



When ODOT Needs Your Property



Foreword

The State of Ohio is engaged in a continuous program of improving its transportation systems. Often this improvement process involves the purchase of land so that the State's highways and other public modes of transportation can continue to safely accommodate the ever changing demands placed upon these transportation systems.

If you own property near an existing or proposed highway or other transportation improvement, you may be interested in the working procedures of the Ohio Department of Transportation (ODOT) and how you, as a citizen, may be affected by the highway project.

This brochure explains why your property may be needed, explains the protections you have as a property owner, provides answers to some frequently asked questions, and provides contact information for the ODOT District Offices.

This brochure implements the notice requirement in 49 CFR 24.102(b) which is: *"Notice to owner. As soon as feasible, the Agency shall notify the owner in writing of the Agency's interest in acquiring the real property and the basic protections provided to the owner by law and this part."* It may be used by ODOT staff or its agents and consultants. It may also be used by Local Public Agencies (LPAs), their staff, agents, or consultants when Highway Trust Funds are used in the transportation project.

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The Need to Continually Improve the State's Transportation Infrastructure

Did you know that sixty percent of the population in the United States and Canada can be reached in a single day's drive from Ohio . . . that Ohio has more than 114,800 miles of roads and streets . . . that Ohio is 35th in the nation in geographical size but 7th in total population . . . that Ohio has the 2nd largest bridge inventory in the nation, the 4th largest interstate system and, according to a 2011 study by the Federal Highway Administration (FHWA), the 4th busiest interstate system in the nation with almost 32 billion interstate miles travelled that year? Now that you do know, you can understand how such extensive use demands new and better transportation systems as well as continuous maintenance and improvement of existing ones.

Ohio's transportation system is a major engine for the State's economy and serves as a catalyst for future expansion and job creation. Trillions of dollars of goods and services are dependent on Ohio's transportation infrastructure of highways, bridges, waterways, and airports. In 2010 Ohio's economy was ranked 27th in the world. A good transportation system is essential for keeping and creating jobs that stimulate the economy.

The Ohio Department of Transportation (also referred to as ODOT or Department) works to improve safety, enhance travel, and advance economic development for its citizens. ODOT wisely invests in its core services of snow and ice removal, annual construction program, and highway maintenance operations.

The State of Ohio participates with the Federal government and local communities in a comprehensive transportation program to assure progress in creating a modern transportation system that is essential for the continued growth, quality of life, and prosperity of Ohio and its people.

Steps in the Creation of a Transportation Project

Below are the steps ODOT follows to build a major transportation project. For minor projects, fewer steps are necessary, but in all cases there are many state and federal regulations that must be followed before ODOT is authorized to proceed with the acquisition of property.

1. Need established.
2. Traffic studied, surveys begin, alignments considered, aerial mapping undertaken.
3. Conferences, public hearings, citizen input, environmental impacts studied.
4. Alignment location approved.
5. Design approved, detailed highway plans prepared, rights of way needed for project identified.
6. Land title data prepared.
7. Property values analyzed, compensation established.
8. Offer made to owner.
9. Settlement/agreements secured, payment made to owner, property conveyed to State of Ohio or, if necessary, property is appropriated.
10. Occupants displaced from project receive relocation assistance.

11. Plan for utilities determined.
12. Right of way cleared, certification of right of way is issued.
13. Authorized to advertise for construction, bids submitted, contract awarded.
14. Construction of transportation project.
15. Construction project completed and transportation facility opened to the public.

Your Basic Protections

When the location and the design of a transportation project are approved, detailed plans are developed which determine the amount of land to be acquired for the construction and maintenance of the new project. Detailed plans are called Construction and Right of Way Plans, and these plans illustrate the additional real estate needed for the project.

Once the detailed plans are developed, title searches are conducted to confirm ownership of the properties required for the project. You may be identified as the owner of a parcel needed for the new project. The project may require only a portion of your property, or it may require your entire property. After knowing with certainty the amount of property that is needed, ODOT will estimate compensation, will initiate negotiations, and will make an offer to you.

