

# RECENT ODOT CHANGES IN REAL ESTATE PRODUCTION AND MISSION

- Creation of the Real Estate Task Force
  - Implementation of Real Estate Task Force recommendations
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# REAL ESTATE TASK FORCE COMMITTEE MEMBERS

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## TASK FORCE GOALS AND OBJECTIVES

Create a right of way process and organizational structure that supports a more efficient, customer focused real estate function within the Department.

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Streamline Acquisition of Right of Way

Reduction of time and cost

Provide flexibility in operational process

# RECENT ODOT CHANGES IN REAL ESTATE PRODUCTION AND MISSION

- Organizational changes in ODOT Real Estate
  - Procedural changes in ODOT Real Estate
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# ORGANIZATIONAL CHANGES IN ODOT REAL ESTATE

Decentralization of the Real Estate operations

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Elimination of the Four Regions

Assignment of Region employees to Districts

# IMPLEMENTING THE RECOMMENDATIONS

## Organizational changes :

Effective July 5<sup>th</sup>, 2011 all Regions were disbanded and the real estate personnel were moved to the twelve Districts.

Central Office Real Estate has returned to its core functions to establish procedures, provide training, quality assurance reviews, technical assistance and guidance.

Core functions of each District is to produce and deliver R/W plans and descriptions, and perform all acquisition functions of acquiring and disposing of all rights of way and real estate.

# BENEFITS AND POTENTIAL COST AND TIME SAVINGS

- Reduction of duplication of duties
- Improved control of the process
- Provide opportunity for improved training of staff in overall project process from planning through construction
- Other benefits and potential savings discussed within the Task Force will be realized as a result of the changes implemented

# BENEFITS INCLUDING POTENTIAL COST AND TIME SAVINGS

- Title Report in design phase - Time savings vary based on size of project. It provides better deliverables and consistency throughout ODOT.
- Expedited appropriation filings - Provides a savings of up to thirty days.
- Authorization of task orders at District level - Time savings and improves the monitoring of the process.

## SUMMARY OF BENEFITS AND POTENTIAL COST AND TIME SAVINGS

- The changes will result in the savings of time and cost as well as increase the efficiency of operations.
- The changes provide flexibility to ODOT and the LPA program within the state. This will result in savings of resources and revenue.
- The changes have been implemented quickly and with little or no additional cost.

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# PROCEDURAL CHANGES IN ODOT REAL ESTATE

# MAJOR CHANGES TO ACQUISITION – EFFECTIVE AS OF JULY 1, 2011

1. VA limit increase from \$5,000 to \$10,000
2. VF limit increased from \$35,00 to \$65,000
3. Districts need to involve the Office of Real Estate when a cost estimate indicates the acquisition of a parcel will exceed \$1,000,000
  - RE assists with the development of the PIN's
  - RE assists with scoping appraiser and review appraiser

## ESTABLISHING FMVE

1. The DREA has authority up to \$1,500,000
  - May delegate to a subordinate manager up to \$500,000;
  - Delegation of authority must be in writing with a copy provided to Administrator, Office of Real Estate

## ESTABLISHING FMVE – CON'T

2. Others in District having FMVE authority are the PEA and the DDD
3. If FMVE is greater than \$1,500,000, the Administrator of the Office of Real Estate or the DD of Division of Engineering will establish FMVE

# ADMINISTRATIVE SETTLEMENTS

1. Was 10% or \$10,000 over FMVE, whichever is greater

Now is 20% or \$20,000 over FMVE, whichever is greater

2. The DREA, the PEA and the DDD may justify and approve settlements

3. The DREA may authorize RS's or consultants to accept counter offers up to \$500 over FMVE subject to signature by District managers having signature authority for the Director

## ADMINISTRATIVE SETTLEMENTS- CON'T

4. For settlement amounts exceeding District authority, the Administrator, Office of Real Estate has authority up to \$1,000,000
5. Amounts exceeding the Administrator's authority must go in front of the High Dollar Review panel

## ADMINISTRATIVE SETTLEMENTS- CON'T

6. LPA's have settlement authority up to \$1,000 over FMVE when there are Federal or State dollars in the R/W.
7. Amounts exceeding LPA authority are settled by the DREA subject to District authority
  - LPA's have unlimited authority for settlement when there are no Federal or State money in R/W

## OFFERS TO THE OWNER

Was – The negotiator shall always meet personally with the owner unless the owner's circumstances qualifies as a mail-away.

