

**Expropriation Commission  
Tokyo Metropolitan Government**

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You may have seen or heard the word “expropriation,” but most people might not know much about how expropriation is actually carried out.

We have created this pamphlet with the hope that it will be of some help for people who happen to be involved in expropriation proceedings which they might not be so familiar with.



## Explanation of the major terms

### Expropriation

A public act of directly taking an individual's property right for the purpose of a specific public works project (a project that serves the public interest), even without the consent of the individual who holds said right, upon just compensation. While the Land Expropriation Act provides for rules regarding the expropriation of rights and buildings, for its intended purpose, this pamphlet focuses only on the expropriation of land.

### Use

An act of creating a right of use on land, etc., which is carried out in almost the same proceedings as expropriation and which is therefore not addressed in this pamphlet.

### Project Initiator

A person who undertakes any of the public works projects listed in the Land Expropriation Act, such as constructing roads or parks.

### Landowner

A person who owns the land subject to expropriation.

### Interested party

A party who holds rights other than landownership in relation to the land to be expropriated or property existing thereon, such as a land leaseholder and a building lessee.

\* In this pamphlet, both the landowner and interested parties are collectively referred to as “right holders.”

### Project Recognition

An act of the project recognition authority (Minister of Land, Infrastructure, Transport and Tourism, or prefectural governor) to approve a public works project (e.g. constructing a road or park) as an appropriate project for which land should be expropriated. Project recognition must be obtained prior to expropriation.

### City planning project

A project for carrying out road or river development or urban redevelopment under the City Planning Act. Permission or approval granted under the City Planning Act can be deemed as a substitute for project recognition granted under the Land Expropriation Act.

### Public notice and inspection

Public notice is a measure taken by a municipality (including a special ward; the same shall apply hereinafter) to make something known to the public by posting a notice. Public inspection is a measure taken by a municipality to disclose documents and other materials to the public so that anyone can inspect them.

### Determination

A final decision made by the expropriation commission, which is categorized as an administrative disposition.

# 1

## Expropriation and Compensation

Article 29 of the Constitution guarantees the private ownership system while at the same time providing that private property may be expropriated upon just compensation if it is necessary for public use.

In accordance with these constitutional provisions, the Land Expropriation Act provides for the conditions and proceedings that must be met and performed in order to expropriate land without the right holders' consent, as well as compensation for losses incurred from expropriation.

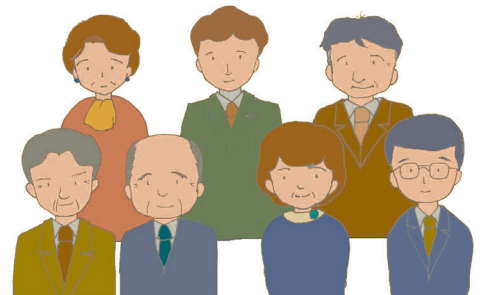
# 2

## Expropriation Commission

An expropriation commission is an administrative commission set up in each prefecture under the Land Expropriation Act. It is vested with the power to make a determination from a fair and neutral standpoint, with a view to balancing the public interest and the private ownership.

The commission is comprised of 7 members appointed by the prefectural governor with the consent of the prefectural assembly, from among persons with experience and knowledge in legal, economic or administrative affairs.

Despite their status as being appointed by the prefectural governor, the commission members exercise their power independently from the prefectural governor and any other organs.

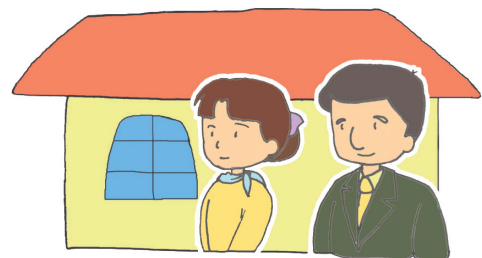


\* Articles 51 to 55 of the Land Expropriation Act

# 3

## Parties to the Expropriation Proceedings

The parties involved in the expropriation proceedings are the project initiator, the landowner, and any interested party. The expropriation commission hears opinions from these parties in the capacity of a fair and neutral organ.



# 4

## Flow of the Expropriation Proceedings

The expropriation proceedings are divided into two phases: (i) the “project recognition proceedings,” which must be performed as the prerequisite for carrying out expropriation; and (ii) the “determination proceedings,” in which the expropriation commission makes a decision to commence the proceedings upon an application for a determination, and makes a determination after hearing opinions of the parties.

The flow of the expropriation proceedings as a whole is outlined in pages 6 to 12, and that of the determination proceedings is focused on in pages 13 and 14.

# 5

## Flow of the Expropriation Proceedings as a Whole

### Project Recognition

In order to apply for a determination of the expropriation commission, the project initiator must first obtain project recognition.

In these proceedings, the project recognition authority (Minister of Land, Infrastructure, Transport and Tourism, or prefectural governor) assesses whether the project serves the public interest.

Project recognition becomes effective as of the day on which it is notified.

To ensure procedural transparency in the project recognition proceedings, the project recognition authority is in principle required to hold a public hearing and consult with a third party body.