It is the Department's hope that through discussion and mutual agreement, a satisfactory settlement can be reached regarding the value of land to be acquired. Federal and State laws are in place to assure your rights are protected during this acquisition process. Your basic rights are as follows:

- (1) You have the right to have your property valued by a competent appraiser, and if an appraisal is to be prepared for your property,

you have the right to accompany the appraiser on the inspection of your property.

To assure this right, ODOT will have a valuation made of your property that will estimate compensation. The person preparing the estimate of compensation and the person reviewing the estimate of compensation are prequalified by ODOT and are experienced with the property valuation process. See “The Estimate of Compensation” section of this brochure for more information.

(2) Anyone involved in estimating compensation for your property or reviewing the estimate of compensation will not have any interest, direct or indirect, in the real property.

(3) No person will attempt to unduly influence or coerce the person valuing your property or the person who reviews the estimate of compensation.

(4) You have the right to be provided a written offer for the full amount of compensation for your property as determined by the Department based upon the valuation.

To assure this right, ODOT will provide you a “Notice of Intent to Acquire and Good Faith Offer.” This offer is known as the NIAGFO, and it will further explain your rights under Ohio law. While making the offer to you, ODOT will also provide you with a copy of the valuation report.

(5) You have the right to negotiate with ODOT and, if an agreement cannot be reached, you have the right to have compensation determined by a court of law. This process is known as appropriation. See “Your Appropriation Rights” section of this brochure for more information.

(6) You have the right to be paid the full amount of the estimate of compensation before being required to surrender possession of your property.

(7) If the acquisition of your property leaves you with a small remaining tract of land having low value and doubtful utility, the Department may determine this residue as uneconomic and may offer to purchase this residue at its market value. You have the right to retain or sell the residue property to the Department.

(8) Any occupants of buildings to be acquired will be informed of their rights and benefits under the Relocation Assistance Program. See the “Relocation Assistance Program” section of this brochure for more information.

(9) All owners must be informed of their rights under the law, and these rights must be fully protected by the Department.

(10) State and Federal laws prohibit discrimination on the grounds of race, color, religion, sex, national origin, age (40 years and over), or disability. If you have any concerns that your rights under these provisions might

have been violated, please contact the:

Division of Chief Legal Counsel
& Equal Opportunity
Ohio Department of Transportation
1980 W. Broad Street, Mail Stop: 1500
P.O. Box 899
Columbus, OH 43223-0899
or
Telephone: (614) 466-3664

The Estimate of Compensation

Based on the Construction and Right of Way Plans, ODOT will determine the complexity of the valuation problem caused by the acquisition, the scope of work needed for the valuation assignment, and the valuation format necessary for the acquisition. ODOT will then estimate compensation based on the valuation of your property. There is no cost to you for this valuation.

Compensation may consist of:

The Part Taken
Damages, If Any, To The Part Not Taken
Temporary Easements, If Any

The estimate of compensation is dependent on many things including the complexity of the acquisition. Some acquisitions are simplistic and may not damage the remaining (the residue)

property. Damage in this situation is loss in value to the residue property caused by the acquisition. On the other hand, some acquisitions may be complex and result in damage to the residue property.

At a minimum, compensation will consist of an amount for the part taken. The estimate of compensation for the part taken is determined by the fair market value of the property taken. Fair market value is the amount of money which could be obtained on the market at a voluntary sale of the property. This valuation considers the market value of the whole property, ignoring all influence of the project and, based upon this valuation, an allocation of value is made to the part taken.

To estimate fair market value, ODOT will utilize an appraiser who is familiar with value of real estate in your particular location or neighborhood and who is experienced in appraising your type of property. The appraiser will consider various appraisal techniques, one of which consists of comparing your property to other similar properties which have recently sold in your area. The price paid and conditions of each sale used for comparison are carefully investigated to estimate the fair market value of your property. A review appraiser assures the fair market value estimate includes all pertinent facts, is sound, and is realistic.

