



# HOW TO SUCCESSFULLY MANAGE LAYPERSON QUESTIONING

Four strategies for an expert witness

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Any appraiser who specializes in eminent domain/ROW appraisals eventually ends up testifying in court. Regardless of whether or not your client is the condemning authority or the property owner, it is usually an attorney doing the questioning and cross examination. While each attorney has his or her own style, from channeling Matlock to treating trials as blood sport, what they all have in common is an understanding of the appraisal process and how to read an appraisal report. But what happens if a property owner decides to represent himself or herself?

If you appraise properties for condemning authorities — particularly in rural areas — eventually, you will encounter a property owner who wants to be his or her own advocate. The three common reasons property owners might choose to represent themselves are a lack of funds, a belief that no attorney could properly understand the value of their property or if they are struggling with mental health issues (not be confused with mentally unfit, which is a legal status). Property owners have the right to represent themselves and the judge will grant them a great deal of latitude as they question you.

When property owners are representing themselves because of either of the first two reasons, your responses will be the same. The property owners typically have had experience with an appraisal when they purchased their homes. Often, they have seen a form appraisal used for bank financing and have a rudimentary understanding of what a comparable is. This is probably where their knowledge ceases. By law, the property owners will have received a copy of your narrative report. This report format will be at the root of any and all confusion the property owners experience. This confusion will manifest itself in their questions and cross examination and challenge your ability as an appraiser to successfully explain and defend your work product. Fear not, there are ways to handle this challenge.

**Be patient.** The property owner will be anxious, upset, and/or angry. The owner is emotionally attached to the property, and because eminent domain is not a transaction between a willing buyer and seller, he or she feels completely powerless. The property owner wants to be heard. The courtroom is a stressful place, so your calm and patience will go a long way in soothing tensions.

**Do not use professional jargon.** Terms such as “larger parcel” and “partial acquisition” are not common concepts to those outside of the eminent domain/ROW arena. If you feel you must use such terms, say the words immediately followed by a concise explanation and, if at all possible, use visual aids.

**Simplify.** Remember it is your job to explain why and what you have done. What seems commonplace to you is a foreign language to the layperson. Try to use simplistic, descriptive words and try to provide conceptual examples that people use in everyday life. And again, use as many visual aids as possible.

**Try different wording.** The surest sign that the property owner is not understanding your explanation is the asking of the same question repeatedly. If your first description is not reaching the property owner, do not repeat that version and use different wording. Sometimes, however, nothing you try works, and the judge will ask the property owner to move onto the next question.



The most challenging cross examination you will face as an appraiser on the witness stand is if the property owner is struggling with mental health issues. You must not, under any circumstances, laugh or respond in a way that could be construed as flippant or sarcastic. While this may seem obvious, sometimes the questions can be very bizarre and quite amusing. The property owner may not have a clear idea of what he or she wants to gain from the experience, and the questions will often be unrelated to the appraisal process. This is not your problem. Maintain a respectful demeanor, and if a question does not make sense to you, keep your responses brief, such as “no, sir.” Eventually, the judge will step in and guide the property owner to a conclusion.

When you are called upon to testify as an expert witness in a condemnation case, and a property owner decides to represent himself or herself, keep in mind the following four items:

1. **Be respectful and patient.**
2. **Do not use professional jargon.**
3. **Simplify your explanation.**
4. **Try different wording.**

If you follow these steps, you can successfully explain and defend your work product and effectively aid the court in its decision-making process. Also, as an added benefit, the experience will hone your ability to communicate your data and thought processes and make you a better appraiser. ✪



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