\* Articles 16 to 26 of the Land Expropriation Act



\* Article 70 of the City Planning Act



### Permission or approval of a city planning project

Permission or approval granted with regard to a city planning project is deemed as a substitute for project recognition granted by the project recognition authority mentioned above, and with such permission or approval, a determination of the expropriation commission may be applied for.

## Drawing Statements

As the prerequisite for applying for a determination, the project initiator draws a land statement and property statement, which basically need to be signed by the right holders with their seals affixed thereon. If the right holders have any objection to the content of the statements, they may state it in the statements. In the absence of such objection, the content of the statements is presumed to be true.

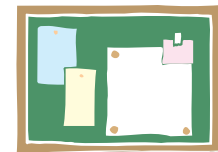
\* Articles 36 to 38 of the Land Expropriation Act



### Special provisions for the procedure for drawing statements

If there are more than 100 persons who hold rights on the land subject to expropriation and whose estimated amount of compensation is not more than 10,000 yen, the project initiator may give public notice of and make available for public inspection the land statement and property statement in the municipality where the land is located, instead of having these statements signed by all right holders with their seals affixed thereon.

In this case, the right holders may submit an objection in writing to the project initiator.



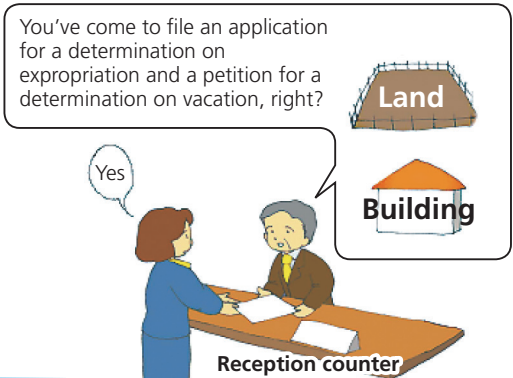
\* Article 36-2 of the Land Expropriation Act

## Application for Determination on Expropriation and Petition for Determination on Vacation

The project initiator may file (i) an application for a determination on expropriation to take landownership and (ii) a petition for a determination on vacation to demand that land be vacated by removing the building, etc. thereon. An application for a determination on expropriation should be accompanied by the land statement, and a petition for a determination on vacation should be accompanied by the property statement. They may be filed simultaneously in some cases.

Upon filing an application or petition, the project initiator should pay the fees.

\* Articles 39 and 47-3 of the Land Expropriation Act





The landowner and any interested party for the land concerned are entitled to the following in relation to the application for a determination on expropriation.

## Request for application for a determination on expropriation and request for payment

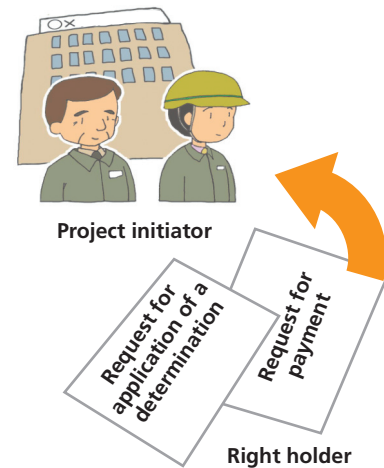
The landowner and any interested party in the land concerned (excluding a mortgagee, etc.) may request that the project initiator apply for a determination on expropriation (request for application for a determination on expropriation).

These persons may also request payment of compensation for the loss of the land (request for payment).

If they request payment before the project initiator files an application for a determination on expropriation, they must make request for payment together with request for application for a determination on expropriation.

When request for payment is made, the project initiator must pay the estimated amount of compensation within 2 months. However, if the commencement of the determination proceedings is yet to be registered with regard to the land concerned, the project initiator is allowed to pay compensation within 1 week from the day on which such registration is made.

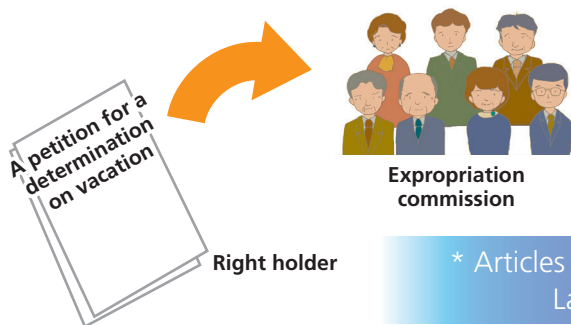
The landowner and any interested party do not have to pay fees upon making a request for application for a determination on expropriation or a request for payment.



\* Articles 39, paragraph (2) and Articles 46-2 to 46-4 of the Land Expropriation Act

## Petition for determination on vacation

If an application for a determination on expropriation has been filed with the expropriation commission but a petition for a determination on vacation has not been filed yet, the right holders may file a petition for a determination on vacation with the expropriation commission.



\* Articles 47-2 and 47-3 of the Land Expropriation Act

## Acceptance of Application for Determination, and Public Notice and Inspection Thereof

When an application for a determination on expropriation or a petition for a determination on vacation is filed, the expropriation commission accepts it after examining whether it meets the formality requirements.

Public notice is given to announce that the application or petition has been filed and accepted, and a copy of the application or petition document is disclosed to the public for 2 weeks from the date of public notice in the municipality where the land concerned is located.

