifiable and justifiable.

### 18. What if I choose not to cash my Compensation cheque?

- If you choose not to cash your Compensation cheque, the EPA provides a way for WSA to pay your Compensation into the courts. You will then need to go to the courts to obtain your Compensation.

**19. If I cash my Compensation cheque, can I still make a claim?**

- In the case of an Expropriation, cashing your Compensation cheque does not prevent you from seeking additional Compensation.
- You have the right to make a claim for additional Compensation if you believe you are legally entitled to additional Compensation.

**20. Will I have to go to court?**

- WSA explores all reasonable efforts to settle disputes. However, if you decide to file a court claim, it is possible that the dispute will require a decision by the Court of Queen's Bench.

## **Expropriation**

**21. What right does WSA have to expropriate Private Land?**

- In Canada, the federal and provincial governments have laws that allow Land to be acquired for public use and benefit without the consent of the Landowner.
- Under the *Water Security Agency Act, 2005*, WSA can expropriate Private Land.

**22. When does Expropriation occur?**

- Expropriation occurs when any one or more of the following circumstances arise:
  - A private Landowner is disagreeable to a Public Improvement project, hence refuses to sell Land;
  - There is an impasse due to Compensation; and/or
  - There are issues related to the Land title (for example estate issues or unidentified Landowners).

**23. How does Expropriation work?**

- Under the EPA, in most cases, WSA is required to attempt purchase of Private Land before expropriating.
- If WSA must expropriate, Landowners will receive notification along with WSA's Compensation offer.
- If only a part of a Landowner's Land is expropriated, 50 per cent of the estimated Compensation will be advanced. The remaining amount will be paid once the legal survey for the Land acquired is complete and ownership is transferred to WSA. If all the Landowner's Land is acquired, the Landowner will receive 100 per cent of the Compensation determined. Compensation is typically paid within 6-8 weeks (about 2 months) of the Landowner receiving a Notice of Expropriation.
- Landowners should be aware that when WSA requires a portion of Private Land, a Notice of Expropriation will be registered on the title for the Landowner's entire Land affected until title to the Land required is transferred to WSA.
- If a Landowner wishes to make a claim, the Landowner will have two years from the date of Expropriation to file a claim.

**24. Can I appeal the expropriation?**

- Landowners have the right to challenge Compensation but not the lawful expropriation of Land.

## Key Contacts

### 25. Regarding the Acquisition process, how can I learn more about my rights?

- You can:
  - Refer to the [Expropriation Procedures Act](#); and/or
  - Obtain legal counsel. You can contact [The Law Society of Saskatchewan](#) to find qualified lawyers.
- You also have the right to ask the Public and Private Rights Board to review your situation. The Public and Private Rights Board offers mediation services if there is an impasse. You can contact the Public and Private Rights Board by visiting their [website](#) or by calling 306.787.4071.