The compensation process consists of a valuation of your property, a review of the

valuation report, and the reviewer's recommendation that the valuation report should be the basis of compensation offered to you. Compensation will be offered to you after an official from ODOT establishes the "fair market value estimate" known as FMVE.

If an appraisal of your property is to be prepared, you will be afforded the opportunity to accompany the appraiser during the appraiser's inspection of your property. Though hired by ODOT, these appraisers are required to provide an independent professional evaluation of your property's value. It is to your benefit to show the appraiser around your property and inform him/her about all features that you think may affect its value. For example, show the appraiser all buildings inside and out, all improvements that you have made to the property, utilities, underground facilities, and all other items which may affect compensation.

A well-supported estimate of fair market value is the best assurance of a satisfactory settlement. The Department and you, the property owner, have a very real interest in assuring that compensation based on fair market value is obtained.

Settlement

As in all real estate transactions, communicating and exchanging views are essential in reaching an agreement.

The Department's representative in these discussions is the agent. The agent understands the procedures of the Department, the regulations governing the acquisition, the Construction and Right of Way Plans, and the timing of the construction schedule. With this knowledge, the agent will be most helpful to you. As you may be unfamiliar with the process required to sell your property to the State of Ohio, the agent's primary duty is to advise you in every way possible regarding this acquisition process.

The agent will explain the transportation project in detail and particularly its impact upon your property. The agent will answer or obtain answers to your questions. The agent will make you an offer in writing the first time he or she discusses the offer, property value, estimate of compensation, or money with you.

To successfully complete this important assignment, the agent may request information from you relating to mortgages, liens, assessments, taxes, and tenants. The agent may also request contact information for lenders, tenants, lien holders, etc.

When an agreement is reached, the agent will have the necessary documents prepared to assist you as necessary and will take the required steps to obtain payment of the agreed purchase price. The agent will also help you obtain the release of mortgage, if needed, and other releases that may be required as part of the acquisition.

If an agreement cannot be reached, the agent will explain your rights and the process of appropriation-having your case decided by a jury. See “Your Appropriation Rights” section of this brochure for more information.

The agent’s duty is to minimize any confusion and inconvenience which could result from the acquisition of your property. It is the Department’s sincere hope that when this matter is concluded, you will be able to say that you were treated fairly, respectfully, and that you were fully informed of your rights and ODOT’s needs to acquire your property.

The Relocation Assistance Program

If you are required to move because the property you occupy is purchased by the State of Ohio for construction of a highway or other transportation improvement, you may be entitled to benefits under the Relocation Assistance Program which is designed to aid occupants who are displaced.

Relocation benefits may be available to owner occupants and tenant occupants of residences, businesses, farms, and not-for-profit organizations. Relocation benefits can include relocation housing payments, rental assistance payments, move cost reimbursements, reestablishment expenses, and advisory services.

No one will be required to move for at least 90 days after a written offer has been made for the purchase of the property they occupy. Furthermore, displaced occupants will be given specific notice, if necessary, at least 30 days in advance of the exact date that they will be required to move.

If you are required to move, a relocation agent will contact you to explain the Relocation Assistance Program and to answer questions. The agent's purpose is to advise you of the requirements for each type of payment to which you may be entitled.

The benefits and payments are explained more completely in the Relocation Assistance Program's brochures "Relocation Assistance, Non-Residential Brochure" and "Residential Relocation Assistance Program Brochure." These brochures are available at ODOT's District Offices or from your relocation agent.

Your Appropriation Rights

The Ohio Constitution permits the State to acquire your property for a transportation project provided that you are paid just compensation. There is no requirement that you reach a settlement with the Department of Transportation for the sale of your property. To fully protect your rights, the laws of Ohio provide that just compensation (the fair market value of your property) may be determined by a local jury, if you so choose.

