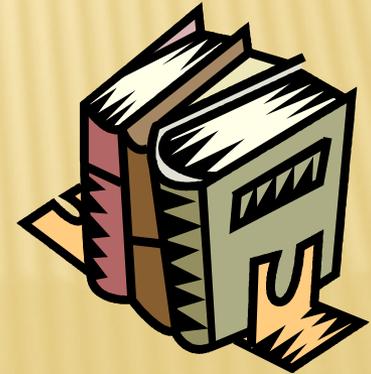


By Forensic Appraisal Group, Ltd.

WISCONSIN EMINENT DOMAIN PROCESS

TERMS

- ✘ Eminent domain- government's **right** to take for greater good of public
 - + More about this on next slide
- ✘ Condemnation- the **exercise of the right** of eminent domain (process of)
- ✘ Condemnor- the agency doing the taking
 - + E.g. DOT (public)
 - + utilities (private)
- ✘ Condemnee- the property owner, i.e. “you”



EMINENT DOMAIN

- ✘ What is Eminent Domain?
 - + Government's sovereign right to take private property for the public use.
 - ✘ Examples: roadways, sewers, power lines, pipelines, even libraries and airports.
 - ✘ Utilities like gas pipelines or electric power line companies can be granted this right on a one time basis...they're not sovereign.

WHAT GIVE'S THEM THAT RIGHT?



THE U.S. CONSTITUTION- 5TH AMENDMENT

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

THE U.S. CONSTITUTION- 14TH AMENDMENT

SECTION 1

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

BONUS TAKE AWAY

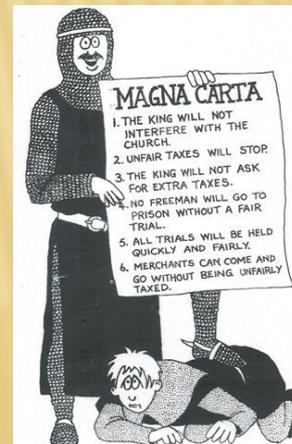
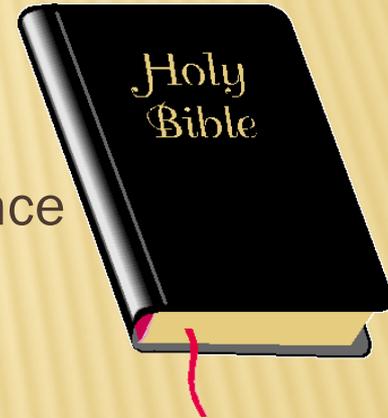
✘ So where did the eminent domain concept come from?

+ Bible

- ✘ Ezekiel 46:18: Prince shall not take any inheritance of the people
- ✘ 1 Kings 22:1-29: Ahab & Naboth's garden
- ✘ Exodus 20:15: you shall not steal.

+ Magna Carta

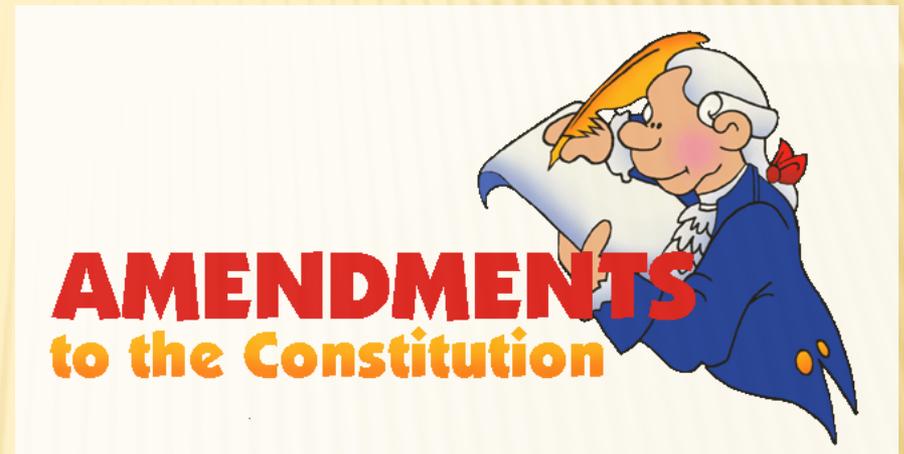
- ✘ (King John, June 15, 1215)
- ✘ protect property rights from being taken by the king.



