



PUBLIC ACQUISITION NOTIFICATION PROCEDURES

A STEP-BY-STEP GUIDE

The following information explains the public acquisition notification procedures for a public agency's acquisition of land located in an Agricultural Preserve and/or under a Land Conservation (Williamson) Act contract.

If you have additional questions, or suggestions for improvement of this document, please contact the Williamson Act Program at: LCA@conservation.ca.gov

A public acquisition is the acquisition of land located in an agricultural preserve by a public agency or person, acting on behalf of a public agency, for a public improvement. Land acquisition includes interests in real property, including partial interests such as utility and conservation easements.

When is a Notice Required?

Public Acquisition Notice is required whenever it appears that land within an agricultural preserve may be required by a public agency, or by a person (acting on behalf of a public agency) for a public use. The public agency or person shall advise the local governing body (city/county) responsible for the administration of the agricultural preserve of its intention to consider the location of a public improvement within an agricultural preserve (GC § 51291(b)), or on land restricted by a Williamson Act contract.

Does the CEQA Process Constitute a Public Acquisition Notice?

Notice of the intention to acquire land located in an agricultural preserve must be provided separately from a California Environmental Quality Act (CEQA) environmental notice.

The California Environmental Quality Act (CEQA) notice and review is a separate process and does not substitute for the notice of the intention to acquire land located in an agricultural preserve. Senate Bill 985 (Johnston, statutes of 1999) clarified that CEQA notice does not equal the Public Acquisition Notification required under the Williamson Act.

What are the Legal Requirements for a Public Acquisition Notice?

The requirement to notice occurs four times in Williamson Act statute.

1. Notice to the local city or county is required before acquiring land located in an agricultural preserve (GC §51291(b)).
2. Notice to the Department is required within 10 days of acquisition of the land (GC § 51291(c)).

3. Notice to the local city or county is required if, prior to the acquisition, the public entity proposes any significant changes to the acquisition (GC § 51291(d)).
4. Notice to the local city or county is required if, after acquisition, the public agency decides not to use the land for the intended purpose (GC § 51291(d)).

PUBLIC ACQUISITION NOTICE REQUIREMENTS

FIRST NOTICE:

A public agency must notify the local jurisdiction (city/county) administering the agricultural preserve when the public agency has the intention to acquire land in an agricultural preserve or land restricted by Williamson Act contract.

The first notice must occur before the public agency acquires land located in an agricultural preserve. The first notice should include the following information:

1. The public agency's preliminary considerations of the findings of Government Code § 51292 (a) and (b):

a. *"The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve (GC § 51292(a))."*

b. *"There is no other land within or outside of the preserve on which it is reasonably feasible to locate the public improvement (GC § 51292(b))."*

2. A description of the agricultural preserve land proposed for acquisition.

3. A copy of, or reference to the Williamson Act contract for land that is subject to restrictions.

Things to Remember

The local governing body must be notified in advance of any proposed public acquisition and specific findings must be made (see number "1" under "First Notice" above).

The public agency must review the local agency's comments if provided and supply any additional information requested to complete the administrative record before taking action to acquire the land.

The public agency must acquire the land via eminent domain or in lieu of eminent domain to make the contract null and void (Government Code § 51295).

The public agency should work closely with the local agency, the title company, and/or their own legal counsel to ensure that appropriate procedures are followed. Documents such as copies of condemnation orders, a copy of the offer letter made to the landowner in lieu of eminent domain, a right of way contract, or resolution of necessity might be used to confirm actions of eminent domain/in lieu of eminent domain.

SECOND NOTICE

A second notice to the Department is required within 10 working days after acquisition (*i.e.*, once escrow has closed). The second notice shall include the following:

1. A general explanation of the decision and the findings made pursuant to Government Code § 51292.
2. A general description, in text or by diagram, of the agricultural preserve land acquired (a vicinity map, assessor's parcel number, and acres acquired is good).

THIRD NOTICE

A third notice is required if there is a significant change in the public improvement that the public agency intends to locate on land that is acquired in an agricultural preserve. The public agency must provide notice to the local jurisdiction (city/county) regarding increases or decreases in the amount of land acquired. In such cases, the local governing body may provide additional comments to be considered by the public agency.

THIRD / FOURTH NOTICE

A third/fourth notice is required if the public agency does not acquire or does not use the land it acquired for the purpose identified in the first notice. The land must be reenrolled under a contract that is as restrictive as the one it was under before the acquisition occurred (Government Code § 51295).