

endants in the action. Upon filing of the affidavit, the clerk of the court shall affix the seal of the court to the form of order. The order may thereafter be enforced in the same manner as any other order of the court.

(4) A notice under this section must be in substantially the following form:

CIRCUIT COURT FOR THE
COUNTY OF _____

_____ Plaintiff,)	
)	
)	NOTICE OF
)	IMMEDIATE
)	POSSESSION
)	
vs.)	Case No. _____
)	
_____ Defendant.)	

TO THE DEFENDANTS:

By service of this notice, you are advised that the plaintiff will take possession of the property described in the complaint on:

(1) _____, 2_____, if the deposit required by ORS 35.265 has been made by that date; or

(2) The date on which the deposit required by ORS 35.265 is made if that date is later than the date specified above.

You may file an objection with the court within 10 days after this notice is served on you. An objection may be made only to determine:

(1) Whether the condemnation is legal; and

(2) Subject to the presumption established by ORS 35.235 (2), whether the public condemner has acted in bad faith, engaged in fraud or engaged in an abuse of discretion under a delegation of authority.

Attorney for Plaintiff

Address

Telephone Number

(5) The court shall expeditiously consider any objection filed under this section to prevent prejudice to the public condemner's need for immediate possession.

(6) The ability of the defendant in a condemnation action to assert legal defenses in the answer of the defendant under ORS 35.295 is not affected solely by reason of the filing of an objection to a notice served un-

der this section, or by reason of the failure to file an objection.

(7) This section does not impose a requirement that a public condemner use the procedure described in this section, and the procedure described in this section is not the exclusive method by which a public condemner may obtain possession of property. [2005 c.565 §3]

35.355 Appeal. Either party to the action may appeal from the judgment in like manner and with like effect as in ordinary cases, but the appeal shall not stay the proceedings so as to prevent the condemner from taking possession of the property and using it for the purposes for which it is being appropriated. In the event the defendant prevails on an appeal, the costs and disbursements of the defendant, including a reasonable attorney fee to be fixed by the court, shall be taxed by the clerk and recovered from the condemner. [1971 c.741 §19]

35.365 Effect of withdrawal of award; disposition of award. If the defendant withdraws the compensation awarded by the court or jury, the defendant waives the right of appeal; and, if the defendant does not, such sum shall remain in the control of the court, to abide the event of the appeal. If an unknown owner of the property or other defendant does not appear and claim the sum, it shall be invested for the benefit of whom it may concern, as in case of unclaimed moneys in the sale and partition of lands. [1971 c.741 §20]

35.375 Chapter as exclusive condemnation proceeding; exception. Except for procedures provided in ORS chapter 368, any action for the condemnation of property under the power of eminent domain shall be conducted according to this chapter. [1971 c.741 §3; 1979 c.873 §3; 1981 c.153 §52]

35.385 Public purpose use required of condemner; right of repurchase; specification of duration of public purpose use; effect. (1) If real property is acquired by a condemner by agreement with the owner of such property after the adoption of a resolution or ordinance under ORS 35.235 (1) for the acquisition of the property but before entry of a judgment in a condemnation action under ORS 35.245, the condemner and the owner shall:

(a) Specify in such agreement for the real property a reasonable period within which the real property must be used by the condemner for a public purpose or specify a 10-year period for such use and provide that the right of repurchase of the real property or any portion thereof may be exercised as provided in ORS 35.385 to 35.415; or