Now – Negotiators may make the offer using certified mail or personal visit. The file must document how the owner received the NIAGFO to preserve appropriation authority.

# MAJOR CHANGES TO THE ACQUISITION MANUAL

1. Significantly reduced in size
  - Was 373 pages
  - The new draft is 245 pages
  - 34% smaller
2. Filled out examples of forms are now on the Office of Real Estate web site instead of in the Manual

# THE 5000 SECTION

1. Added a very short section defining the process of clearing the R/W
2. Have a short discussion about the generalized steps to acquire R/W
  - Titles
  - Appraisal / Appraisal Review / FMVE
  - Negotiations
  - Relocation
  - Closing
  - Appropriation
3. Section reduced to 5 pages

## 5100 SECTION - TITLES

1. No significant changes to this section
2. Process remains the same
3. Manual section reduced from 40 pages to 33 pages

# 5200 SECTION – BASIC NEGOTIATION PROCEDURE

1. Major overhaul
2. Removed much of the guidance

For example:

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- The section on Negotiators Notes was 5 pages with much information on filling out the forms
  - The draft Manual has reduced this section to  $\frac{1}{4}$  of a page
3. Reduced from 83 pages → 31 pages

# 5300 SECTION – SPECIAL ACQUISITION PROCEDURES

1. Section covers the unique acquisition issues such as:
  - Tenant-Owned Improvements
  - Uneconomic Remnants
  - The Garage Law
  - Early Acquisitions...
2. Major Overhaul
3. Reduced from 123 pages → 75 pages

## 5400 SECTION - INSTRUMENTS

1. Section controlled in large part by Ohio law
2. ORC 5501.31 requires AGO approval of instruments used to acquire R/W
3. This section was written with concurrence from the AGO
4. The process has not changed
5. Therefore, this section remains unaltered
6. No reduction in size

# 5500 SECTION - APPROPRIATION

1. This section was written with the concurrence of the AGO
2. Had a major revision back in 2007 when SB 7 was passed
  - SB 7 changed eminent domain law in the State of Ohio
3. For Case Settlements:
  - DDD (or designee) and the AAG are the primary decision makers
  - If DDD and AAG cannot agree, Administrator, Office of RE is tie breaker
  - Settlements that are \$1,000,000+ require approval of the High Dollar Review Panel
4. Process has not changed – no reduction in size

# 5600 – REAL ESTATE TAXES

1. Process has not changed
2. For fee-acquired parcels:
  - ODOT works to get the property exempted from taxation
  - For closings, determine the taxes owed by the owner up to the date of closing, collect this amount before disbursing funds
3. For easement-acquired parcels:
  - ODOT notifies the County that an easement encumbers the property
4. As procedure has not changed - no reduction in size

## 5700 - CLOSINGS

1. Minor re-write
2. For easement closings; changes are:
  - RE 45 (Seller Affidavit) no longer needed
  - RE 44 (Closing and Disbursement Statement) no longer needed
3. Reduced from 19 pages → 13 pages

# MAJOR CHANGES TO THE APPRAISAL MANUAL

1. The current Manual has 232 pages
2. The draft Manual is expected to have 125 pages +/-
3. Reduction in size is 46%
4. Filled out examples of forms will be posted on the web site

# 4000 – APPRAISAL AND REVIEW FOR ODOT

1. Expanded to 37 pages
2. There is discussions about:
  - Just compensation and how it works in Ohio
  - Interrelationship of USPAP to the eminent domain process

