



Right of Way & Easements

A Guide for Property Owners



Cobb County DOT Transportation Programs

- Acquiring Real Property
- Acquiring Easements (Temporary & Permanent)
- Acquisition Process
- Glossary of Terms



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Right of Way Acquisition

Purpose:

The primary purpose of this pamphlet is to answer most questions that a property owner may have regarding acquisition of right of way. Pertinent definitions are included throughout the pamphlet.

If you have additional questions, please contact the representative whose card is inserted in the back cover.

General Overview

Cobb County is one of the fastest growing areas in the nation. The Cobb Department of Transportation (DOT) must keep pace with this growth so that residents can reach their destinations quickly and have more time for their own pursuits. To effectively accomplish its goals, the Cobb DOT needs the help and cooperation of County Residents and Property Owners.

In the process of improving the County Transportation System, acquisition of right of way property often becomes necessary. If your property will be affected by road improvements, be assured that the new road plans have been well researched and are in the best interest of the community. The road improvements have been designed by engineers to ensure safe traffic in your area.

Right of Way: A strip or parcel of land over which passes a public road or power line, railway line, etc. In this case, a right of way requires full ownership of the land, unlike an easement. The width of a right of way varies from road to road and usually includes the width of the pavement including curb & gutter and an additional 10-20 feet for the roadway shoulder.

Introduction

The right-of-way acquisition process requires several steps. This pamphlet will guide you through the process, and answer these frequently-asked questions:

What is eminent domain?

Why does my property have to be affected?

What is the process of right-of-way acquisition?

How will the value of my property be determined?

How will the county acquire my property?

What if I don't agree with the compensation offered to me?

What is a condemnation proceeding?

When will I receive payment on my property?

Will I be paid for expenses associated with selling my property to the county?

Planning for Construction

As you can imagine, the construction or improvement of a road is a complex and lengthy process.

Traffic patterns: Due to Cobb's rapid growth, engineers continually evaluate traffic patterns to determine the need for expanding an existing road or building a new one. When the traffic patterns indicate a need for improvement, qualified engineers conduct in-dept studies of grade changes, slopes, sight distances, drainage, speed limit specifications and other land-use issues. Plans are designed in accordance with environmental, safety and cultural resource guidelines.

Planning for Construction

Eminent domain: Before construction can begin, the Cobb DOT must acquire property for the new or improved roadway. Through *eminent domain*, the county has the authority to acquire private property for public use, but must compensate the owner for the property. In some cases, an easement will need to be purchased to allow use of adjacent property. (see easement definition)

Public information meetings: As a property owner in an area targeted for road improvement, you may have attended a public information meeting about the planned road work. Following the meeting, residential, engineering and financial concerns are incorporated into the plans. A final meeting is held for all property owners to disclose completed plans.

Eminent domain definition:

The right of the government to acquire private property for public use (for example, to build a road), or to authorize the taking of property by private companies when doing so is beneficial to the public (for example, to build a railroad).

Q&A : Construction Planning

Q. Why do you need more of my property than the owner across the street?

A. There can be several reasons for buying more property on one side of the road than the other. Engineers review all land issue concerns before finalizing the road improvement plan: grade changes, slopes, sight distances, drainage and speed limit specifications. Based on these considerations and financial limitations, the engineers develop the plans accordingly.

Q. You are taking only part of my property. That will reduce the overall value of my home. Does the compensation offer include the reduced value my home will now have?

A. The county prepares an offer based on an independent appraisal that includes all factors affecting both the property to be acquired and your remaining property.

Q. Where does the county get the money to acquire all these properties **and** build new roads?

A. A 1% sales tax referendum was passed by Cobb voters, and is used to keep the county's roads safe and uncongested. Through this sales tax, the cost of building roads is spread to residents and non-residents who make purchases in Cobb.

In some cases, road improvement costs are funded by the county budget as well as state and federal funds.

Independent Appraisals

When all road plans are finalized and approved by the Board of Commissioners, appraisers begin the appraisal process. For acquisitions greater than \$10,000, property owners are usually notified before the appraisal is conducted.

The appraiser is an independent contractor (not a county employee), certified by the State of Georgia, and is selected from a pre-qualified list of independent-fee appraisers.

In all cases, the appraiser inspects your property, taking into consideration its physical characteristics, **easements** and all other elements that affect value. Recent sales of other properties in the area are reviewed. From the inspection and comparison with recent sales, the value of the property is determined.