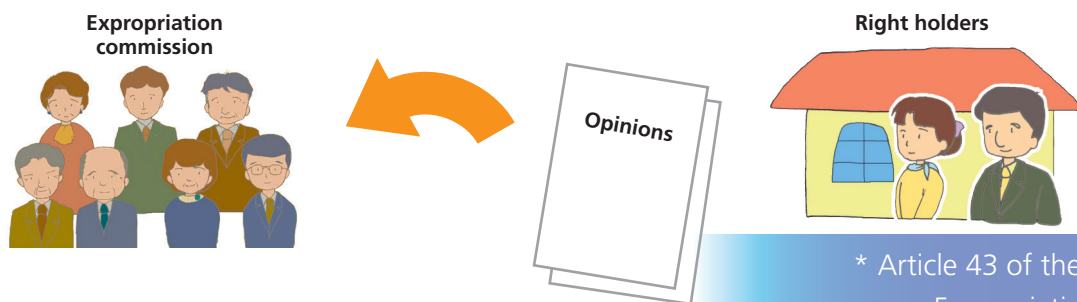


\* Articles 42 and 47-4 of the Land Expropriation Act

### Right to submit written opinions

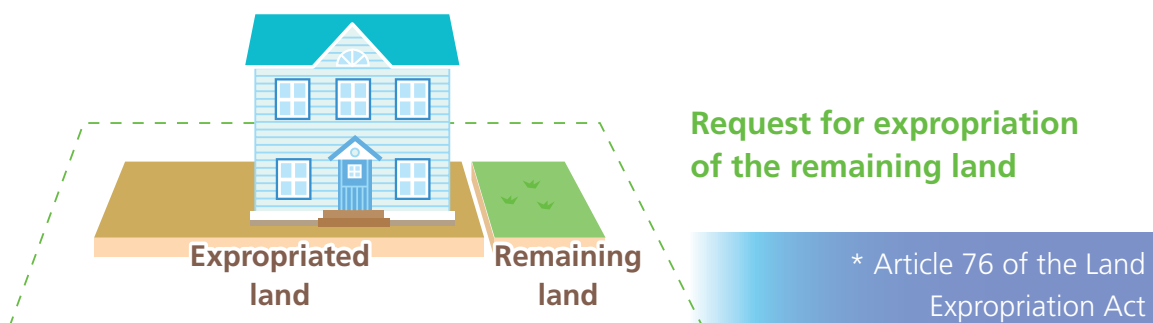
The right holders may submit their written opinions to the expropriation commission. However, they may include in their opinions only such matters that fall within the scope of examination by the commission, and any irrelevant matters such as an objection regarding the project recognition are deemed not to be included in the opinions.

Matters that are considered to be relevant to the examination by the commission include: (i) the area of the land to be expropriated or vacated, (ii) compensation for loss, and (iii) the time when the right holders will be deprived of their rights or by when they are required to vacate the land.



### Right to request expropriation of the remaining land

If only a part of a land area is expropriated and it would be extremely difficult for the remaining land alone to fulfill the prior use of the land, the landowner may request in the written opinion that the remaining land be expropriated as well.



## Decision to Commence Determination Proceedings, and Registration of Commencement of Proceedings

After the expiration of the period of public notice or inspection, the expropriation commission makes a decision to commence the determination proceedings and gives public notice of this decision, and then takes a step to register the commencement of the proceedings in the land registry.

Once such registration is made, any person who acquires a right to the land, except for the right holder's heir, etc., may no longer assert the transfer of the right against the project initiator. The project initiator and the expropriation commission will thereafter treat the persons who held rights at the time of the registration as the parties to the expropriation proceedings.



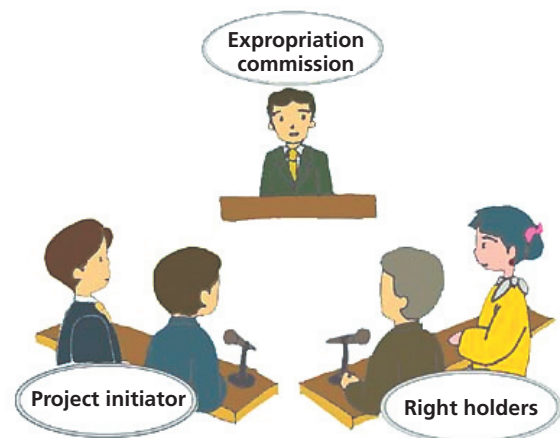
\* Articles 45-2 and 45-3 of the Land Expropriation Act

## Trial

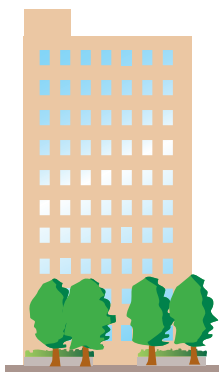
The expropriation commission holds a trial in order to hear opinions from the parties with regard to the matters that are needed to be clarified for making a determination.

The matters about which the parties are asked at the trial include (i) the area of the land to be expropriated or vacated, (ii) compensation for loss, and (iii) the time when the right holders will be deprived of their rights or by when they are required to vacate the land.

