

THE HIGHWAY RIGHT-OF-WAY PROBLEM

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For the purpose of the record, may it be understood, please, that the opinions expressed and the statements made are those of your speaker, and that they do not necessarily represent the views or the opinions of the organization he represents.

Your Right-of-Way Department can no longer be looked upon as an orphan child that you countenance as a sort of necessary evil. Right-of-way acquisition work is actually in some of the States recognized as a function compared in importance to the functions of highway construction and maintenance.

Some States still turn gasoline tax funds--the motorists' money--over to the counties and cities to acquire right-of-way for State highway improvements. This makes every day Christmas Day.

Experience in the highway departments of some States has long since proven that a county or city administration may be very cagey and efficient in expending its own tax monies, but when it receives funds from State or Federal sources, it is an entirely different matter--easy come, easy go.

There are a very limited number of cities and counties in the several States, properly organized and equipped to handle this very important and difficult function.

Perhaps a local governmental agency is too close to home to expend outside sources of revenue wisely and judiciously.

There are still a few States constructing highways through remote rural areas where donated right-of-way is in order, but this procedure is becoming the exception and not the rule. Soon these days will be gone forever.

The highway right-of-way problem, with properly trained manpower and proper organization and procedure, transforms itself from a problem to just another job to be accomplished.

Development of the several State Highway Systems from a right-of-way standpoint is becoming ever more complex and difficult,

with some States presently having the responsibility of carrying State highway improvements straight through the cities.

The vitally necessary and rapidly increasing program of freeway development represents increased problems and design difficulties in engineering, but represents a complete transition, new approach, and entirely new procedure in right-of-way acquisition.

To best understand the right-of-way problem, you must understand what adds up to a competent Right-of-Way Agent and the type of work he must handle.

He must of necessity have a sound working knowledge of economics and a thorough background of education and experience in land economics. He must be a capable appraiser, with ample background so that he may, with the utmost degree of accuracy, determine the fair market value of any type of land and improvements taken, severance damage if there is a remaining portion not taken, consequential damage if any, because of construction of the improvement in the manner proposed, and the damage, if any, because of taking of access rights either for freeway or limited type of freeway construction.

He must be well versed in real estate law, land title and escrow problems, with a working knowledge of the law of eminent domain and rules of evidence in the trial of eminent domain cases in his State. He must have a working knowledge of highway engineering to enable him to interpret highway construction plans and explain to the affected property owner how and where his property ownership will be affected.

He must be a clean-cut, neat-appearing, presentable individual with an excellent personality, and he must have outstanding sales ability. His sales ability and all other knowledge must lead him to the ultimate result that every property owner is offered and is willing to accept the fair market value--no more, no less.

If the employee handling right-of-way negotiations in your organization does not measure up to the minimum qualifications I have just outlined, I say without fear of contradiction that time will prove he is not a Right-of-Way Agent.

Research will prove that some State officials have the nerve to expect the services of this type of men with this outstanding background of education and experience, for compensation less than the truck drivers operating on the State highways of their State are being paid--a salary less, even, than semi-skilled laborers are paid.

Actual experience during the last two and a half years in training over one hundred returning war veterans, all in the twenties or early thirties, all with college educations but no previous right-of-way experience, has convinced me that it takes from two and a half to four years to train an inexperienced man and educate him to the point that he can be classed as a full-fledged Right-of-Way Agent, assuming that he has the personality, appearance and sales ability, so vitally necessary to make him a success in the right-of-way profession.

Yet in some States, every two or every four years a change of administration probably means that a complete house-cleaning takes place in the Right-of-Way Department with new, inexperienced men coming into the organization; and even though such new men may have a background of years of experience as real estate brokers, it is rare that they are of any greater value than college graduates with no background of experience. Right-of-way work is entirely different and far more complex than ordinary real estate sales work.

The very nature of right-of-way work forces the Department to give the Right-of-Way Agent a practically free hand; he must use his own initiative and his own good judgment. Heavy responsibility and trust are, of necessity, placed in him.

The right man must do a thoroughly honest, efficient and fair job both for the Department and for the property owner. He represents both.

The wrong man may unconsciously and unintentionally be taking advantage of the property owner or his Department. Though he may be handling only \$100,000 a year in transactions, he may be costing the Department many thousands of dollars through

lack of ability, experience or training. It is most difficult, if not impossible, to put your finger on your "problem child" and correct the situation.

Unfortunately, in a few of the States, the important field of right-of-way work is looked upon as a dumping ground to solve personnel problems. If the Administration has a political debt to pay and the recipient is incapable of handling any other job--make him a Right-of-Way Agent. If he has proven incompetent and inefficient in the various engineering functions, but nevertheless he has a friend and is a "good guy", put him in the Right-of-Way Department and carry him along.

