2018 AASHTO Committee on Right of Way, Utilities, and Outdoor Advertising Control

AND THE

National Alliance of Highway Beautification Agencies Conference

Sunday, April 22–Thursday, April 26
Sheraton Inner Harbor Hotel
Baltimore, Maryland
Office of Real Estate
Appraisal Review Division

HOME OWNER ASSOCIATION (HOA)
LAND EVALUATION

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What is HOA Land?

- Areas within the sub-division that were not made into lots
- Interior streets
- Common areas
  - Areas that are not physically alter.
  - Areas that are physically alter:
    - Pool
    - Tennis Court
    - Basketball Court
    - Playground
Why is it difficult to value?

- The approved density of a site is dependent upon the size of the original parcel.
- HOA land does not have a market value.
- HOA land is not generally sold on the open market.
What value premise might an appraiser use?

- Open Space
- Raw Land
- Some sort of Finished Value
Open Space
Raw Land
Finished Lot
Which Way?
An established value method was needed, Why?

- With no market value, no sales
- Land value premise – appraiser’s decision!
- Result - various value premises - emerge
- Applying a consistent process eliminates confusion
HOA Land (Aerial View)
HOA Land (Street View)
The Root of the Problem

Different Appraisers view HOA land differently

Example 1:

- Sub-division had been developed and equipped with amenities.
  - All the building rights removed from HOA land

Appraiser concluded with $1.00
Different Appraisers view HOA land differently

Example 2:

- Sub-division had been developed and equipped with amenities.
  - The development benefits from HOA land
  - HOA land should be based on the value of a finished area

Appraiser concluded with $30,000.00 per acre
HOA Land Appraisal Methodology

1. Value the entire subject site as if it were vacant land ready for current development.
   a) Appraiser estimates value of raw lot at subject site by Sale Comparison Approach.
   b) Multiply raw lot value by the number of approved lots at subject site.

2. Yields total value of subject site’s vacant raw land

3. The total value is then divided by the total number of acres that comprise the subdivision site which yields the property’s per acre value.
Example Of HOA Land Appraisal Methodology

- Total yielded lots 200, Site size 100-acres
- Estimated raw lot value today: $75,000.00
- That calculation yields the total value of the land.
  - $75,000 X 200 lots = $15,000,000 for 100 acres
  - Or $150,000 per acre
Example of Acquiring HOA Land

Acquisition:

Land Only:
0.50 ± acres @ $150,000/acre = $75,000

Roadbed:
0.150 ± acres at nominal value = $1

On-Site Improvement:
= $1,500

Total = $76,501

Rounded to = $76,550
Solution / Conclusion

- SHA needs to have a process that treats all affected HOA land owners the same

- It needs to be:
  - Consistently applied and consistently fair
  - Understandable and Reasonable
  - The calculated Just Compensation amount needs to be supported by appraisal theory
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Emergency Projects and ROW Acquisition

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Overview

• What is an ER project?
• Why do ER projects?
• How do you acquire ROW?
Federal Emergency Relief Program

- Starts with an event
- Governor declared emergency
Federal Emergency Relief Program

• State DOT
  • Put together declaration and letter of intent to request funds from FHWA

• FHWA
  • Acknowledges receipt
  • Site assessment
  • Completes Disaster Survey Report (DSR)
Federal Emergency Relief Program

- Damage estimate in a State must be at least $700K
- $100M annual cap per state
Federal Emergency Relief Program

• Types of Emergency Projects
  • Type A
    • Immediate public safety issues.
    • Work can begin immediately after execution of the Emergency Declaration.
    • 100% Reimbursible in first 180 days 23 U.S.C.(e)(1)&(3)
    • Direct select Contractor
Federal Emergency Relief Program

• Types of Emergency Projects
  • Type B
    • Project to mitigate public safety issues that requires action in less than 3 weeks.
    • The work is bid based on a simplified plan by a short list of Contractors or other bidders deemed qualified using standard bid items.
    • Up to 90% Federal Reimbursement
Federal Emergency Relief Program

• Types of Emergency Projects
  • Type C
    • Project to mitigate public safety issues that requires action in less than 6 weeks.
    • The work is bid based on a simplified plan by all qualified Contractors using standard bid items.
    • Up to 90% Federal Reimbursement
Ohio’s ER Hot Spots
Why Do ER Projects?

• Safety
• Traffic
• Funding
Federal Requirements

• STILL THE SAME
  • Environmental Clearance Required
    • DSR is FHWA NEPA Action
    • NEPA ASSIGNMENT States
      • State must clear project
  • Right of Way Certification Required
How to Secure ROW on an ER

• Determine new RW area
• Determine Current Owner
• Utilize Right of Entry Contract
  • Secure immediate rights to enter onto the property for the purpose of constructing the project.
  • Document should contain all four elements of a contract
    • Offer
    • Acceptance
    • Meeting of the minds
    • Consideration
How to Secure ROW on an ER

- Meet with Property owner as soon as possible (NEPA must be cleared)
- Explain the urgent need for their property to complete the project
- Share an aerial map or plans
- Execute the contract and pay the property owner
- Certify Right of Way to FHWA
What if they won’t sign?

• Options vary by State
• Understand them
• Non-monetary solutions
• Administrative settlement
• Plan change
• Court
Clean Up

- NORMAL RW Acquisition process
- Develop RW plans
- Complete title work
- Appraisal
- Offer
- Closing/Recording
RT 7 Mountain Removal - 2018
Questions

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