The parties are not allowed to state their opinions at the trial with regard to such matters that do not fall within the scope of examination by the commission such as an objection regarding the project recognition. They may be restricted from stating the same opinions as those they have previously stated.



\* Articles 62 to 65 of the Land Expropriation Act



\* Article 60-2 of the Land Expropriation Act



### Specially appointed commission members

The expropriation commission may specially appoint and authorize persons to perform its duties such as conducting a field survey or a trial. The Tokyo Metropolitan Expropriation Commission in principle has trials conducted by such specially appointed commission members.

## Settlement

Even after an application for a determination on expropriation is filed, it would be favorable for the parties to settle the dispute among them amicably.

To make an effective settlement, all parties must reach an agreement on the matters subject to a determination of the expropriation commission. If they reach a settlement, they may request the expropriation commission to draw a record of settlement. In some cases, the commission recommends that the parties try to reach a settlement.

When a settlement is reached, it has the same effect as a determination of the expropriation commission.



\* Article 50 of the Land Expropriation Act

## Determination

After the trial, the expropriation commission conducts investigation and examination based on the opinions presented by the parties, and makes a determination and issues it in writing.

(1) Determination on acquisition of rights (in response to an application for a determination on expropriation)

The matters covered by this determination are (i) the area of the land to be expropriated, (ii) compensation for loss of the land, and (iii) the time when the right holders will be deprived of their rights.

When this determination is made, the project initiator can acquire the ownership of the land by paying compensation to the right holders by the time of acquisition of rights.

(2) Determination on vacation (in response to a petition for a determination on vacation)

The matters covered by this determination include (i) the area of the land to be vacated, (ii) compensation for loss from vacation, and (iii) the time by when the right holders are required to vacate the land.

When this determination is made, the project initiator pays compensation by the time limit for vacation, by which the right holders must remove their buildings and other property on the land and vacate the land for the project initiator.

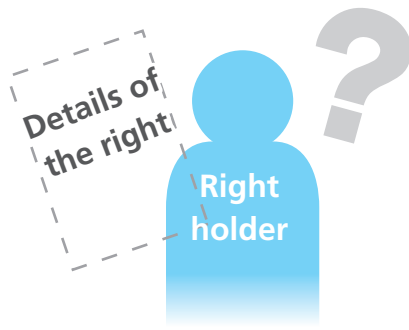
\* The expropriation proceedings are finished when both determinations are made.

(3) Determination of dismissal

An application for a determination on expropriation may be dismissed if it is filed in violation of the provisions of the Land Expropriation Act.



\* Articles 47, 47-2, 48, 49, and 66 of the Land Expropriation Act



\* Article 48, paragraphs (4) and (5) of the Land Expropriation Act



### Determination involving unknown matters

If the right holder cannot be ascertained or the details of the right are not confirmed, a determination is made while leaving these matters unknown. In this case, compensation is deposited with the official depository.



### Application for a determination under the Road Act and other laws

In cases where a difference in height is created between the site on which a house stands and the road in front of the site due to a public works project and it makes it difficult to access the house, and the landowner is unable to reach an agreement with the road administrator on compensation for loss from such diminished accessibility, the landowner may apply to the expropriation commission for a determination under the Road Act.

Other laws such as the Urban Renewal Act and the Land Readjustment Act also provide for similar proceedings. Please refer to the law that applies to your own case.

You may have to pay fees for filing an application under these laws.



\* Article 69 of the Road Act, etc.

# 6

## Proceedings for Determination on Expropriation (Especially For Right Holders)

<p><b>Drawing of a land statement and property statement</b></p> <p>↓</p>	<p>This is a preparatory step before filing an application for a determination on expropriation or a petition for a determination on vacation.</p> <p>The project initiator draws a land statement containing the results of the survey of the land, and draws a property statement containing the results of the survey of the property on the land.</p>
<p><b>Filing of an application for a determination on expropriation or a petition for a determination on vacation</b></p> <p>↓</p>	<p>The project initiator applies to the expropriation commission for a determination.</p> <p>An application for a determination on expropriation is filed to acquire the landownership, together with the land statement attached thereto.</p> <p>A petition for a determination on vacation is filed to request that the land be vacated by removing the property thereon, together with the property statement attached thereto.</p> <p>When such application or petition is filed, public notice is given and the application or petition document is publicly disclosed (for 2 weeks from the date of public notice) in the municipality where the land concerned is located.</p>
<p><b>Submission of written opinions</b></p> <p>↓</p>	<p>The right holders may submit their written opinions within the period of public notice and inspection. The expropriation commission may also request their opinions.</p>
<p><b>Decision to commence the determination proceedings, and registration of the commencement of the proceedings</b></p> <p>↓</p>	<p>These are steps taken to determine the right holders.</p> <p>When the expropriation commission makes a decision to commence the determination proceedings and this is registered in the land registry, the project initiator and the commission will thereafter treat only the right holders as of the time of registration as the parties to the expropriation proceedings (except in cases where inheritance took place).</p>
<p><b>Trial</b></p> <p>↓</p>	<p>The expropriation commission holds a trial in order to hear opinions from the parties as necessary for making a determination. The trial is basically open to the public.</p> <p>For the matters about which the parties are asked at the trial, please see "Trial" in Section 5.</p>
<p><b>Determination</b></p>	<p>After hearing opinions of the parties and conducting investigation and examination as necessary, the expropriation commission makes a final decision, which is referred to as a determination.</p> <p>The commission makes a determination on acquisition of rights in response to an application for a determination on expropriation, and makes a determination on vacation in response to a petition for a determination on vacation.</p>

