

Tangible Capital Assets

Guideline 2: Land Expropriations

Overview

Under the *Expropriation Act*, the Province can expropriate land for certain reasons. The Province makes an offer of compensation which the owner can either accept or reject. If the offer is rejected, the determination of compensation can take a number of years to resolve depending upon the action taken by the owner.

In the past, the Department would set up an expense and liability for the expropriation based on the best available information. When the price for the land expropriated was finally determined, the additional cost (if any), would be charged to expenses in the year paid.

However, the Province has adopted a Tangible Capital Assets Policy and land acquisitions fall under that policy. As a result, it is no longer correct to charge certain land costs to expenses—they must be recorded as a tangible capital asset.

Expropriation Act

For purposes of the discussion, Appendix 14-D contains key excerpts from the *Expropriation Act*.

Guideline Directives

The interpretation of the *Expropriation Act* appears to be that once the appropriate documents have been served, the Crown has effective control over the land although legal title and possession may not occur until later. Therefore it would be appropriate to record the anticipated land cost as an asset, e.g., Dr. Asset, Cr. Liability. The *Expropriation Act* notes the value of the land will be determined as the value at the time the expropriation documents are deposited at the Office of the Registrar of Deeds.

The problem with the land cost arises when the owner does not accept the compensation offer. In addition, the act states the Province will reimburse the owner for costs incurred to pursue compensation and will also pay interest at a rate of 6% based on the amount payable.

Assuming the issue of compensation takes a number of years, the issue of how to account for the final costs needs to be determined. To illustrate the issue here are some examples (ignoring the issue of other & interest costs):

Province expropriates land in Year 1 and makes offer of \$300,000 which is rejected. Province uses this figure as its best estimate. In Year 1, the entry would be:

Dr.Asset	300,000	
Cr.Accounts Payable		300,000

In Year 4, the issue of compensation is finally decided and the value of the land is determined to be \$350,000. The incremental costs of \$50,000 would be added to the value of the land:

Dr.Asset	50,000	
Cr.Accounts Payable		50,000

If, in Year 4, the value of the land was determined to be \$250,000, the entry to reduce the asset value would be:

Dr.Accounts Payable	50,000	
Cr.Asset		50,000

Other Cost Issues

As noted earlier, the *Expropriation Act* calls for the Province to reimburse the owner for the costs incurred to pursue compensation and will also pay interest at a rate of 6% based on the amount payable.

OTHER COSTS OF GOVERNMENT

There are a number of costs that are incurred by the Province as part of any land acquisition such as appraisal fees, site surveying fees and external legal fees. However, if the expropriation process takes as long as has been suggested, then the risk exists that these costs may become excessive as many of the services may be repeated to bring the information up to date. To prevent capitalized costs from becoming excessive, only those costs related directly to the Province's acquisition process that would be incurred in a regular land purchase acquisition can be capitalized.

COSTS OF THE OWNER

While the costs of the owner could be considered part of the land cost as they are necessary costs to complete the land acquisition, these costs are not normally reimbursed in a traditional land purchase situation. As a result, reimbursement of any costs incurred by the owner are to be expensed.

INTEREST COSTS

For interest expense, the original intent in the TCA Policy was to capitalize the implicit interest cost while the asset was under construction. Once the asset was completed, no further interest charges would be capitalized. However, an amendment was approved to exclude interest from being capitalized as part of the asset cost.

Interest paid on expropriation is different in that it is an amount which is easily associated with the specific land asset and must be paid under the *Expropriation Act*. However, land is not an asset that is constructed and the interest is due to the fact that the owner did not receive his money for a period of time. Therefore, interest costs cannot be capitalized as part of the land cost as these are considered to be a financing charge and the TCA Policy does not permit the capitalization of interest.

Appendix 14-D

Key Sections of the *Expropriation Act*

11(2) Upon the documents being deposited at the office of the appropriate registrar of deeds

- a) the land expropriated becomes and is absolutely vested in the expropriating authority; and
- b) any other right, estate or interest is as against the expropriating authority, or any person claiming through or under the expropriating authority, thereby lost to the extent that such right, estate or interest is consistent with the interest expropriated.

11(7)...where the Attorney General is of the opinion that the physical possession or use of any land expropriated by an expropriating authority, including himself, is immediately required in the public interest, he may by order authorize the expropriating authority, including himself, to take physical possession of the land expropriated or to use the land to the extent specified in the order and as of the date specified in the order.

16(2) Where no agreement as to compensation has been made with the owner, the expropriating authority shall, within ninety days after the deposit of the expropriation document under Section 11 and before taking possession of the land, serve upon the registered owner

- a) a true copy of the expropriation documents;
- b) an offer of an amount in full compensation for his interest; and
- c) where the registered owner is not a tenant, a statement of the total compensation being offered for all interest in the land,...

18(1) Where land that has been expropriated is vested in an expropriating authority and the expropriating authority has served the registered owner with an offer in accordance with Section 13, the expropriating authority, subject to any agreement to the contrary and if no application is made under subsection (4) of Section 13, shall take possession of the land on the date specified in the notice.

18(2) Subject to subsection (4) of Section 13, the date for possession shall be at least three months after the date of the serving of the offer required by Section 13.

25(2) The value of the land expropriated shall be the value of that land at the time the expropriation documents are deposited at the office of the registrar of deeds.

52(2)... an owner whose interest in land is expropriated or injuriously affected is entitled to be paid the reasonable costs necessarily incurred by the owner for the purpose of asserting a claim for compensation.

52(9) The expropriating authority shall pay interest on an unpaid account for costs payable pursuant to this Section at the rate of six percent per year or such rate as determined by the Governor in Council, from the date the account is served on the expropriating authority by the owner.

