

# **Basic Real Estate Compensation for Highway Projects**

**Federal Highway Act Acquisitions**

# What happens after the maps are signed?

- A. Before appraisals begin – for all major projects in NYS  
For other than “minor” acquisition projects, there is an EDPL hearing
- Publication
  - Notices to affected owners
  - Public hearing with transcript
    - Description of project including alternates considered
    - Description of the acquisition process, often by the appraisal consultant

- Preparation and filing of transcript available for public
- Preparation of Findings and Determinations
- Publication and notice to affected owners

B. Appraiser/acquisition consultant provides samples of appraisals (TE, PE, Fee) and acquisition forms, Inspection letter, Brochure, Acceptance of Compensation amount by County, Offer Letter, Deeds to District Office NYS DOT for approval.

- Inspection of property
  - Letter to owner inviting owner to accompany appraiser at inspection
  - Deliver Project Brochure
  - Often at inspection, appraiser may want to speak with engineers

a) Proposed acquisition area may be include unintended improvements

b) Help in identifying acquisition area on the ground

- Included site improvements

# Appraiser

- Review maps –
  - What zoning districts?
  - Are site improvements to be acquired?
  - Will there be a partial or whole acquisition?
  - What is the Highest, Best Use of the property?
    - If a partial acquisition what will be the effect on the remainder, the portion of the property to remain with owner?
      - 1) Will the Highest, Best Use change?
      - 2) Are there severance or consequential damages to the remainder after?

- If only a portion of land (e.g. road frontage) and no impact on rest of property, it is permitted to value the portion of land to be acquired “as if” vacant
  - 1) Can’t do if remainder affected
  - 2) Often not available if value is \$10,000 or greater
- If there are severance or consequential damages in a partial acquisition a more detailed appraisal is required in Before & After format.
  - The appraiser values the entire property as it is before the acquisition. Then values it after. The difference in the value is the amount of compensation.

1) The compensation amount is broken down into general damages (the value of the property acquired) and consequential damages, the effect of the acquisition on the remainder property that is left with the property owner.

- After the appraiser concludes the appraisal he specifies the amount and nature of the damages. It must be reviewed by an Independent Review Appraiser –
  - He inspects the property and the comparable sales or leases employed in the appraisal
  - He checks the analysis and the calculations
  - He then either accepts the appraisal as submitted or accepts the appraisal with minor corrections
  - Rejects the appraisal identifying defects. This will result in the appraiser usually accepting the criticisms

- and providing a new appraisal that conforms. This is again reviewed. In rare occasions the appraiser will not agree that the matters pointed out or the different conclusion drawn is correct. At that point it is the decision of the client, the Highway Superintendent, to make a determination as to who is correct
- Review Appraiser required to affirmatively state not only procedural compliance (USPAP, Yellow Book) but also agreement with the compensation conclusion(s).

## Acquisition Process:

Forward appraisal and review appraisal to County for Acceptance

- County generally checks factual matter, list of improvements acquired and similar items
- County requires minor changes or generally accepts compensation amount
- Acceptance triggers acquisition process
  - 1) Letter from County accepting and authorizing Offer Letter

a) Sent to owner to purchase for compensation amount

1) Includes Acquisition map

a) Feds require no contact for 30 days after offer

b) Owner can return

1) Acceptance of offer

2) Rejection of offer but to receive compensation amount as an “Advance Payment”

3) Reject amount

- If accept provide typical purchase agreement, then a closing with deed, permanent easement or temporary easement
  - a) Must pay consideration amount at time of closing  
Must make tax adjustment - can pay later
  - b) If advance payment contract, owner gets money but has right to claim additional compensation in court, typically within a year.
  - c) If reject offer – try to negotiate or must condemn.
  - d) If acquires a TE by DOT policy can defer start for 90 days after extension, can extend up to 2 years or any shorter period, and may provide for annual options to extend at same pro rata price.

e) Acquisition of fee title or PE requires typical title search and certificate of title. Depending on amount of compensation and types of liens, may require title clearance