Easement: *The right to use or access a parcel of property owned by someone else. Properties adjacent to public rights of way may have easements for such things as power lines, water / sewer lines, drainage structures and the like. In contrast to a right of way, an easement is a right to use, not the ownership of the property. An easement, however, must be acquired if it has not been previously granted or implied. It is usually acquired during the right of way process.*

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Easement—Definitions

The type of easements that apply to the acquisition of rights-of-way include:

Easement for the construction and maintenance of slopes: permanent easement to construct and maintain slopes necessary to support the roadway.

Permanent drainage easement: area needed to construct and maintain a drainage system or to direct natural drainage over a parcel of property.

Temporary construction easement: easement needed for the construction of a roadway. The easement is leased from the property owner for the duration of construction.

Ingress/egress easement: permanent easement to provide access over, across and through adjoining property.

Permanent utility easement: easement for the installation, use, repair and maintenance of utilities—usually a 3.5-foot strip adjacent to the county right-of-way.

Temporary driveway easement: a construction easement over a section of the adjoining property necessary to reconstruct and tie driveway to newly-constructed roadway.

Retaining wall easement: permanent easement for the installation and maintenance of a retaining wall adjacent to the roadway.

Sight distance easement: a permanent easement across a parcel of property that allows the county to clear in order to maintain a vertical sight distance along the roadway.

Q&A on Appraisals

Questions & Answers on Appraisals

Q. Is the appraised value by the independent appraiser similar to the value established by the property tax office?

A. The appraisals arranged by the Cobb DOT are independent from the tax office. In most cases, the DOT appraisal is more recent and at a value than the property tax office. Appraisals initiated by the DOT are based on highest and best use conditions.

Q. Will the property tax office use the DOT-initiated appraisal, if it is higher, and raise my taxes on the remaining property?

A. Since the appraisals initiated by the DOT are independent, the appraisal values are not submitted to the tax office. Your property taxes would only increase or decrease during the next scheduled tax assessment.

Q. If the county needs part of my property plus an easement, will this be handled at the same time?

A. Yes. The appraiser will determine the value of the property to be acquired and any necessary easements at the same time.

Property Acquisition

The appraisal is submitted to the Cobb DOT for review. In most cases, the appraisal value will be the county's compensation offer to you. The county will provide you a written offer for the required parcel of property including any necessary easements. If the county is only acquiring a part of your property, damages or benefits to the remaining property will be included in the compensation offer.

Agreement on compensation: If you are satisfied with the county's offer, you will sign an acquisition agreement. Your signature affirms that you and Cobb are in agreement on the acquisition of the property, including all terms and conditions. At the point, the agreement becomes a binding contract for the sale of the specified property. For acquisitions valued more than \$50,000, a closing will be scheduled; for properties valued less than \$50,000, a Cobb DOT representative may conduct an informal closing.

Negotiation: If you are not satisfied with the county's offer for the property, you are free to provide additional information and reasonable counter-offers. If an agreement cannot be reached, Cobb will initiate condemnation proceedings on the property.

Condemnation Proceedings definition:

If an agreement cannot be reached, Cobb will acquire the property by exercising its power of eminent domain. To do this, the county files a condemnation proceeding with the appropriate court and the proceeding becomes a legal actions. The county attempts to avoid all condemnation proceedings. Because condemnation proceedings are costly and time consuming, Cobb makes every effort to reach an agreement with the property owner during negotiations

Payment and Possession

Payment: To transfer a clear title, all liens, releases or other interests against the property must be paid.

Cobb will pay any claims against the property and then pay the balance to you. For example, if you have been offered \$5,000 for a parcel of land and there is a \$2,000 mortgage on the property, the county will pay the \$2,000 and you will receive the remaining \$3,000.

Incidental expenses paid by the county: All incidental expenses relating to the acquisition of the property are paid or reimbursed by the county. These and other expenses may be incurred as a result of transferring title to Cobb: recording fees, transfer taxes, documentary stamps, evidence of title.

Usually, Cobb pays these costs directly; however, if you are required to pay one of these expenses out of pocket, you will be reimbursed. You should, however, check with the county first to be sure that the expense is necessary.

Compensation definition:

The intent of compensation is to leave one no poorer nor richer than before the property was taken. Compensation consists of the actual value of the land or buildings taken plus damages to the remaining property.

Questions and answers on payment and possession

Q. Can I have my lawyer review the closing documents and be present at the closing?

A. Yes.

Q. Will I have to pay income tax on the payment for my property?

A. As required under IRS regulation, you will receive a 1099S form on the sale of your property. You should consult an accountant or lawyer to determine the impact on your income tax.

Construction Underway

Construction Underway

After Payment: When all proceedings and payments are completed for properties along a potential construction site, you can expect construction to begin on the property now in possession of Cobb County. Construction teams are required to be considerate of all adjacent property owners as they implement the road improvement plans. Whenever possible, contractors keep equipment and work sites from interfering with your normal daily routine.

