

TAKING OF PUBLIC UTILITY BY CITY (EXCERPT)
Act 119 of 1919

213.130 Verdict; collection resolution; treasurer, duties; borrowing power; right to possession; writ of assistance.

Sec. 20.

Within 1 year after the confirmation of the verdict of the jury or after the judgment of confirmation shall on appeal be confirmed, the common council shall set apart and cause to be provided in the treasury, unless already provided, the amount required to make compensation to the owners and persons interested for the absolute title in fee to the private property taken as awarded by the jury, and shall, in the resolution setting apart and providing said sum, if not already provided, direct the city treasurer to pay to the persons respectively entitled to the money so set apart and provided, to each his or her proportion, as ascertained and awarded by said verdict. And it shall be the duty of the treasurer to securely hold such money in the treasury for the purpose of paying for the property taken, and pay the same to the persons entitled thereto, according to the verdict of the jury, on demand, and not pay out the money for any other purpose whatever. The common council may provide the necessary amount by borrowing from any other money or fund in the treasury and to repay the same from money raised to pay the compensation awarded by the jury when collected, or otherwise, as they may provide. Whenever the necessary sum is actually in the treasury for such purpose, the treasurer shall make and sign duplicate certificates, verified by his oath, showing that the amount of compensation awarded by the jury is actually in the treasury for payment of the private property taken in the case, giving the title of the case; he shall cause 1 of the certificates to be filed in the office of the clerk of the court in which the proceedings were had, and the other to be filed with the city clerk, which certificates shall be prima facie evidence of the matters therein stated. Whenever the amount of such compensation is in the treasury and this secured to be paid, the city may enter upon and take possession of and use such private property and said city, its successors and assigns shall be seized and possessed of the absolute title in fee to the property so taken. In case of resistance or refusal on the part of any one to the common council or its agents and servants entering upon and taking possession of such private property for the use and purpose for which it is taken, at any time, after the amount of the compensation aforesaid is actually in the treasury, ready to be paid to those entitled thereto, the common council, by the city attorney, corporation counsel or other law officer of the city, may apply to the court, and shall be entitled, on making a sufficient showing, to a writ of assistance to put them in possession of the property: Provided always, That when the money awarded by the jury for just compensation for the taking of any such public utility shall have been paid into the city treasury as above provided, or the payment thereof secured to the satisfaction of the court, after due notice to all concerned, then the petitioners shall be entitled to enter into and take possession of any such public utility and to have the writ of assistance of need to, notwithstanding the pendency of an appeal to the supreme court.

History: 1919, Act 119, Eff. Aug. 14, 1919 ;-- CL 1929, 3830 ;-- CL 1948, 213.130