

**8111 EMINENT DOMAIN: ACCESS RIGHTS**

The term “right of access” has been used during the trial. Right of access means a right of the owner to enter or leave his or her property by using an abutting street or highway, without obstruction.

**COMMENT**

This instruction and comment were approved in 2006. The comment was updated in 2015 and 2020. The 2020 revision updated case law citations.

Wis. Stat. § 32.09(6)(b) and Wis. Stat. § 66.1035.

The following statutes and cases address one or more of the issues where access to a property is removed, modified, restricted or substituted and provide a basis from which a specific instruction may be drafted.

Wis. Stat. § 84.25; Wis. Stat. § 84.295; Wis. Stat. § 84.29; Wis. Stat. § 83.027; see National Auto Truckstop, Inc. v. WISDOT, 263 Wis. 2d 649, 665 N.W.2d 198 (2003); Narloch v. Department of Transportation, 115 Wis. 2d 419, 430, 340 N.W.2d 542 (1983); Seefeldt v. WISDOT, 113 Wis. 2d 212, 336 N.W.2d 182 (1983); Surety Savings & Loan Association v. WISDOT, 54 Wis. 2d 438, 195 N.W.2d 464 (1972); Schneider v. State of Wisconsin, 51 Wis. 2d 458, 187 N.W.2d 172 (1971); Hastings Realty Corp. v. Texas Co., 29 Wis. 2d 305, 313, 137 N.W.2d 79 (1965); Stephan Auto Body v. State Highway Comm., 21 Wis. 2d 363, 124 N.W.2d 319 (1963).

**Loss of Direct Access; Temporary Limited Easement.** For a decision involving the loss of direct access and for a temporary limited easement, see 118<sup>th</sup> Street Kenosha, LLC v. Wisconsin Dept. of Transportation, 2014 WI 125, 359 Wis.2d 30, 856 N.W.2d 486.