



RIGHT OF WAY ACQUISITION

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Right of Way and Utilities Division

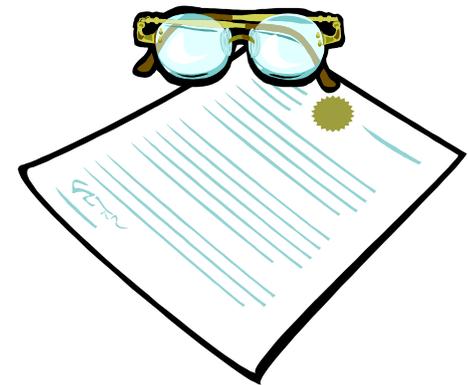
Right of Way and Utilities

Key Areas of Discussion:

- **Policy and Resources**
- **VDOT Responsibilities**
- **Locality Exemptions from VDOT Right of Way Requirements**
- **Federal Participation**
- **Pre-Negotiation**
- **Appraisal / Appraisal Review**
- **Negotiations**
- **Relocation**
- **Certifications (Class III)**
- **Advertisement**
- **Records**
- **Quality Assurance Reviews**

Policy and Resources

- **Code of Virginia**
- **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and subsequent amendments (42 USC Section 4601, et seq.)**
- **VDOT Right of Way Manual**
- **VDOT Utilities Manual**



VDOT Responsibilities

- **Interaction between VDOT and the locality should be through the VDOT Project Coordinator.**
- **The VDOT Project Coordinator will have a Right of Way and Utilities technical point of contact to act as a resource to the locality.**



Locality Exemptions

If a locality has reason to deviate from VDOT's right of way requirements, the locality should secure written approval from VDOT's Regional Right of Way Manager prior to the deviation.

VDOT oversight is necessary and it should be viewed as an asset.



Pre-negotiation Stage

- The locality shall prepare a cost estimate for the proposed right of way acquisitions, relocations and utilities adjustments.
- Cost estimates are submitted to the VDOT Project Coordinator for reviews.



Pre-negotiation Stage

Hazardous Materials / Waste Sites:



- **Sites or structures contaminated by hazardous substances must be identified early in project development.**
- **The locality needs to be familiar with all environmental issues.**
- **It is extremely important that you do not purchase contaminated property.**

Appraisals / Appraisal Review



The locality is responsible for having appraisals completed and reviewed on each parcel:

- **The locality must use qualified licensed appraisers and review appraisers.**
- **All appraisals, and review appraisals, must comply with the Uniform Standards of Professional Appraisal Practice (USPAP).**

Appraisals / Appraisal Review



- **If a locality does not have qualified staff to perform appraisals and/or review appraisals, the function may be contracted in accordance with the locality's public procurement procedures.**
- **VDOT encourages localities to consider using appraisers on its prequalified list.**

Negotiations



Negotiations for acquisition shall not proceed until the appraisal has been reviewed and approved by the locality's responsible charge.

- **A locality may negotiate using its own staff or it may elect to use fee negotiators by using its Public Procurement Process.**
- **VDOT encourages localities to use acquisition consultants who are on its prequalified consultant contracting list.**

Negotiations

No person may act as a negotiator on a parcel if they completed an appraisal to establish the value of the acquisition. However, if the value of the acquisition is determined using a waiver, the person determining the value may negotiate the acquisition.



Negotiations

A copy of the approved appraisal and a copy of the certified title examination are required to be presented to the property owners at the time of the initial offer.



Negotiations

- **If a settlement exceeding the approved appraisal amount is obtained, a written justification, and written approval by the locality's responsible charge, is required.**
- **No settlement shall be considered final until it is signed by the locality's responsible charge.**



Negotiations



If eminent domain is necessary:

- **The locality will proceed under its own authority using a staff attorney.**
- **If the locality requires outside counsel (attorneys who are not on staff with the locality), the locality shall obtain direction from VDOT's Regional Right of Way Office via the VDOT Project Coordinator.**

Negotiations

If eminent domain is necessary:

- **The Regional Right of Way Office shall assist in the selection of an attorney who has been approved by the Office of the Attorney General to conduct condemnation proceedings.**

Negotiations



The locality, in coordination with the appointed attorney who will handle the eminent domain case, should continue to negotiate with the appropriate party in an attempt to reach a settlement.

- If settlement is achieved, prior to court date and settlement is in excess of Fair Market Value (FMV) offer, written justification from responsible charge is required.

Relocation

It is absolutely essential that staff performing relocation of displacees are fully knowledgeable of all entitlements and are able to provide a complete understanding of those entitlements to each person being displaced.



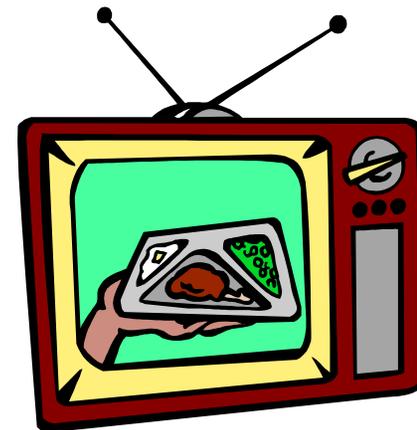
Relocation



- **Calculation of relocation assistance payments is a complicated process, involving consideration of fair market value of the property acquired, the dollar amount of any negotiated settlement, and the dollar amount of any condemnation award.**
- **Each of these factors has an impact on the amount of relocation assistance payments for which a displacee may be eligible.**

Certifications for Advertisement

- The number of locally administered projects that VDOT is asked to certify for advertisement where property rights and/or utility adjustments remain outstanding has increased. This is known as a Class III Certification.



Certifications for Advertisement

- **We want to make it our goal to minimize the number of Class III certifications considerably.**
- **Certification that the right of way and utilities are cleared should be sent to the attention of the VDOT Project Coordinator.**



Records



- **A locality must keep complete records (property acquisition and relocation) on each property to confirm that all requirements were met when acquiring property.**
- **Since eminent domain completions may take several years, adequate records must be maintained for a period outlined in VDOT's records retention policy. It is important to note that until a final order is entered for a case, the file should not be disposed of by the locality.**

Quality Assurance Review

Quality Assurance Reviews are performed randomly to assure compliance in the use of funding and compliance with statues and procedures. If desired, a locality may request that VDOT complete a quality assurance review of its acquisition processes early in a project to identify any potential issues.



Quality Assurance Review

It is important to document in your files each step in the acquisition in the acquisition process. For example:

- The appraisal must be signed by the appropriate person for approval.
- Each contact with the landowner shall be well documented.
- Justifications for any negotiated settlements and or Agreement After Certificate (“AAC”), should be approved and signed.

THANK YOU

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