



Kansas LTAP Fact Sheet

A Service of The University of Kansas Transportation Center for Road & Bridge Agencies

Tips From Local Agencies For Acquiring ROW

By Nora Fairchild

Useful advice for acquiring right-of-way for a project that uses state or federal funds.

Luckily, a local government does not need to acquire right of way (ROW) using eminent domain very often. But when it does, it's important—for legal and financial reasons—to follow the proper steps. We've published a few articles about this topic before; this time you'll hear from local government officials who learned what worked and what didn't by participating in the process.

Right of way acquisition is tricky to get right because there are limited available resources about legal rules and regulations to follow. Even if you follow the rules you remember from last time perfectly, you may still be missing important steps or updates to the process. It's easy to miss something—it happened in Atchison County and the City of Burlington.

Matt Dorssom, supervisor for Atchison County Road and Bridge, said the main glitch for his county occurred when his predecessor acquired land on a handshake rather than through the proper process with a paper trail.

In the City of Burlington, Doug Mast, street superintendent, said that their community wasn't sufficiently up to speed on the acquisition process. This was apparent when the Kansas Department of Transportation (KDOT) checked the file for one of their projects. Eric Deitcher from KDOT's Bureau of Local Projects was able to



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If you are ready to seal the deal, be sure to have the required paperwork ahead of time to back up your agreement legally.



help the city with some paperwork that wasn't completed to fix the situation.

Deitcher said he's run into local government officials who don't realize how much an incomplete or improper ROW acquisition process can cost a local government for a project using state or federal funds.

"You can't just come in and buy someone's land thinking everything will

be fine," Deitcher said.

We've mentioned in previous articles that federal funding can be withheld or taken back if ROW is not purchased according to the Uniform Act. Deitcher also related a situation in Kansas where the county didn't use an appraiser for the land they acquired and ended up paying more for the land than was necessary. That was good for the landowner, but not so good for the local taxpayers.

Hodgeman County learned that acquiring ROW according to regulations takes ample time. In Hodgeman County, a new intersection was put in a place that created an unforeseen safety problem. Time was of the essence when the county had to acquire more right-of-way to address the problem, but the ROW process can take up to a year. The Uniform Act, which provides ROW code of federal guidelines 49, part 24, dictates that counties and cities must give a 90 day notice if residents will be evicted due to ROW acquisition. Not only that, but regulations dictate time-frames for almost every other part of the ROW process to assure that landowners are treated fairly.

While Deitcher is always available to guide a local agency through the acquisition process or answer questions, you can certainly go it alone, with preparation. Dorssom suggests following the acquisition process in a



proper way so Deitcher doesn't have to visit, or if he does, you should have your documents filed and ready for review. Since KDOT does random yearly checks in all six districts in Kansas, it's likely that you might have to own up to your ROW acquisition process.

Hodgeman County's Mike Burke advises to always know what procedures to go through before you get started and make sure lawyers, city officials and the road supervisor are all on the same page. This is important for small communities where everyone has many jobs already, and it may not be clear who is responsible for what regarding ROW acquisition. Be extra careful that all involved know the current ROW acquisition regulations.

Doug Mast, street superintendent for the City of Burlington said it's better to start off consulting Deitcher or an expert from the Federal Highway Administration's Kansas Division who can review the process and the most current regulations with you. He also suggests attending an LTAP class entitled "Legal Permitting and Regulatory Process," eligible for road scholar credit, and a reviewing the manual provided through the class.

For more information

A good place to start for more information is to call Eric Deitcher at KDOT's Bureau of Local Projects. One of his responsibilities is to help ensure that the Uniform Act is being followed when local governments acquire ROW for federal aid projects. In a previous position with KDOT he used to acquire ROW for the agency, so he understands the process and has experience working with landowners. Contact Deitcher by phone at (785) 296-0413 or by email at EricD@ksdot.org.

Another good contact is John Knowles with the Kansas Division of FHWA. He is the division's ROW team leader. You can reach him at (785) 228-2544.

Here are links to two brochures helpful in working with property owners. The first one is to be provided to each landowner and/or tenant from which property is being acquired. <http://www.ksdot.org/burlocalproj/Forms/AcquisitionWcover.pdf>

The second one is only to be given to landowners and/or tenants that have property (either real or personal) to be relocated. <http://www.ksdot.org/burlocalproj/Forms/RelocationRevTwo508.pdf>

The sources for this article are also excellent sources of information on ROW acquisition.

So, take the advice of your peers. Learn the rules of the Uniform Act that governs the ROW acquisition process (and make sure everyone involved in your acquisition knows them), ask for help early and as often as you need it, and you should be fine. ■

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ROW acquisition tips from local agencies, in a nutshell

- Bone up on regulations and any recent changes.
- Keep your paperwork filed and in order.
- Make sure all of you are on the same page.
- Ask for help from the start.



Sources:

- Acquisition: Real property acquisition for Kansas highways, roads, streets and bridges" KDOT Bureau of Right of Way, January 2007. <http://www.ksdot.org/burlocalproj/Forms/AcquisitionWcover.pdf>
- Harris, Lisa. "So you need to purchase some right-of-way? How to get it done and not get stung." KUTC Newsletter, Fall 2007.
- Relocation: Your rights and benefits as a displaced person under the federal relocation assistance program" KDOT and FHWA, January 2005. <http://www.ksdot.org/burlocalproj/Forms/RelocationRevTwo508.pdf>