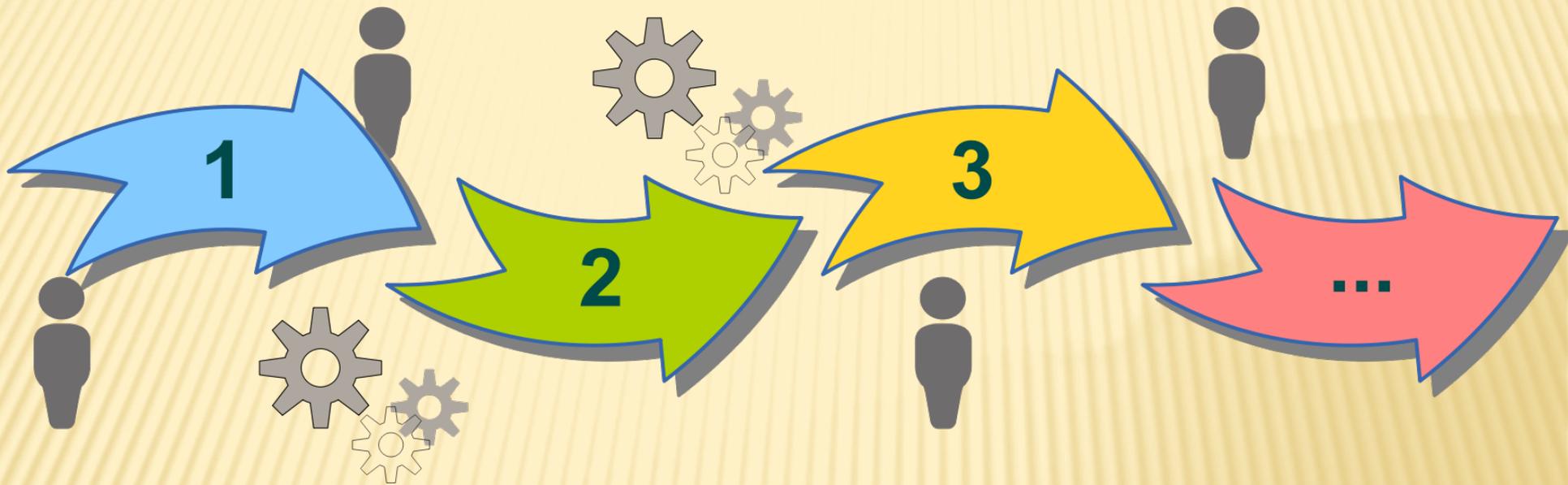
King John agreed to Magna Carta in 1215. However, the rights he gave were for freemen, not for the villains.

EMINENT DOMAIN IS A CONSTITUTIONAL ACTION

- ✘ Eminent Domain is addressed in the 5th and 14th Amendments of the U.S. Constitution and Wis §32
 - + No one is to profit from it.
 - + Property owner is to receive “just compensation”
 - + Property owner is to “remain whole”
 - ✘ Includes relocation



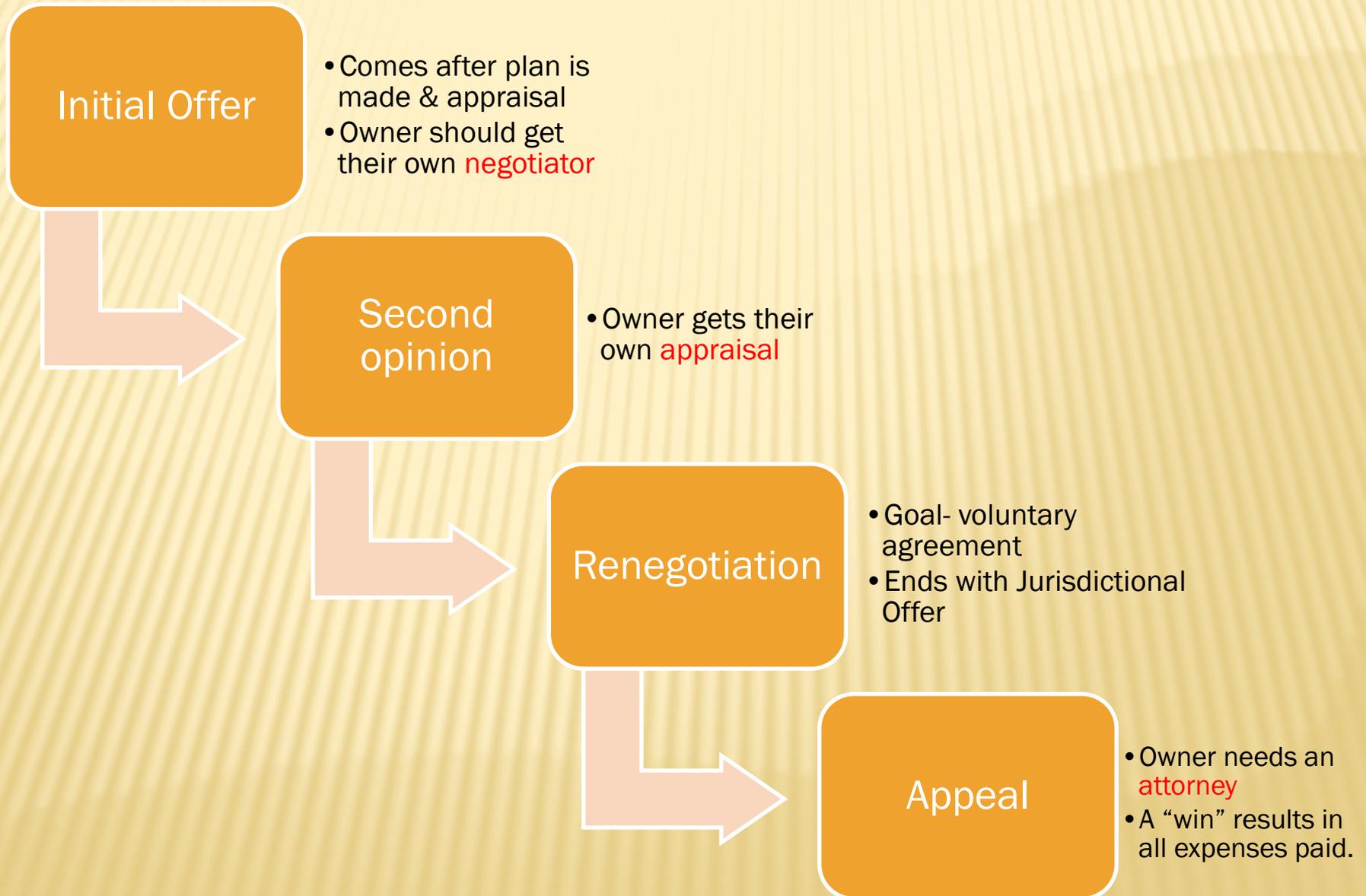
Our constitution protects the property owner from eminent domain abuse “no King George” in our country.