The antiquated procedure of stuffing a bundle of deeds under a Right-of-Way Agent's arm with instructions to go get the right-of-way, belongs in the category of history.

There is no substitute for sound business-like procedure in land acquisition for public use. Certainly an engineer would not expect to call for bids, award a contract and construct a highway without complete plans and specifications.

Neither should you expect or permit a Right-of-Way Agent to attempt to negotiate contracts with property owners until he is supplied with a reliably prepared and accurate appraisal covering every parcel on the project.

As surveys, plans and specifications are the very foundation of highway construction, so also is the appraisal the very foundation of right-of-way acquisition work.

The successful Right-of-Way Agent obviously must be a part of a properly organized and properly functioning Right-of-Way Department, and of necessity must be supported by well-trained and experienced stenographic and clerical assistants, a competent land title department, and a very capable "Insurance Department." This latter department consists of the attorneys who try the condemnation cases in the event the property owner refuses to accept a fair and equitable settlement.

There is no better insurance to guarantee successful negotiations than awards in condemnation cases that are in line with the thoroughly fair and reliable appraisals prepared by the valuation staff of the right-of-way organization previous to commencement of negotiations.

The Right-of-Way Department responsi-

ble for land acquisition for freeways in urban areas must be properly equipped to make economic studies of the effect of freeway construction upon the various types of abutting properties as well as the effect of freeway construction upon contiguous communities and entire cities. The Department must also be equipped to make land economic studies and preliminary appraisals so that the right-of-way man is able to make recommendations from an economic and land-value standpoint on several possible locations.

A careful analysis of the organization and procedure in connection with right-of-way functions of our several State Highway Departments leads me to the conclusion that one of our most important problems is lack of a proper accounting and record-keeping system within the Right-of-Way Department, permitting the Administrative Head of your organization at all times to keep his finger on the progress of right-of-way acquisition and the efficiency of the workmanship of the right-of-way personnel, not only on a State-wide basis but on a project basis and on an individual basis.

Your record-keeping system must be so devised that you know what right-of-way is costing. You must have a complete record of the performance of every Right-of-Way Agent and every Staff Appraiser.

It is of vital importance that you know from your records the percentage of parcels acquired by condemnation as compared with negotiations, the reason for any material change in these percentages during any particular time, and the financial analysis of what the change in percentage between acquisition by negotiation as compared to condemnation maybe costing you.

It is very important that you know the ratio of right-of-way expenditures, your overhead cost per parcel, the ratio of right-of-way clearance costs to land values, the production results you are getting from each man within your organization, and how your Right-of-Way Agent handles himself in the field. Is he conducting his work in such a manner that the net result is a completed transaction fair to the property owner and fair to his organization? Is he conducting himself in the field in such a manner that he is leaving satisfied customers behind him, or is he leaving a trail of dissatisfied and disgruntled property owners who for all time to come are enemies and

not friends of the Department? Has he left with the property owner a feeling of respect and confidence for the organization he represents?

I repeat--the Right-of-Way Agent must get the right-of-way, but he must be the type of man who leaves the property owner satisfied and in a friendly attitude, and at the same time the right-of-way must be acquired on a sound, businesslike, equitable basis.

In the final analysis, the property owner with whom negotiations are being carried on is one of the stockholders in the organization the Right-of-Way Agent is representing.

It is all-important that this stockholder be treated fairly. It is only proper that he be paid the fair market value for the land taken from him. In fairness to him, not a cent less; in fairness to the other stockholders, not a cent more.

Obviously, this result cannot be accomplished without a thoroughly sound and efficiently prepared pre-negotiation appraisal to determine the fair market value of land to be taken and the damage, if any, to the remaining property not taken.

The transition from construction of conventional type of State highways to limited freeways and freeways, introduces many new problems into highway right-of-way acquisition work.

The right-of-way appraiser and negotiator dare not guess--he must know through study, education and experience the effect upon each individual parcel of land, of the taking of access rights on a limited or complete basis. He must know what the effect will be upon all types of real estate holdings whether agricultural, residential, industrial, wholesale or retail business, or roadside business when these various types of land are deprived of direct access to the through lanes of traffic or in the future will have access to an outer highway which connects with the through lanes of traffic only at points designated by public authority.

He must know what the effect is going to be upon the retail merchants along Main Street when a paralleling freeway is constructed perhaps several blocks away to permit through traffic to bypass the local business section.

May I pause at this point to say that perhaps one of the most glaring weaknesses in our State highway organizations today

is a lack of proper study and research to determine the economic effect upon business and real estate, both rural and urban, because of construction of controlled access highways in the rural areas and freeways in the urban areas.