Questions and answers on construction

Q. When will construction begin? End?

A. A start-up time and completion dates for each road construction project vary, depending on the parcels of property to be acquired, contractors' schedules and complexity of the project. A county representative can advise you of the start-up date and targeted completion date as you proceed through the property acquisition process.

Q. Will I be able to get in and out of my property when construction begins?

A. The Cobb DOT or the contractor will work closely with you to maintain proper access to your property during construction. If there are any special considerations you feel need to be addressed, please contact the Cobb DOT At 770-528-1600.

Q. Will any of my utilities be affected during construction?

Contractors make every effort to avoid interruption of power, water or gas to commercial or residential properties in the area. Occasionally, it may be necessary to have brief interruptions of utilities.

Figure 1: 2:1 “Cut” Slope Behind Sidewalk



Description

2:1 Cut Slopes are the Standard County DOT Slopes constructed in order to minimize the impacts to property. The 2:1 ratio stands for every 2 FT Horizontal Distance the ground drops or rises 1 FT Vertically Cut Slopes rise upwards and Fill Slopes Fall Downward.

Note: Landscaping is off right of way– not installed by DOT

Figure 2: Sidewalk with Guardrail



Description

Sidewalk with Guardrail in Place Behind the Sidewalk. Note: This location does not have a grass strip in between the roadway and the sidewalk.

Figure 3: 2:1 Fill Slope Behind Sidewalk



Description

2:1 Fill Slopes are the Standard County DOT Fill Slope to minimize the impacts to property. The 2:1 ratio stands for every 2 FT Horizontal Distance the ground drops or rises 1 FT Vertically

Notes:

Figure 4: 4:1 Fill Slope Behind Sidewalk



Description

4:1 Fill Slope Behind a Sidewalk. The 4:1 ratio stands for every 4 FT Horizontal Distance the ground drops or rises 1 FT Vertically

Figure 5: Ashlar Finish Retaining Wall



Description

The Standard Finish for Cobb DOT Retaining Wall is an “Ashlar” Form Liner which gives the Concrete a Rock Texture.

Note: Landscaping is off right of way– not installed by DOT

Figure 6: Ashlar Finish Wall with Handrail



Description

Ashlar Finish Retaining Wall with Galvanized Handrail at the top. Used along long section of walls for Pedestrians.

Figure 7: 5 Foot Sidewalk with Stained Concrete Strip



Description

In Commercial Areas to minimize maintenance, the “grass strip” is often stained concrete which provides an offset border for pedestrians.

Figure 8: Concrete Driveway Apron



Description

Existing Driveways along the project will be provided for a Concrete Driveway “Apron” where Curb & Gutter is installed.

Figure 9: Concrete Driveway with Sidewalk



Description

Concrete Driveway with Sidewalk adjacent to the Roadway.

Figure 10: Concrete Driveway Apron



Description

Concrete Driveway Tying to Existing Asphalt Driveway.

Figure 11: Concrete Flume (Drainage)



Description

Where Curb & Gutter Ends and Pipes are not present, Concrete Flumes are used to convey water back to natural drainage area.

Figure 12: Grassed Roadway Ditch



Description

Standard Roadway Ditch Adjacent to a Roadway to carry Rainfall Water.

Figure 13:

Concrete Ditch



Description

Concrete Ditches are installed when there is a steep grade to prevent erosion and minimize maintenance work in the future.

Figure 14: Roadway Catch Basin



Description

Catch Basins are used on roads with Curb & Gutter to catch rainfall along the roadway and carry it to natural drainage areas.

Figure 15: Aluminum Fence / Walls



Description

Where allowed by Design Practices Aluminum Style Decorative Fences installed in Commercial Areas to maintain Pedestrian Safety and to Allow Visibility of Commercial Businesses.

Figure 16: Galvanized Handrail / Walls



Description

Where Walls are used to minimize impacts to property and adjacent to a sidewalk, handrails are required to provide for safety of pedestrians. Note: The sidewalk in this photo is not yet installed.

In the End....

Fairly compensated property owners, improved roads.

Thank you for taking the time to become familiar with the right-of-way acquisition process.

The Cobb DOT expects that this process will be a smooth transition for any property owner affected by road improvement projects.

Our staff, appraisers and representatives will provide assistance during any step of the proceedings. Our goal is to leave you, the property owner, no poorer or richer than before the process began. Your cooperative spirit is appreciated.



Cobb County...Expect the Best!

Your Guide to the Right of Way Acquisition Process

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