In the event that you and the Department do not reach an agreement regarding the value of your property, the Director of Transportation will request that the Attorney General's Office initiate such action as is necessary to acquire the property by appropriation. An action will then be filed in the Court of Common Pleas or the Probate Court of the county in which the property is located. At the same time, the Director shall deposit with the Clerk of Courts the amount of money which the Department has determined to be just compensation for the property taken and damages to the remainder of the property, if any. This figure is based upon the approved fair market value estimate prepared for the Department.

Once the money has been deposited, you may apply to the court for the full amount, subject of course to the interests which others may have (i.e., obligations for taxes, mortgage,

assessments, liens, etc.). The fact that you withdraw the money from the Court does not prejudice your rights to have a jury determine the value of the property. The only “restriction” is that once the sum is made available to you, interest will not accrue, even if left on deposit with the Court.

If you decide to accept the amount placed on deposit as full compensation, you will be required to petition the Court for withdrawal of the deposit. If you wish to contest the valuation of your property, you must file an answer to the Department’s Petition for Appropriation. It is important that a timely answer be filed with the Court. The court will then set a date for the appropriation trial where a jury will hear testimony from you and the Department in the proceeding. Negotiations may continue at all times. If agreement is reached prior to trial, a formal settlement may be reached with Court approval.

It is important to note when the Director has placed an amount on deposit with the Court, the Department may enter upon and use your land. However, it may not use or demolish your structures until either a jury has had an opportunity to view them or until a “structure appraisal” is filed with the Court. The “structure appraisal” process causes detailed pictures to be taken of the exterior and interior of all structures affected by the highway improvement. Three appraisers: one of your choice, one appointed by the Court, and one

selected by the Department will visit and inspect the structure(s) and arrive at an opinion of value for each structure affected. The independent opinions of value will then be filed with the Court. The “structure appraisal” process allows the Director to secure physical possession of the structures as early as 60 days after service of summons for the appropriation case.

Retention of Improvements

Property owners with buildings or other improvements that will be acquired by the project may retain these improvements with concurrence from the Department. These details must be discussed and agreed upon with the Department at the time the terms of settlement are being discussed. The salvage value of the buildings or improvements you desire to retain will be deducted from your FMVE.

Frequently Asked Questions

Why Are Public Meetings Held?

A public meeting gives you and local officials the opportunity to have an open discussion regarding the need for the proposed improvement and the merits of the route location and design. An official transcript is made of these comments, and the Director of Transportation and his staff will review the proceedings in order to make a proper determination.

May A Survey Or Soil Testing Crew Enter My Property Without My Permission?

Yes, the law of Ohio permits survey or soil testing crews authorized by the Director of Transportation to enter upon any lands within

the State. However, as a matter of law, the survey or soil testing crews are required to provide notice to you before entering your land. The law also provides that compensation be paid for damages or injury to the premises caused by these crews.

Can The Crews Tell Me About The Project?

The crews are obtaining information which the engineers will use as a basis for locating and designing the proposed project. They are not able to give you information that has any final or official status. As soon as definite information is available, you will be officially notified and contacted by a representative of the Department.

When Will I Know How A Project Affects My Property?

General information is discussed at the public meetings but not the specific details. When the acquisition process begins, the agent will discuss the plans and show you exactly how the transportation project will affect your property.

May I Keep My Buildings and Move Them?

If the Department agrees to your request to retain buildings acquired for the project, you may be allowed to remove the buildings from the project area. This process requires you to agree with specific arrangements with the

Department. It will be your responsibility to remove, at your own expense, any buildings or other improvements when retention is allowed. The salvage value of the buildings you retain will be deducted from your FMVE. See the “Retention of Improvements” section of this brochure for more information.

How Much Will I Be Paid For My Property?