The affected property owners are, in my opinion, entitled to expect the Right-of-Way Agent who is negotiating for the necessary land for this modern type of improvement to be able to outline to them what the effect will be, and they are also entitled to expect the Right-of-Way Agent to have the factual information to support his statements.

Is your Right-of-Way Agent equipped to handle this important economic function of his work? I am sorry to say that in practically every State Highway organization the right-of-way negotiating personnel are not so equipped.

This fact leads to another very important conclusion. How can your staff appraisers in the right-of-way organization determine the fair market value of the damage because of the taking of such access rights if they do not know what the effect of the taking of such access rights will be upon the remaining portion of the property from which the access rights are taken?

When freeways are being constructed, necessitating the closing of certain less important local streets at the freeway right-of-way line, converting what was formerly a through street into a cul-de-sac street, how can your staff appraiser determine the damage, if any, to the property fronting upon such newly created cul-de-sac street, as compared to comparable real estate holdings on nearby through streets, if he is not supported by proper research and background through study of conditions and values on existing cul-de-sac streets in his State or City?

How can you possibly expect to satisfy the owners of the abutting and contiguous properties when you are constructing a freeway through any section of a city or community unless studies have been made to determine the effect where similar projects have been constructed through reasonably similar areas in other sections of the State or in other States?

What are the benefits that accrue in rural areas when a limited access highway is constructed through this area leading up to and connecting with a freeway through the urban area?

Considering the State Highway Departments of our Nation as a whole, there is great need of a well laid-out plan of attack to get the answer to these questions. A very limited number of our State Highway organizations show some interest in attacking this all-important research problem, but I believe it is a fair statement that, as a whole, the interest is only of the lukewarm variety.

It may be that this attitude stems from the lack of appreciation on the part of many of our highway officials of the value of a sound program of public relations.

I know of no more important function in our endeavor to serve the stockholders in our several organizations than to get together now on a well laid-out plan of procedure to handle this very important research problem.

A few of the State Highway organizations are presently responsible for the construction, maintenance and operation of State highways through cities. It is my belief that many more of the States will be called upon to take on this added responsibility in the near future, as the necessity for freeway construction becomes more apparent, desirable and necessary. From personal experience I can assure you that the complexities and difficulties in connection with the planning, design and construction of freeways in urban areas multiply to a far greater extent in the Right-of-Way Department than they do in the Engineering Department.

Two of the more important additions to the right-of-way functions are the property management and the right-of-way clearance functions. When you plan and build freeways through urban areas, your Right-of-Way Department will have to assume all of the problems that go along with the position of landlord.

The very nature of freeway planning and construction greatly expands the time between the commencement of right-of-way acquisition and the commencement of construction, resulting in the Department coming into possession of many improved real estate holdings that must be in your possession for a period of as long as perhaps three years, necessitating the operation of a right-of-way rental and leasing department.

As the time arrives to commence construction, the Right-of-Way Department is

called upon to clear the right-of-way of the affected building improvements.

In general, where freeways are constructed you are confronted with maximum value real estate. In many instances, the severance damage to the remaining portion of the property not taken will represent perhaps as high as 90 percent of the fair market value of such remaining parcel.

It therefore becomes necessary, if your Right-of-Way Department is going to function effectively and properly, to purchase the entire parcel and later dispose of the excess; provided, of course, it is to the financial advantage of the State to acquire the entire parcel, and the laws of the State permit the acquisition of such access land.

Experience will prove that a law permitting the acquisition of excess parcels under such circumstances is of vital importance to any State Highway organization that is responsible for freeways through urban areas.

The final and perhaps most troublesome function of the Right-of-Way Department in constructing a freeway through urban area, and especially so in those sections of the country where acute housing shortages exist, is the clearance of residential tenants from State-owned buildings within the right-of-way area, followed by clearance of the building improvements so that construction can proceed. I believe your speaker could spend the balance of the day

on this one right-of-way problem alone.

In fairness to the right-of-way staff, I would strongly recommend, if you have not already done so, that you separate appraisal functions from negotiation functions and, in fairness to your Right-of-Way Agents, your organization and the public, never have the same man handle both appraisals and negotiations on the same project. The reasons are too obvious to be explained here.

There is a crying need for vast improvement in the appraisal technique in many of our State Highway right-of-way organizations.

It is important that you have complete integration of right-of-way activities with planning, design and construction activities; and finally, your right-of-way man, again assuming that you have the right man, by the very nature of his work can and should be your top public-relations man. Certainly, if any branch of public enterprise needs sound public-relations work, and needs it quickly, it is our several State Highway organizations. Our State Highway Engineers have done a great job. They are continuing to do a great job under trying conditions and many difficulties. The people are entitled to know the whole story, and the Highway Engineers should be proud of their outstanding record of accomplishment.