

**MEMORANDUM OF UNDERSTANDING -
MONUMENTATION
OF NEWLY ACQUIRED
HIGHWAY RIGHTS OF WAY
BETWEEN THE BOARD OF REGISTRATION
FOR ENGINEERS AND SURVEYORS AND THE
DEPARTMENT OF TRANSPORTATION
(September 22, 2010)**

BACKGROUND

Professional Surveyors are required by the State of Ohio to conduct boundary surveys in accordance with the Ohio Revised Code (ORC) and the Ohio Administrative Code (OAC). Reference is made to the following sections of the ORC and OAC:

- OAC, Chapter 4733-37-03 (A): “The surveyor shall set boundary monuments so that, upon completion of the survey, each corner of the property and each referenced control station will be physically monumented.”
- OAC, Chapter 4733-37-02: “(A) The surveyor shall consult deeds and other documents, including those for adjacent parcels, in order to assemble the best possible set of written evidence of every corner and line of the property being surveyed. (B) After all necessary written documents have been analyzed, the survey shall be based on a field investigation of the property. The surveyor shall make a thorough search for physical monuments, and analyze evidence of monumentation and occupation. In addition, the surveyor shall, when necessary, confer with the owner(s) of the adjoining property and the owner(s) of the property being surveyed.”
- OAC, Chapter 4733-37-05: “(A) The surveyor shall prepare a scale drawing of every individual survey, or drawings comprising all of the surveys when they are contiguous, in which the surveyor retraces previously established property lines or establishes new boundaries.... (C) The surveyor shall include the following details:...(7) A citation of pertinent documents and sources of data used as a basis for carrying out the work. The citation shall include, but not be limited to: current deeds as of the date of the survey, prior deeds or other documents of record, and available deeds of record for adjoining parcels along each boundary line of the survey. If the adjoining parcel is a recorded subdivision, only the subdivision name, recording information and lot numbers need to be shown.”
- ORC, Chapter 4733.14: “...Plans, specifications, plats, reports, and all other engineering or surveying work products issued by a registrant shall be stamped with the seal and be signed and dated by the registrant or bear a computer-generated seal and electronic signature and date....”

- OAC, Chapter 4733-35-04(C): “The engineer or surveyor shall decline to sign and/or seal any form of certification, warranty, or guaranty that (1) relates to matters beyond his or her technical competence, (2) involves matters which are beyond the scope of services for which he or she was retained, or (3) relates to engineering or surveying work for which he or she does not have personal professional knowledge and direct supervisory control and responsibility...”

ORC, Chapter 5501.31 allows the Director of Transportation to acquire rights of way for highway purposes. ODOT follows a structured right of way acquisition process that is designed to protect property owner’s rights. For a typical road improvement project, this process:

- Includes the acquisition of a large number of relatively small parcels; many involving narrow strips of land parallel to the existing roadway right of way.
- Involves the purchase of property by a public agency (e.g., ODOT, county, city) for the public good.
- Requires the agency to correctly appraise the property, offer just compensation to the current owner and to make every effort to acquire the property by negotiation; although eminent domain may be used to appropriate property from an unwilling seller.
- Takes place over a number of months or years.

Ideally, monuments should be set immediately following the transfer of a property from the current owner to the state (or other government agency). In the case of parcels acquired for roadway improvement projects, various construction activities (e.g., earthmoving, utility relocation, trenching, etc.) take place on land acquired as permanent right of way as well as in adjacent areas for which only temporary construction easements have been obtained.

Construction activities frequently cause unavoidable disturbance to monuments set along the newly acquired permanent right of way line. It is impractical to set permanent monuments following acquisition only to have them disturbed, obliterated or damaged by impending construction activities.

Several years typically elapse between the time right of way acquisition activities begin and when construction activities are completed. It is unrealistic to expect that a Professional Surveyor, especially one hired through a consultant agreement with the Ohio Department of Transportation to prepare the right of way acquisition plans, will be available to set or reset monuments several years after their initial survey and right of way plan work has been completed.