**(Points That Right Holders Should Keep in Mind)**

<p>The project initiator would require the right holders to attend the process for drawing statements and sign and affix their seals on the statements. You should confirm what is written in the statements before signing and affixing your seal on them. If something in the statements is not true to the facts, you may state your objection in the statements upon signing and affixing your seal on them (for the exception to this procedure, please refer to "Special provisions for the procedure for drawing statements" in Section 5).</p>	<p>* Article 36 of the Land Expropriation Act</p>
<p>Upon accepting an application for a determination on expropriation or a petition for a determination on vacation, the expropriation commission notifies the right holders in writing of the fact that the application or petition has been filed, and of the municipality where the application or petition document will be publicly disclosed.</p> <p>If you wish to check the content of the application or petition document, please visit the municipality where it is disclosed, or make an inquiry to the secretariat of the expropriation commission.</p> <p>In some cases, the right holders may file an application for a determination on expropriation or a petition for a determination on vacation (for details, please refer to Section 5).</p>	<p>* Articles 39, ff. of the Land Expropriation Act</p> <p>* Articles 47-3 and 47-4 of the Land Expropriation Act</p>
<p>You may submit your written opinions in any document form, but you must enter the date and your name and address in and affix your seal on the document. You may not include such matters that do not fall within the scope of examination by the commission such as an objection regarding the project.</p> <p>Your written opinion will make clear the points in dispute between you and the project initiator. Please be sure to write your opinions as clearly as possible. If you find anything uncertain with this procedure, please make an inquiry to the secretariat of the expropriation commission.</p>	<p>* Article 43 of the Land Expropriation Act</p>
<p>If a part of a parcel of land is subject to expropriation, the project initiator first subdivides the parcel, and then the expropriation commission takes the step to register the commencement of the determination proceedings with regard to the subdivided parcel subject to expropriation.</p>	<p>* Articles 45-2 and 45-3 of the Land Expropriation Act</p>
<p>The expropriation commission notifies the right holders in writing of the date and place of the trial. The commission will make a determination based on their opinions presented at the trial. Please be sure to attend the trial and state your opinions.</p> <p>If you intend to have your agent attend the trial, you should submit a power of attorney.</p> <p>If a large number of right holders are involved in the case, they may appoint representatives (who are authorized to exercise the entire power in relation to the trial) from among themselves.</p>	<p>* Articles 46 and 62 to 65-2 of the Land Expropriation Act</p>
<p>A determination is made in writing. The secretariat of the expropriation commission sends a written determination to the parties.</p> <p>A determination on acquisition of rights and a determination on vacation may be issued in one document.</p>	<p>* Articles 48, 49 and 66 of the Land Expropriation Act</p>



# 7

## Compensation

The Land Expropriation Act allows the expropriation of land upon “just compensation.” Accordingly, compensation is a material matter addressed in a determination of the expropriation commission.

Compensation for loss is in principle offered in cash and to each party individually. There are two types of compensation: compensation for land and compensation for vacation.

The standards for compensation are specified by the Cabinet Order on Details, etc. under Article 88-2 of the Land Expropriation Act.

### Compensation for Land

#### Compensation for loss of land

This compensation is offered as the value of the expropriated land, which is calculated on the basis of the transaction price of similar types of land in the neighboring area.

The calculation is made as of the date of notification of the project recognition. The amount of compensation is calculated by multiplying the land price as of this base date by the revision rate corresponding to changes of prices up until the date of the determination.



\* Article 71  
of the Land  
Expropriation  
Act



\* Article 71  
of the City  
Planning Act



#### In the case of a city planning project

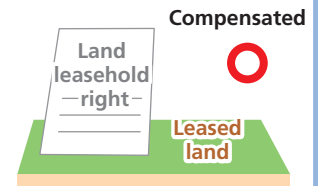
In fixing the base date of compensation for loss of land in relation to a city planning project, the date of notification of the project permission or approval under the City Planning Act is deemed to be the date of notification of the project recognition under the Land Expropriation Act. However, since such project continues for a long period of time, if 1 year has passed since the date of notification of the project permission under the City Planning Act and no application for a determination has been filed within this period, the day 1 year after the date of notification of the project permission under the City Planning Act shall automatically be deemed to be the date of notification of the project recognition under the Land Expropriation Act, and this will be repeated until the project period expires.



## Compensation for the loss of rights such as land leasehold right, etc.

Expropriation of land causes any rights on the land other than the ownership, such as a land leasehold right, etc., to be extinguished. Therefore, the loss of such rights is compensated, and compensation is calculated while taking into consideration the transaction price of the right, the details of the contract, profitability, and other factors.

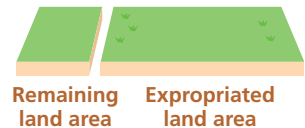
As it is difficult to estimate the value of a mortgage, etc. individually, compensation for loss of the mortgage is usually included in compensation to be offered to the landowner who has established the mortgage on the land.