Wisconsin

EMINENT DOMAIN IS A 4-STEP PROCESS

The FOUR steps of the Condemnation Process in Wisconsin



STEP ONE- INITIAL OFFER

- ✘ Condemnor presents plan
 - ✘ Public input
 - ✘ Sometimes a *nominal offer* is made at this point- consider their reason before you accept
 - ✘ Appraisal for condemnor is completed
-
- ✘ ENDS WITH INITIAL OFFER
 - + Comes with good faith offer
 - + Comes with their appraisal



Hire a professional negotiator to represent you –they do!

STEP TWO- SECOND OPINION

- ✘ Right to a “free” second opinion appraisal.
- ✘ Condemnor pays for the appraisal.
- ✘ Hire any appraiser you like that meets the criteria, must be Cert. Gen. and experienced.
- ✘ 60-days to get it done.



Order your appraisal at this stage or before.

STEP THREE- RENEGOTIATION

- ✘ Begins after the 60-day Second Opinion
- ✘ Meet & renegotiate with you at least once
- ✘ Goal is to “get a voluntary agreement”



- ✘ If you cannot agree on a value, then . . .
 - + Jurisdictional Offer will be made
 - + Last and final offer
 - + 20-days to accept or reject
 - + Doing nothing is rejection

STEP FOUR- THE APPEAL



✘ Road & Urban Renewal projects

- + 24 months to file an appeal
- + Appeal will not stop project
- + Need an attorney to do this right

✘ Utility projects

- + 6 months to file an appeal
- + Appeal will not stop project
- ✘ Need an attorney to do this right

After appeal is filed you will go to the commissioner hearing and circuit court

CONDEMNATION COMMISSIONERS

- ✘ 3 commissioners
- ✘ Court appointed
- ✘ Informal hearing
- ✘ Will decide the “award of damage”
 - + Can be by-passed in road projects and go directly to court
 - + Can appeal decision to court



CIRCUIT COURT

- ✘ Judge or jury
- ✘ Formal hearing
- ✘ Will decide immediately on “award of damages”
 - + Can only be appealed on “error of law” issue – not amount of compensation.

2 TYPES OF HEARINGS

THE \$2,700 / 15% RULE

- ✘ If a property owner wins a decision that is either \$2,700 or 15% over the Jurisdictional Offer (or highest offer prior to the J.O.) then . . .
 - + They get the full award with interest
 - + They get ALL of their court expenses, attorney fees and expert witness fees paid by the condemnor
 - ✘ if the J.O. was \$10,000 then an award of \$12,700 wins
 - ✘ if the J.O. was \$3,000, then an award of \$5,700 wins

This rule is Unique to Wisconsin

HOW THE RULE WORKS IN REAL LIFE



BRAGGING RIGHTS

Forensic Appraisal Group

- ✘ Focus is eminent domain & litigation issues
 - + Unique specialties in
 - ✘ Power line easements
 - ✘ Pipeline easements
 - ✘ Wind farm impacts
 - ✘ Solar farm impacts
 - ✘ Avigation easements
 - ✘ Rails-to-trails easements
- ✘ Covers multiple states
- ✘ Impact studies
- ✘ Research

Sr. Appr. Kurt Kielisch

- + Has 3 advanced appraisal designations
- + Three college degrees
(2-bachelors, 1-master's)
- + In the field for 36 yrs
- + Appraiser/teacher/expert witness
- + Practiced/testified in 16 states
- + Involved in two Wis. State Supreme Court decisions, Speigelberg vs DOT, Waller vs ATC and five appellate court decisions