

## **Possession & Use Agreements / Property Taxes**

There are instances where landowners give possession of their property to a condemning entity through a possession and use agreements. Any written agreement made between the condemning authority and the property owner during a condemnation case, or under the threat of condemnation, should be enforceable. There are times where the condemnor can treat the agreement as only binding the landowner. In addition, sovereign immunity must be expressly waived in a breach of contract case seeking to enforce such an agreement.

When landowners transfer possession of their property to condemning entities under possession and use agreements they still have to pay taxes on the condemned property. Current law says that a property owner's obligation to pay taxes on a piece of property taken in eminent domain ends the sooner of when the government acquires title or possession by order of the court. But property owners can give possession and use agreements which are agreements that transfer possession to the condemnor. If property owners give possession and use of their land to a condemning entity and do so through an agreement, a change in statute should be made to make sure the property owner should not have to pay taxes on that condemned land.

This document will be updated with a more comprehensive analysis soon.