\* Articles 69 and 71 of the Land Expropriation Act

## Compensation for the remaining land

When only a part of a land is expropriated, there would be a remaining land. If the price of the remaining land declines and causes the landowner to incur a loss, the difference from the initial price would be compensated.



\* Article 74 of the Land Expropriation Act



### Compensation in the form of substitute land

\* Article 82 of the Land Expropriation Act

The loss of land may be compensated for in kind, such as in the form of substitute land. However, this measure is taken only when there are special circumstances, such as that it is difficult to acquire alternative land by monetary compensation and the landowner is unable to maintain the living conditions as before.

## Compensation for vacation

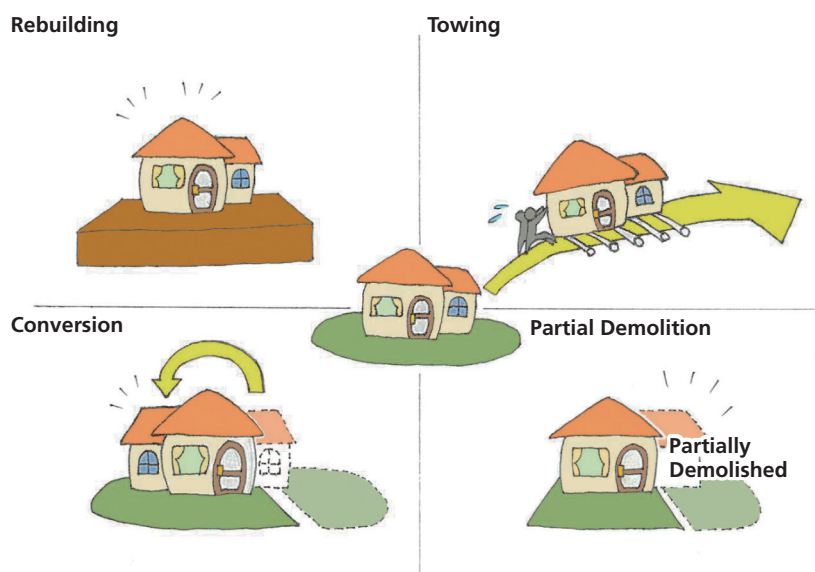
\* The amount of compensation is decided on the basis of the price as of the time of the determination on vacation.

## Compensation for removal expenses

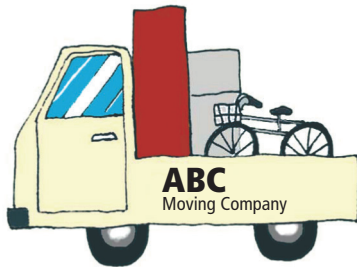
If a building or any other property stands on the expropriated land, expenses for removing such property are usually compensated. The amount of removal expenses is calculated objectively and reasonably, in consideration of the removal destination and method. The following types of compensation are available.

- Compensation for removal of buildings: This is to cover expenses for removing a building. The amount of this compensation is calculated in consideration of the destination of the removal (within or outside the initial premises) and the approved removal method (partial demolition, conversion and rebuilding method, etc.).
- Compensation for removal of structures: This is to cover expenses for removing a structure other than a building, such as a fence or a door of a gate. Any such structure that cannot be removed is compensated by paying expenses for a new one.
- Compensation for standing trees: This is to cover expenses for transplanting standing trees such as those in a garden. If cutting down trees rather than transplanting them is considered appropriate, expenses for cutting down trees are offered.

\* Article 77 of the Land Expropriation Act



## Compensation for ordinary loss



\* Article 88 of the Land Expropriation Act

In addition to the above, compensation is offered to cover losses that are objectively considered to ordinarily be incurred from the expropriation of land, such as the following.

- Compensation for removal of movable property: This is to cover expenses for moving.
- Compensation for the building lessee: When it is difficult for the building lessee to maintain the lease contract with the owner, the lessee is compensated for the necessary expenses for leasing another equivalent building.
- Compensation for suspension of business: This is to cover a loss in earnings caused during the period when the business operations are suspended.



### Limitation to compensation for loss

Unless approved by the prefectural governor, no compensation may be claimed for the loss of a building, etc. constructed or extended after the project recognition is granted.



\* Article 89 of the Land Expropriation Act

# 8

## If You Have Objection to Determination

If you have any objection to a determination of the expropriation commission, you may file an action or administrative appeal according to the types of cases shown below.

### 1. If you have an objection with regard to compensation for loss

#### ○ Public law-related action

(Article 133, paragraphs (2) and (3) of the Land Expropriation Act)

You may file with the court an action with regard to compensation for loss within 6 months from the day on which you received a service of an authenticated copy of the determination document. The party who is to stand against you in this action is the project initiator.

### 2. If you have an objection with regard to matters other than compensation for loss

#### ○ Request for Administrative review

(Article 129, Article 130, paragraph (2), and Article 132, paragraph (2) of the Land Expropriation Act)

You may file an administrative appeal (a request for administrative review) with the Minister of Land, Infrastructure, Transport and Tourism within 30 days from the day following the day on which you received a service of an authenticated copy of the determination document.

