Maryland Department of Transportation

State Highway Administration

Your Land and Your Highways

Your Rights and Benefits Guide

Maryland Department
of
Transportation
State Highway Administration
Office of Real Estate
707 N. Calvert Street
Baltimore, MD 21202
1-888-204-4245

To The Property Owner:

The State Highway Administration's (SHA) Office of Real Estate (ORE) offers this booklet as your guide to the right-of-way process. This booklet includes information about your rights as a private property owner, as well as an explanation of the procedures used by SHA to purchase land and buildings for public projects.

The information in this booklet is general in nature. There are many rules and regulations mandated by State and Federal laws which are too lengthy or detailed to include. Direct any specific questions that you may have to your right-of-way negotiator or relocation assistance counselor.

We hope this booklet will be useful and informative for your needs.

The Office of Real Estate

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TABLE OF CONTENTS

WHY ARE NEW HIGHWAY PROJECTS NEEDED? 1

PROPERTY RIGHTS 1

THE ACQUISITION PROCESS

Pre-Negotiation 2

Appraisals 2

Negotiations 3

Alternate Methods of Acquisition..... 5

Donations 6

Entry Agreement..... 7

Relocation Assistance..... 7

EQUAL OPPORTUNITY STATEMENT..... 8

CONTACT GUIDE 9

NOTES 11

Why are new highway projects needed?

As times and society change, people's transportation needs change too. Some of those needs are met through mass transit or alternative transportation methods while others require improving the highway system by building new roads or upgrading existing roads.

These improvements are planned to fit into the State's overall transportation plan. The State Highway Administration (SHA) works closely with local, State and Federal officials to develop these plans. Public hearings and meetings are held to gather information and input from local residents and other concerned citizens. The impacts on the community and the environment are fully considered before a final location and design are selected. Every effort is made to minimize any negative impacts on local residents, businesses and the environment.

Property Rights

Under the U.S. and Maryland constitutions and laws, the State has the right to acquire private property for public use, commonly known as eminent domain. This is not a right that is exercised lightly by the State. The U.S. Constitution states that no citizen may be deprived of their property without being paid just compensation. State and Federal laws also define how the just compensation is determined and how the acquisition process is conducted.

The Acquisition Process

Pre-Negotiation

The earliest steps in this process determine the amount of land that may be needed for the new improvement and its impacts on the adjacent properties. During this period, soil tests are conducted, surveys are made to set the property lines and title information is gathered. You will be contacted before anyone comes onto your property to either test the soil or survey the land. Gathering title information is done at the courthouse in the public land records.

If your property is affected by the improvement, you will receive a letter from SHA's Office of Real Estate (ORE) advising you of the project.

Appraisals

Before the start of negotiations, where the amount of compensation is discussed, a qualified real estate appraiser will appraise the property. The appraiser will notify you before inspecting the property and ask if you would like to be present during the inspection.

You may wish to do so in order to point out any important features or impacts on the property that deserve consideration. It is very important that the appraiser be allowed to see both the interior and the exterior of any buildings that may be affected. We ask that you arrange the appointment at your earliest convenience.

When the appraisal is completed, it is submitted to ORE's Appraisal Review Division. These professional appraisers are responsible for ensuring the accuracy and completeness of the appraisals on a project. Only after they are satisfied that the appraiser has reached a fair and reasonable conclusion will they set the just compensation to be offered. The just compensation is based on the fair market value of the property and includes the compensation for property actually acquired plus any decrease in the value. This offer is then given to the negotiating agent to offer to the property owner.

Negotiations

The negotiating agent will contact you to set up an appointment to discuss the acquisition and the offer. This appointment will be made at your convenience at your home, place of business or other mutually agreeable location. If there are co-owners of the property, they should also be present when the agent visits to discuss the offer. Please notify the negotiating agent if you retain the services of an attorney or other third party. The negotiations will then be carried out with your representative. Under certain circumstances, if you are an owner living outside the State of Maryland, the negotiations may be carried out by mail or other means.

