

POWERS AND DUTIES OF THE CONDEMNATION COMMISSION

I. General Powers

The Condemnation Commission exercises the powers and performs the duties in respect to the condemnation of land and the assessment of damages and benefits arising out of the construction of highways, sewers and public parking. Charter Section 157.

II. Highway Construction

Whenever the Commissioner of Public Works deems it necessary to take any land for the layout, alteration, extension, widening, change of grade or improvement of any highway in the Town and the Town cannot agree with the owners of such land as to the damages which will be sustained or the benefits which will accrue to such owners from such taking, the Commissioner submits the matter with the plan of such land as the Commissioner shall deem it necessary to take to the Condemnation Commission.

The Commission notifies the owners of such land of a hearing on such proposed taking. The Commission conducts such a hearing and upon its finding that it is necessary to take such land for the layout, alteration, extension, widening, change of grade or improvement of any such highway, it takes such land for such purposes or any of them. The owners of such land are paid by the Town for all damages and the Town receives from such owners the amount or value of all benefits resulting from the improvement.

The assessment of such damages and of such benefits made by the Condemnation Commission is filed with the Town Clerk, and at any time thereafter, the physical construction of such layout, alteration, extension, widening, change of grade or other improvement may be made by the Commissioner of Public Works.

Any person claiming to be aggrieved by assessment of special damages or of special benefits by the Condemnation Commission may, within thirty (30) days after such assessment shall have been so filed, apply to the Superior Court for Fairfield County for a reassessment of such special damages or special benefits so far as they affect such applicant. Charter Sections 157-162.

III. Highway Drainage

When any ditch, drain, gutter or other construction is required for the purpose of draining any highway in the Town, or for any other drainage purpose, the Condemnation Commission is authorized to take any land necessary for such purpose and to assess benefits and damages caused by any such construction and for the taking of any such land under the same provisions as are provided for the taking of any land found necessary by the Commissioner of Public Works for the layout, extension, alteration, widening, change of grade or other improvement of any highway in the Town. Charter Section 163.

IV. Sewers

Whenever the Commissioner deems it necessary to take any land, building, easement and other property for the construction of any sewer, sewerage system, sewage disposal plant or trunk sewer, and the Commissioner is unable to obtain the same by purchase at a price considered to be reasonable by the Commissioner and the Board of Estimate and Taxation, the Commissioner applies to the Condemnation Commission for the condemnation of such land, building, easement and other property required for such purpose, and for an assessment of damages. The Condemnation Commission notifies all persons claiming interests in such property of a hearing on such proposed taking.

At such hearing the Condemnation Commission determines whether or not such taking is necessary, and, upon finding that it is necessary, determines and assesses damages resulting from such taking. The Condemnation Commission files in the office of the Town Clerk a certificate as to its determination of such necessity of taking, the damages resulting therefrom, and its assessment therefor. The Condemnation Commission gives notice of such determination of necessity and of such assessment, and the amount thereof, by mailing a notice thereof to each of such persons claiming interests in such property.

If the Board of Estimate and Taxation approves an appropriation for the construction of a sewer or sewerage system, excluding sewage disposal plants and trunk sewers, the Board determines:

- (1) The area presently benefited by such construction and the portion of the cost thereof which shall be reimbursed to the Town by the assessment of benefits against the property within such area of present benefit;
- (2) The area to be benefited in the future by such construction and the portion of the cost thereof which shall be reimbursed to the Town by the assessment of benefits against the property within such area of future benefit.

The Representative Town Meeting in approving the appropriation, may also increase the amount to be reimbursed to the Town by benefitted property owners.

Areas of benefit from the construction of the sewers and sewerage systems of the Town are shown on maps which indicate the separately owned lots or parcels of land within each area of benefit and designated by numbers such lots or parcels. Upon approval of each such map, the Comptroller files map in the office of the Town Clerk, together with a list to be entitled "Potential Sewer Benefits" designating the owners of such lots or parcels on the last completed grand list next preceding the filing of any such map.

All or such part of the cost of the construction of such sewer or sewerage system, which is to be assessed against the property within an area of benefit, is apportioned by the Condemnation Commission against the property in the proportion, as nearly as may be, to the benefit which each lot or parcel derives therefrom. In determining such apportionment the Condemnation Commission, among other factors, may consider whether such benefits are direct or remote, the present and prospective use of the land

and the improvements thereon, the increase in the value of the property benefited by such construction, the frontage, size and shape of such property, the valuation of the land in the last-completed grand list of the Town, and the valuation of any buildings or improvements on such land as set forth in the list, and the amount of sewer assessments previously levied on such lot or parcel reduced by the proportionate amount of reasonable depreciation of the improvement for which said sewer assessments were levied.

The Condemnation Commission files in the office of the Town Clerk a map showing the separately owned lots or parcels of land specially benefited, and designating by numbers the several lots or parcels of land thus benefited. The Commission also files in the office of the Town Clerk its proposed apportionment and assessment of benefits which shall describe by reference to the map or otherwise each lot or parcel of land specially benefited, designate the owner thereof and the benefit to be apportioned thereto.

After making and filing such map and apportionment, the Condemnation Commission serves on each property owner a notice of the completion and filing. The Condemnation Commission meets to hear objections to such apportionment and may modify and correct the same. Upon completion of the apportionment the Condemnation Commission files the same in the office of the Town Clerk. The apportionment refers to the map upon which the same is based.

The Condemnation Commission assesses against each lot or parcel of land within an area of benefit the amount of the benefits apportioned to each such lot or parcel. Such assessments are set forth in an assessment list which shall be known as the "Sewer Assessment List" for such sewer or sewerage system which describes by reference to the map or otherwise each lot or parcel of land specially benefited, the owner thereof and the benefits apportioned and assessed thereto. The Commission files said list in the office of the Town Clerk.

Any person aggrieved by the assessment of damages or benefits has the right to appeal to the Superior Court for Fairfield County.

The Court may hear such appeal and approve or disapprove such assessments. If the assessments are disapproved the Court may increase or decrease such assessment.

In the event that any property at any time derives a material increase in benefits due to an increase in the use of a sewer or sewerage system or as a result of a connection of any sewer or sewerage system with any other sewer or sewerage system, the Condemnation Commission may make an additional assessment against such property so served or benefited in an amount which reflects the value of the increase in benefits to such property resulting from such increased use. Charter Sections 248, 256-259.

V. Public Parking

The Condemnation Commission acts similarly in the taking of areas for public parking and the assessment of damages and benefits. The Commission exercises eminent

domain for the taking and assessment of damages and benefits. Charter Sections 128, 130-133.

VI. Flood & Erosion Control

The Condemnation Commission does not exercise the power of eminent domain regarding flood control. That is exercised by the Flood and Erosion Control Board. Charter Section 47.