\* You may not file a request for an administrative review based on your objection to compensation for loss.

#### ○ Action for the judicial review of an administrative disposition

(Article 133, paragraph (1) of the Land Expropriation Act)

You may file with the court an action against the Tokyo Metropolitan Government to seek revocation of a determination of the expropriation commission within 3 months from the day on which you learned the fact that the determination had been made.

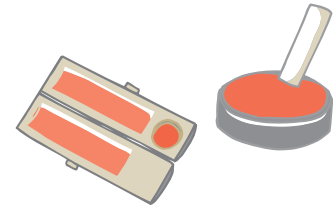
\* You may file this action irrespective of whether or not you have filed a request for an administrative review in advance.

# 9

## Special Proceedings Available Without Application for Determination

### Confirmation of Agreement

When the right holders and the project initiator reach an agreement to sell the land by a private contract after the project recognition was granted and before an application for a determination is filed, such agreement is deemed to have the same effect as a determination if it is confirmed by the expropriation commission. In order to obtain this confirmation, the project initiator should file an application with the commission, with the consent of the right holders.



\* Articles 116 to 121 of the Land Expropriation Act

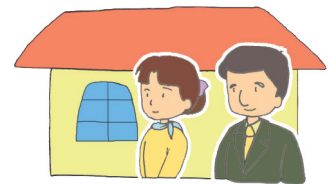
### Mediation and Arbitration

Both mediation and arbitration proceedings are provided under the Land Expropriation Act, but unlike expropriation, they are intended to be used to resolve a dispute over land before project recognition is granted.

In mediation proceedings, the mediation committee members appointed by the prefectural governor coordinate the interests of the parties and encourage them to reach an agreement.

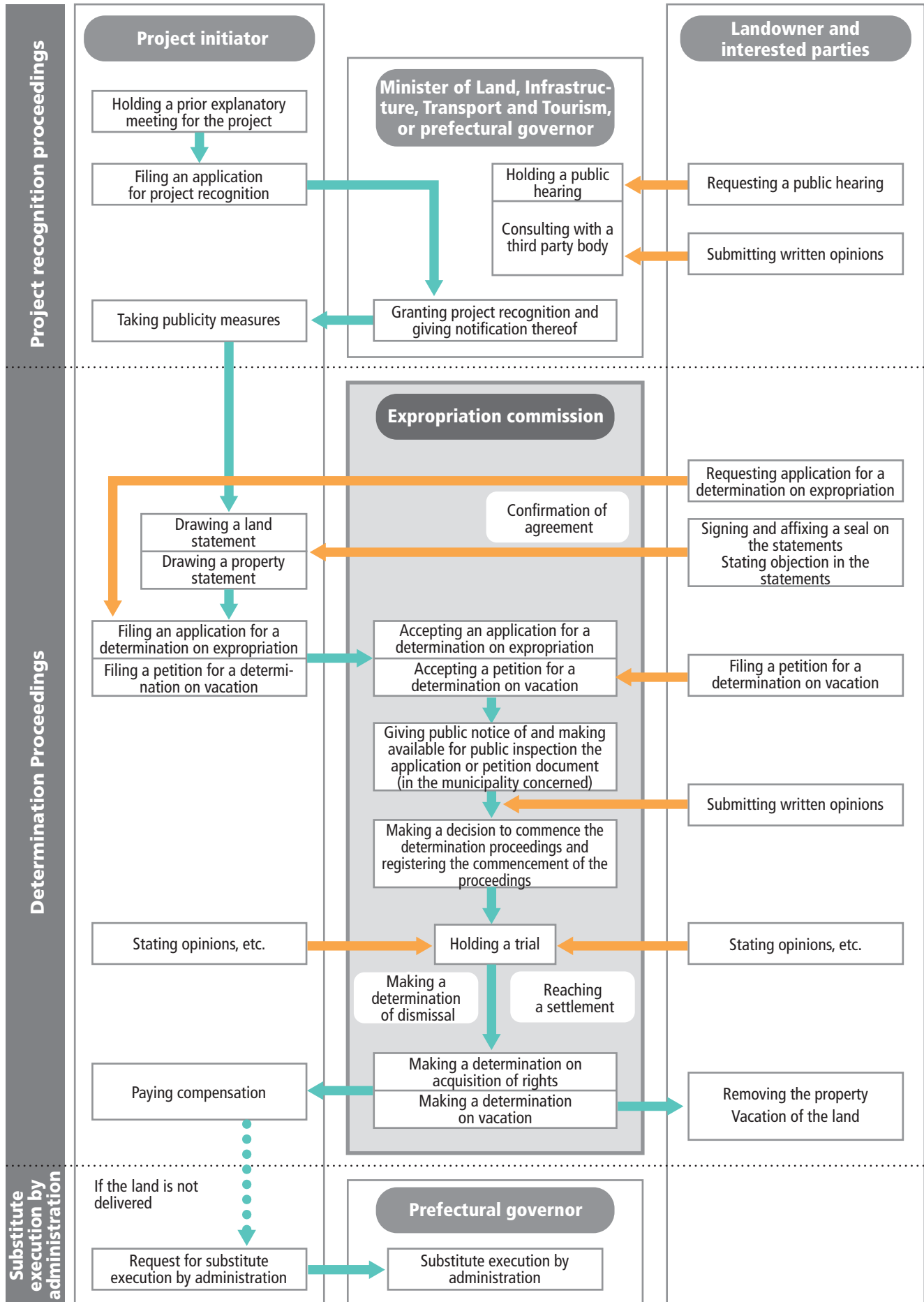
Arbitration proceedings are carried out only with regard to the matters concerning compensation and upon application by both parties, with the aim of resolving their dispute. The arbitration committee members appointed by the prefectural governor make an arbitral award, which has the same effect as a final and binding judgment.