This stage of the process is very important. The State makes every effort to acquire the property it needs through amicable negotiations. As citizens themselves, the negotiating agents are both sympathetic and empathetic to your concerns. Any questions you have concerning the State's acquisition will be answered. In addition, any new information affecting the value of your property that you may provide will be given full consideration.

After the acquisition and the offer are explained, you may sign an option contract. This contract is used to secure the funds and the deed needed to complete the transaction. The negotiating agent will remain in contact with you to answer any questions or concerns that may arise.

Once an option contract is signed, it is processed for acceptance by the SHA. This acceptance sets aside the funds for your payment. When the deed for the needed area has been prepared and the payment check received, you will be contacted to arrange an appointment for the property settlement. This settlement is very similar to the one you went through when you purchased your property. The payment check is exchanged for the fully executed deed. The main difference is that the State pays for the preparation of the deed and any other expenses associated with the recording of the deed.

Once the transaction is completed, a Form 1099 may be issued in compliance with the IRS regulations. It is important that you provide the Federal tax identification numbers for anyone receiving a portion of the proceeds in order to prevent any potential IRS penalties. Please consult your income tax preparer, or the IRS, on how to declare these funds on your income tax forms.

Alternate Methods of Acquisitions

If no agreement is reached, an alternative method of acquisition will be used. The Transportation and Real Property Articles of the Annotated Code of Maryland provides the following three alternative legal processes. Even if one of these processes is instituted, an agreement or understanding may be reached and an option contract signed ending the legal action.

The Real Property Articles describe the procedures for regular condemnation proceedings. In this process, the State files condemnation proceedings against the property, but it is not required to post its estimate of just compensation with the Court. All payments are made at the end of the proceedings when title and possession of the property change hands. This process is not normally used by the SHA.

The Transportation Articles provide the other two methods which are used by the SHA when necessary. The first of these methods is the "Quick Take Condemnation by Commission-Board of Property Review Procedure." Under this procedure, the State posts its estimate of just compensation with the Court at the same time it files the condemnation petition. This makes the posted funds immediately available to the property owner without prejudice to their case and allows the State to take possession of the needed property.

The case will then be heard by the Board of Property Review for the county in which the property is located. This court appointed board will render its award of just compensation. This award may be appealed by either side. If no appeal is made, the case will proceed to a settlement in the same manner as if an option contract had been signed. If either side appeals the award, the case will proceed to the next method.

The second method under the Transportation Article is "Immediate Entry Condemnation by Commission, Direct Trial Procedure." This procedure again requires the State to post its estimate of the just compensation with the Court. These funds are available to the property owner without prejudice to their case. Under this procedure however, the case goes directly to trial in the Circuit Court, omitting the Board of Property Review. The Circuit Court will hear evidence and issue an Inquisition transferring title to the property to the State and setting the just compensation to be paid for it. This process is normally used when improvements are to be acquired, a Board award was appealed or the owner requests the Board be by-passed.

SHA realizes that this legal process is complex and unfamiliar to most people. If legal proceedings must be started, the negotiating agent will explain the process and your rights in detail. Nothing in any of the procedures described above prevents the parties involved from reaching a mutually agreeable settlement out of court. This agreement could be reached at any stage in the process and eliminate the need for further legal action. It is the SHA's sincerest hope that all property acquisitions may be accomplished in a friendly manner with as little disruption as possible to the affected parties.

Donations

You may also donate the needed property to the State. This involves waiving your rights to compensation, but it may provide some tax advantages. Consult with your accountant, attorney or tax preparer to determine the extent of the advantages to you.

Under certain circumstances, the State may request donations of the needed property in order to build the project.

Entry Agreement

Under certain circumstances you may be requested to grant the State a right of entry by signing an Entry Agreement. This agreement allows the State to enter onto your property to perform the necessary work. These agreements are most often used on streetscape projects and to perform maintenance activities.

If a portion of your property needs to be acquired, this agreement would not abridge or limit your right to compensation. It would only allow the State to perform the needed work while negotiations on the compensation continued.

