

**2ND ANNUAL PRE-CONSTRUCTION  
CONFERENCE  
APRIL, 2014**

**ROW Presentation**

# History – Bill of Rights

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□ **5<sup>th</sup> Amendment**

□ **“No taking of  
property without just  
compensation”**

# Legal Authority

- **Code of Alabama 18-1A, Eminent Domain**
- **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**
  - **Uniform Act for Federal Funded Projects (any phase)**
  - **Appraisals**
  - **Negotiation**
  - **Relocation**

# How ROW is Bought

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## □ Past

- **By Counties**
- **ROW Deed for Public Road**
- **“Over and across our lands”**
- **Easement—full use of land, extinguishes if no longer used**

# How ROW is Bought

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## □ Now

- **“Fee simple”—absolute ownership—no encumbrances**
- **May Exclude Mineral Rights**

# How ROW is Bought

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## □ Title Opinions

- **Find the encumbrances and all persons with an interest**
- **May have to condemn for title**

# Appraisal

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- **Before and After**
  - **effect of size of parent tract**
  - **enhancement**
- **Fair Market Value -- willing seller, willing buyer**
- **Uneconomic Remnant**

# Appraisal

- **Types of Appraisal**
  - **Waiver Valuation -- \$10,000**
  - **Value Finding -- under \$25,000**
  - **Full Appraisal**
  - **Double Appraisals**
    - **Industrial/Commercial over \$300,000**
    - **Residential over \$350,000**



# Appraisal

## □ Fee Appraisers

- **51 on Master Agreement list**
- **Typical Fee -- \$2500 to \$3000**
- **Time for delivery -- 30 to 45 days**

# Appraisal

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**Good,**

**Fast,**

**Cheap**

# Appraisal

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## □ Damages

- **How close can the ROW line get?**
- **What are existing setbacks?**

# Negotiation

- ❑ **Offer should be made in person**
- ❑ **Sell the project**
- ❑ **Offer is not a starting point for negotiations**
- ❑ **Give 30 days to consider**
- ❑ **Counter-offer**
- ❑ **If negotiations cannot come to an agreement, file petition of condemnation**

# Legal Process

## □ Probate Court

- **Condemn required taking only, not uneconomic remnant**
- **Merit hearing -- 45 days**
- **Order granting complaint -- 10 days**
- **Appoint commissioners -- 10 days**
- **Commissioners hearing and report -- 20 days**
- **Order of Condemnation -- 7 days**
- **Payment into court -- grants right of entry for use**

## □ Time frame is **92 days**

- **Payment into court  $\approx$  100 days total**

# Legal Process

- **Appeal to Circuit Court to set just compensation**
  - **“De Novo” trial**
- **When do we have title?**
- **When does owner get paid if it is appealed?**
  - **Can withdraw amount of the State’s offer**
  - **If Circuit Court award is above the Probate Court Award, the owner gets interest also**

# Relocation Process

- **Residential or Business**
- **Residential must be placed in a DSS comparable**
- **Comparable**
  - **Square footage**
  - **Number of rooms/bathrooms**
  - **Appropriate number of bedrooms for occupants**
  - **Reasonable vicinity**

# Relocation Housing Payments

- **Cost differential between acquisition price and comparable**

**Comparable \$120,000**

**Acquisition \$100,000**

**\$ 20,000**

- **Rental RHP's**

- **Cost differential between monthly rent and utilities and comparable rent and utilities for 42 months**



# Relocation Housing Payments

Mobile  
Home Park

\$3.5 Million



# Relocation

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- ☐ **90 day notice**
- ☐ **30 day notice**

# Relocation

## □ Business

- Does not have RHP equivalent
- Receives moving payments

## □ Signs

- Eligible for moving expenses
- May be purchased

# Relocation

## Church



# Property Management

- **Structure sales**
- **Structure demolition contracts**
- **Excess ROW or property sales**
- **Leases**



**GDCP**

**ALDOT Guide for Developing  
Construction Plans**

## 67.0 MILESTONE: PRELIMINARY RIGHT-OF-WAY LIMITS

**Establish preliminary right-of-way limits. Liberal buffers should be used to establish preliminary right-of-way. Refer to ALDOT Right-of-Way Bureau website – “Right-of-Way Plans Manual” and “Right-of-Way Design Rules of Thumb” for the requirements of this submittal. Generally, preliminary buffers are set at 20’ for local roads, 30’- 40’ for arterials and collectors, and 40’- 50’ for limited access facilities beyond cut/fill limits.**

# 182.0 MILESTONE: FINAL SUBMISSION FOR RIGHT-OF-WAY

This submittal should be made as soon after Plan-In-Hand comments affecting right-of-way are resolved and approval documentation referenced in GDCP **181.0** is provided by the Environmental Technical Section. This submittal shall be made at least **6** weeks prior to the **AUTHORIZATION** Right-of-Way Authorization date listed in CPMS. Transmit electronic files and a copy of the approval documentation for the environmental cleared limits to the Right-of-Way Engineer for acquisition of proposed right-of-way. Any portion of the project still unresolved should be held in abeyance and resolved as soon as possible; but, the submission of plans to the Right-of-Way Engineer does not have to be withheld until all portions are resolved. Unresolved sections should be identified in the transmittal letter and also on the plans by cross-hatching. The Right-of-Way Bureau shall submit to ETS for review and concurrence that ROW limits are within the approved environmental cleared limits as listed/shown in the approved environmental document.



# 182.0 MILESTONE: FINAL SUBMISSION FOR RIGHT-OF-WAY

**NOTE:** Any revisions to right-of-way limits, easements, and/or property access previously submitted to the Right-of-Way Bureau as final after this submittal shall be coordinated with the Right-of-Way Bureau and a revised submittal made to the Right-of-Way Bureau and also to ETS as soon as possible. All revisions shall be marked in red. This submittal shall be done by formal letter and the location of CAD file(s) specified.

Letter shall clearly indicate what revisions have been made and the reason for the revision. The design section supervisor, Right-of-Way Bureau, and ETS shall collectively discuss the impact of these revisions and any alternatives that can be considered.

# 182.0 MILESTONE: FINAL SUBMISSION FOR RIGHT-OF-WAY

This submittal shall be made at least **6** weeks prior to the **AUTHORIZATION**

Any revisions...

...right-of-way limits, easements, and/or property access...

...a revised submittal made to the Right-of-Way Bureau and also to ETS as soon as possible...

# GDCP “STEVE”

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□ Don't Change the  
ROW!

# ROW MAP LAYOUT

- **ROW Mapping Manual**
- **ROW Rules of Thumb**