In the Tokyo Metropolitan Government, the Bureau of Finance is in charge of these proceedings.

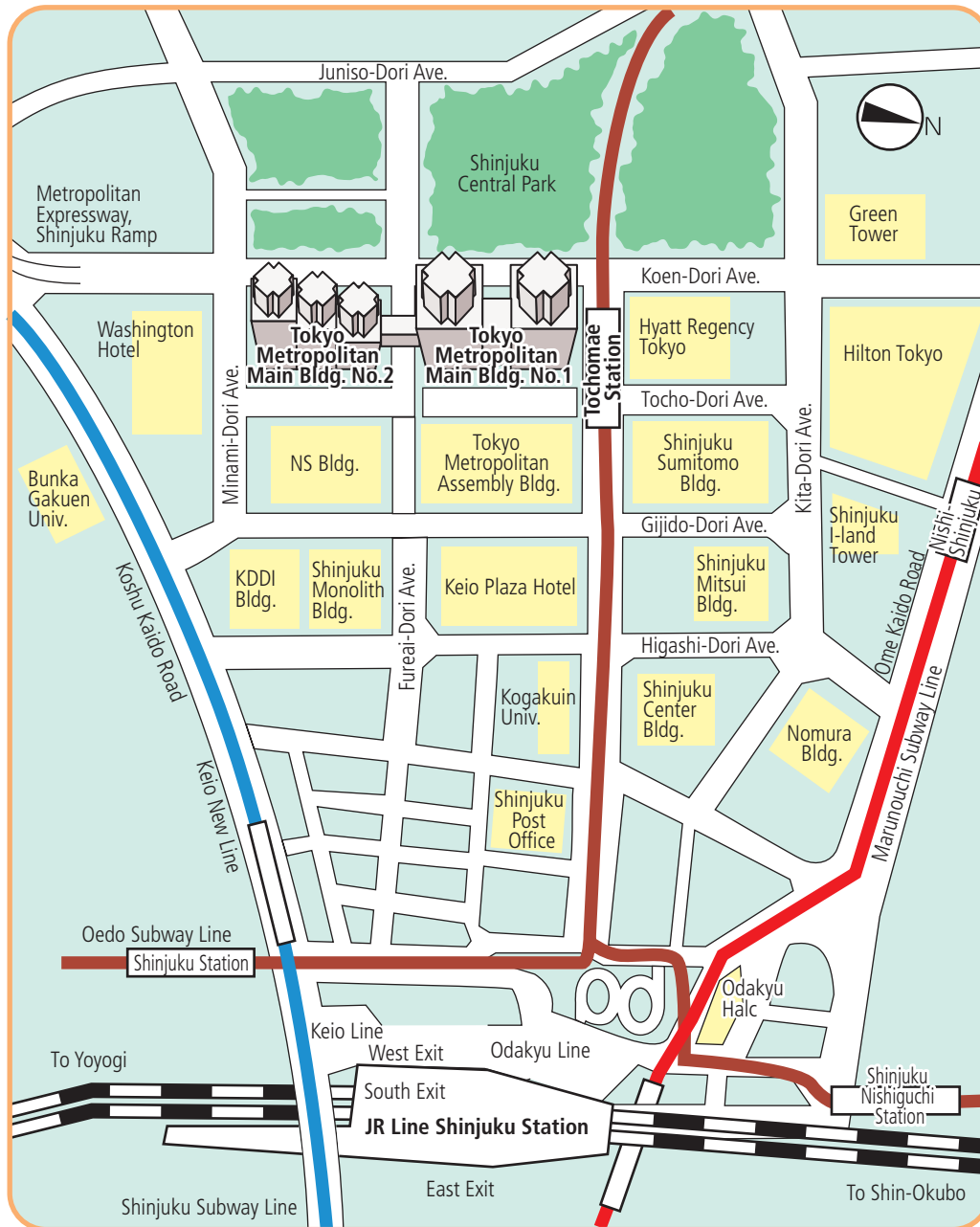


\* Articles 15-2 and 15-3 of the Land Expropriation Act

## Procedural Flow (for reference)



## Access Map



**Secretariat to the Expropriation Commission of Tokyo Metropolitan Government**  
**37F, South Tower of Tokyo Metropolitan Main Building. No.1**  
(Please use the elevator in orange color on the south side.)

### Access by train:

- Near Tochōmae Station, Oedo Subway Line
- About ten minutes on foot from Shinjuku Station, JR Line, Keio Line, Odakyu Line, Marunouchi Subway Line, and Shinjuku Subway Line

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