After the fair market value estimate for your property has been established, an agent of the Department will discuss with you the fair market value of the property.

When an agreement is reached between you and the Department, a warrant (check) for the agreed price will be processed, and you will be paid at closing. The closing can be in person or by mail. In addition, the services which you would normally pay for in a private sale such as title reports, abstracts, recording of instruments, or transfer fees are taken care of by the Department without cost to you.

How Can I Find Out What Is Happening?

Contact the District Office of the Department of Transportation as indicated on the map included in this brochure. Department staff will be able to provide the information that you need.

ODOT District Offices

District 1

1885 N. McCullough St.
Lima, OH 45801
(419) 222-9055

District 2

317 East Poe Rd.
Bowling Green, OH 43402
(419) 353-8131

District 3

906 Clark Avenue
Ashland, OH 44805
(419) 281-0513
(800) 276-4188

District 4

2088 South Arlington Rd.
Akron, OH 44306
(330) 786-3100

District 5

9600 Jacksontown Rd.
Jacksontown, OH 43030
(740) 323-4400

District 6

400 East Williams St.
Delaware, OH 43015
(740) 833-8000
(800) 373-7714

District 7

1001 St. Mary's Ave.
Sidney, OH 45365
(937) 492-1141
(888) 200-9919

District 8

505 South State Route 741
Lebanon, OH 45036
(513) 932-3030
(800) 831-2142

District 9

650 Eastern Ave.
P.O. Box 467
Chillicothe, OH 45601
(740) 773-2691
(888) 819-8501

District 10

338 Muskingum Drive
P.O. Box 658
Marietta, OH 45750
(740) 568-3900
(800) 845-0226

District 11

2201 Reiser Avenue
New Philadelphia, OH 44663
(330) 339-6633

District 12

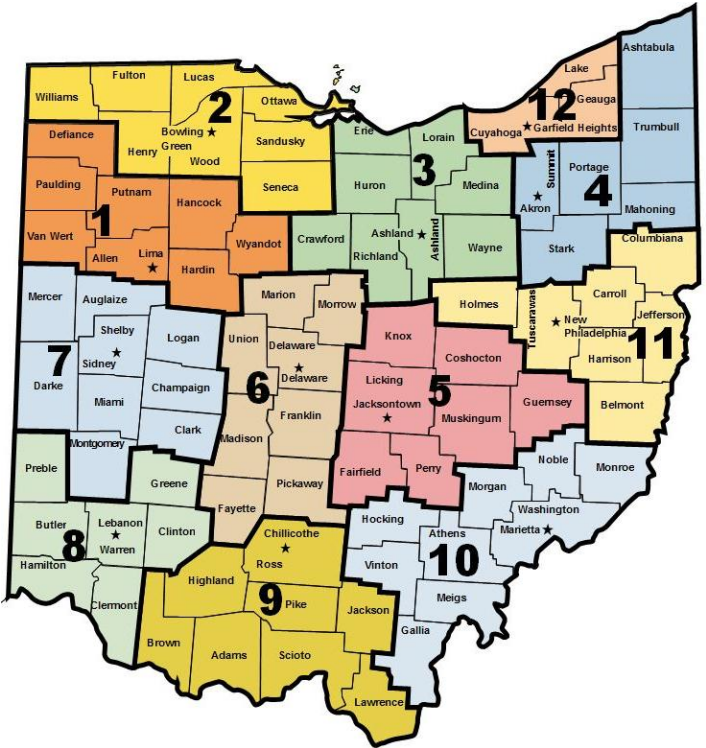
5500 Transportation Blvd.
Garfield Heights, OH 44125
(216) 581-2100
(800) 732-4896

Central Office Real Estate

Mail Stop: 4120
1980 W. Broad Street
Columbus, OH 43223
(614) 466-7490

* Toll free numbers are for Ohio only

Map of ODOT District Offices





OHIO DEPARTMENT OF
TRANSPORTATION