

**9.13 CONDEMNATION - MACHINERY<sup>1</sup>** (Approved 4/96)

Sometimes, when property with a building is condemned, the owner moves out all his or her personal property including machines. Nevertheless, sometimes an owner cannot easily move the machinery. Even if he or she could, the machinery might be of little value to the owner as used equipment compared to its value to a buyer of the land, building and machinery together. If the building and the machinery are meant to be used together, that is, if the machinery is an integral and essential part of the building, the owner must be paid for both. The question you must answer is whether the machinery and the building form a single functional unit. Does the machinery form an integral and valuable part of the use to which the property is put? If it does and the value of the building is

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<sup>1</sup> Special problems of valuation come up when the property taken is the site of a business. For a cautionary note concerning the non-compensability of such speculative or incidental business losses as good will, loss of profits, and the like, see *Housing Auth. of Newark v. Norfolk Realty Co.*, 71 N.J. 314, 323 (1976); *State v. Cooper Alloy Corp.*, 136 N.J. Super. 560 (App. Div. 1975). In general, losses to property are compensable; losses to business conducted on the property are not. The Relocation Assistance Act, N.J.S.A. 20:4-1 *et seq.*, which authorizes payment for certain such expenses, does not affect the condemnation proceeding. Such payments are in addition to the just compensation established in the condemnation proceeding. N.J.S.A. 20:4-18.

substantially enhanced by the machinery then the property owner should be paid for that value.<sup>2</sup>

If a building and the machinery in it form such a functional unit and a buyer would pay substantially more for the property with the equipment in place, you would expect the owner to sell the land, building and machinery together at a price that reflects that increased value. Therefore, the fair market value of the entire property would include the increase in value caused by the presence of the machinery.

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<sup>2</sup>*State v. Gallant*, 42 N.J. 583, 590 (1964); *Housing Auth., Borough of Clementon v. Myers*, 115 N.J. Super. 467, 472 (App. Div. 1971). Often presented is the question of whether the machinery cannot be removed without serious injury to itself or the building or is specially designed or adapted to the building to the extent that removal from the building would make it essentially worthless. *See Town of Montclair v. D'Andrea*, 138 N.J. Super. 479 (App. Div. 1976). *See also N.J.S.A. 20:3-2(d); 20:4-4(a)(2)*.