Relocation Assistance

If your home or business is within the area to be acquired, you may be eligible for benefits under Maryland's Relocation Assistance Program. These benefits may include moving costs, replacement housing payments, or certain re-establishment costs. Either the State's negotiator or another representative from ORE will explain your benefits and how we can help you through the relocation process.

Your benefits under this program are discussed in greater detail in a separate booklet entitled "The Maryland Relocation Assistance Program." Copies may be obtained from one of the offices listed at the back of this booklet. If you have been notified that buildings on your property are to be acquired and you have not received a copy of this booklet, please contact the local office listed in the back.

Equal Opportunity Statement

It is SHA's policy to ensure compliance with all equal opportunity legislation and regulations which prohibit discrimination on the basis of race, color, sex, national origin, age, religion, or physical and/or mental handicap, in all SHA program areas funded in whole, or in part, by the Federal Highway Administration. This policy is incorporated into all levels of the highway planning process to assure that proper consideration is given to the social economic and environmental effects of highway projects. SHA will not discriminate in the selection, or retention of consultants and contracts whose services are secured, or are incidental to the planning and building of highway projects. SHA will not discriminate in the acquisition of right-of-way or in the provision of relocation advisory assistance. Furthermore, SHA will not locate, design or construct a highway in such a manner as to deny reasonable access to, or use thereof, by any person on the basis of race, color, or national origin.

Title VII of the Civil Rights Act of 1968 provides, within constitutional limitations, for fair housing throughout the United States. Any person who claims to have been injured, or believes that he or she will be irrevocably injured by highway development that is about to occur, may file a complaint with the Secretary, Department of Housing and Urban Development, or any such agency having the authority to investigate such complaints.

Any person, or group of persons, who feel that they have been discriminated against by SHA in the conduct of highway project activities may file such a charge with the Chief, Equal Opportunity Section, in person or in writing within 180 days of the alleged discriminatory action. In accordance with Title 49, CFR, Part 21, (Department of Transportation Regulations for the Implementation of Title VI of the Civil Rights Act of 1964), the complaint will be investigated by personnel of SHA's Equal Opportunity Section.

If you should have any questions, contact the Equal Opportunity Section,
State Highway Administration,
707 N. Calvert Street, Room 406,
Baltimore, MD 21202
or call 410-545-0315 or 1-888-545-0098.

If further information is needed, please contact your local SHA Office of Real Estate District Representative, or call the Office of Real Estate's Central Office.

Office of Real Estate Contact Guide

Central Office:

707 N. Calvert Street
(410) 545-2828
Baltimore MD 21202

1-888-204-4245
Fax - (410) 209-5024

District 1:

PO Box 1633
660 West Road
Salisbury MD 21802

(410) 677-4000
1-800-825-4742

Counties: **Dorchester** **Somerset** **Wicomico** **Worcester**

District 2:

PO Box 299
615 Morgnec Road
Chestertown MD 21620

(410) 810-3260
1-800-637-9740

Counties: **Caroline** **Cecil** **Kent** **Queen Anne's** **Talbot**

District 3:

9300 Kenilworth Ave. (301) 513-7450
Greenbelt MD 20770 1-800-749-0737

Counties: **Montgomery** **Prince George's**

District 4:

320 West Warren Road (410) 229-2401
Hunt Valley MD 21030 1-866-998-3067

Counties: **Baltimore** **Harford**

District 5:

138 Defense Highway (410) 841-1008
Annapolis MD 21401 1-800-331-5603

Counties: **Anne Arundel** **Calvert** **Charles** **St. Mary's**

District 6:

1251 Vocke Road (301) 729-8471
LaVale MD 21502 1-800-760-7138

Counties: **Allegany** **Garrett** **Washington**

District 7:

5111 Buckeystown Pike (301) 624-8155
Frederick MD 21704 1-800-635-5119

Counties: **Carroll** **Howard** **Frederick**

Notes

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http://www.roads.maryland.gov