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3. Cost Approach is no longer mandatory
  - But if not used, the appraiser must detail the rationale for not using the approach
  - Same requirement for the Income Approach

# 4000 – APPRAISAL AND REVIEW FOR ODOT- CON'T

4. Added discussions about acquisition issues affecting appraisal
  - Uneconomic Remnants
  - Railroad Valuations
  - Temporary Easement Valuations
  - The RE 95 process and the appraiser
  - Owner Retention
  - Tenant-Owned Improvements
  - Salvage Value
  - Acquisitions Affecting Residential Garages
  - Life Estate Acquisitions and Valuations

# 4100 – THE FMVE DELIVERY PROCESS

Develop Work Plan/Cost Estimate



Determine Valuation Problem / Create PIN's



Determine Time Needed for Appraisal



Scope the Appraiser



Engage the Appraiser

# 4100 – THE FMVE DELIVERY PROCESS - CON'T



Monitor the Appraisal for Delivery



Review the Appraisal



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If Recommended ► Establish FMVE

Federal / State regulations prohibit any negotiations until FMVE is established

**Now – the District May Initiate Negotiations**

# 4100 – THE FMVE DELIVERY PROCESS - CON'T

This section has been reduced from  
52 pages → 14 pages

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# 4200 – VALUATION FORMATS

1. In the existing Manual, this section is “Condemnation Appraising”
  - Currently 85 pages
2. The new draft Manual focuses only on Valuation Formats
  - Is 13 pages
3. There will be only 3 valuations formats

# THE VALUE ANALYSIS REPORT

1. Known as the VA
2. Prepared under the 'waiver of appraisal' provision in regulation
3. Limits are increased from \$5,000 to \$10,000
4. USPAP changes in 2011 affected certified appraisers doing VA's
  - ODOT worked with Dep't of Commerce and JCARR (Joint Committee on Agency Rule Review)
  - Amended the OAC
  - Now certified appraisers are precluded from complying with USPAP when preparing and review VA's

# THE VALUE FINDING REPORT

1. USPAP changes have affected the VF Report
2. As it is an appraisal, it must comply with USPAP
3. Appraisers can no longer invoke Jurisdictional Exception
4. The VF has been beefed up to make it USPAP compliant
5. Limit increased from \$35,000 to \$65,000

# THE SUMMARY R/W APPRAISAL REPORT

1. This is the narrative style fully developed appraisal report
2. Requires the appraiser to:
  - Value the Property Before the Taking
  - ( - ) Value the Residue After the Taking
  - Determine the DifferenceThen - allocate the difference into:
  - Part Taken; and,
  - Damages, if any

# THE SUMMARY R/W APPRAISAL REPORT- CON'T

3. The template will be modified slightly for the cost to cure analysis
4. This form is used when:
  - The valuation problem is not simplistic
  - The anticipated compensation will be high
  - The VA or VF formats are not applicable
  - It is apparent there are damages
  - High propensity of being appropriated

# 4300 – APPRAISAL REVIEW

1. This section has been reduced from 44 pages → 28 pages
2. Much of the reproduction of law has been removed
3. Makes it clear what a reviewer is to do when confronted with an appraisal they cannot recommend
4. Discusses how to fill out the RE 22 – the form used to establish FMVE
5. Makes it clear when a reviewer can and cannot recommend an appraisal when a cost to cure is considered

# 4400 – GUIDE TO COMPENSABILITY

1. No change in size
2. Shortened some areas, have attempted to take the “legalize” out of the discussions
3. Added an expanded section of damages
4. Added another section about costs to cure, the feasibility of a cure and damages that are not curable

# 4500 – NON EMINENT DOMAIN APPRAISALS

1. This section is reduced from 25 pages → 8 pages
2. Taken out much of the guidance about filling out appraisal templates.
3. Provided the Districts with much flexibility in this area.

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