

Answers to the Questions most often asked about...



Right of Way Acquisitions

North Carolina Department of Transportation

Why Is North Carolina Building More Highways?

For Economic Development North Carolina's economy depends on transportation. Our stability is vitally linked to a modern highway system. Through better highways, tourism and recreation are enhanced, merchant trade expands, markets are open to farmers and industrial and residential development are encouraged. The North Carolina Department of Transportation (NCDOT) wants to provide smarter roads into the 21st century.

For Your Safety The NCDOT is committed to safety—both on and off the highways. New or improved highways with better sight distance, wider driving lanes and easier grades enhance our lives and property. Good engineering is one of the most effective ways to improve safety on our highways.

Why Does the NCDOT Need My Property?

Modern highway engineering involves long-range planning to assure new highways will serve North Carolinians today and in the future. The coordinated efforts of planning personnel, Right of Way Agents, design engineers and traffic engineers are necessary to establish the location and design that will be of greatest benefit and safety to the public.

The final alternative selected takes into account the public's well-being, feasible engineering, safety and economic standpoints and the least amount of injury or inconvenience to the public.

A certain amount of private property must be acquired to provide North Carolinians with safer and more modern highways. When property is selected to be acquired, the facts obtained during the planning stages have shown no better location for the highway. The NCDOT seeks your understanding and cooperation in this manner.

What are the Steps Involved in the Highway Construction Process?

These are the essential steps in the construction of a highway:

1. Congestion and need established by the NCDOT.
2. Traffic studies and other planning conducted.
3. Alternate route studies collected.
4. Preliminary relocation studies collected and evaluated.

5. Environmental impact study prepared.
6. Preliminary engineering accomplished and public hearings held.
7. Location of corridor approved.
8. Design and detailed plans prepared.
9. Contacts made with property owners by Right of Way Personnel.
10. Real estate market studies, evaluations, appraisals and detailed relocation studies conducted.
11. Comprehensive appraisal and evaluation review by Right of Way Representatives conducted.
12. Negotiations begin. Needed property acquired by agreed settlement with owner. Relocation assistance is provided when applicable.
13. Payment made to property owner and title transferred.
14. Condemnation of property instituted, if necessary.
15. Appeals made, if necessary with regard to real property tax reimbursement.
16. Relocation of all persons required to move by right of way acquisition.
17. Appeals made, if necessary, with regard to relocation benefits.
18. Highway project advertised to contractors to submit their bids.
19. Bids reviewed by department members and contracts awarded by the North Carolina Board of Transportation.
20. Highway is constructed.
21. Highway opened for public use.

It takes up to seven years from the time planning begins to the time road construction starts.

What are the NCDOT's Responsibilities to Me or My Tenants?

The North Carolina Department of Transportation must:

- Treat all property owners and tenants impartially without regard to race, color, religion, sex or national origin.
- Fully explain an owner's legal rights.
- Pay just compensation in exchange for property rights.
- Furnish relocation advisory assistance, in accordance with federal and state regulations.
- Initiate legal action should a settlement not be reached.

When Will I Be Contacted Regarding Acquisition and Relocation?

When a route is selected and approved and the highway design is complete, all affected property owners are contacted by a Right of Way Agent. In many instances, this is the first official contact the property owner has with a representative of the NCDOT.

Right of Way employees are trained to explain plans and advise you how a proposed highway project will affect your property. The Right of Way Agent must get important information from you on the first visit. This information includes property history, accuracy of property lines and buildings as shown on the plans and property areas to make certain the property has been properly appraised or evaluated. The Right of Way Agent will also answer any questions concerning the right of way acquisition procedure and inform you of your legal rights.

If you are required to move from your property, you will receive a relocation assistance brochure which will explain any advisory assistance and payments you may be eligible to receive. The Right of Way Agent will explain the program and answer questions regarding your relocation.

Will I Receive A Fair Price for My Property?

In most cases, the NCDOT will have an appraisal or evaluation made on property affected by a highway project. The department employs both qualified staff and fee appraisers. The appraiser makes an independent and impartial appraisal based on an inspection of the property.

You will be given the opportunity to accompany the appraiser on this inspection. In making the appraisal, the appraiser investigates and analyzes recent sales of similar properties in the area. The appraiser also compiles and obtains information concerning building costs, rental values and all other necessary information to provide an accurate estimate of the fair market value of your property.

If the department needs only a segment of the property, the amount of compensation you will be offered is the difference between the fair market value of the entire property, immediately before acquisition and the fair market value of the remaining property immediately after the acquisition. If property is acquired in its entirety, it is the department's responsibility to pay full market value for the property to the owner.

Depending upon the complexity of the situation and the nature of the right of way acquisition, an evaluation may be made, instead of an appraisal, to estimate the fair market value of the property being acquired. This evaluation will involve an analysis of recent sales of similar properties in the area and will not require contact with you prior to the evaluation being made.

When the appraisal or evaluation is complete, Right of Way Representatives will make a complete review to make certain all elements affecting property value are considered and an accurate estimate of value is established.

Will I Receive A Written Offer for My Property?

An offer, the full amount of the approved appraisal or evaluation, will be made to you by a Right of Way Agent. The offer will be confirmed in writing along with the initial written purchase offer. This breakdown is helpful for tax purposes. You will be given a written statement which includes:

1. The amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and compensation for damages and benefits, if any, to the remaining real property will be separately stated.
2. A description and location identification of the property to be acquired.
3. An identification of buildings, structures and/or other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement will identify any separately held ownership interest in the property, for example, a tenant-owned improvement—and indicate that such interest is not covered by the offer.

Uneconomic Remnant An uneconomic remnant is the remaining piece of property with which you will be left that the department feels will have little or no value to you.

If the acquisition of only a portion of a property would leave you with an uneconomic remnant, the department will offer to acquire the uneconomic remnant along with the portion of the property needed for the project.

May I Appeal?

You will be reimbursed for all reasonable expenses incurred, such as recording fees, transfer fees, documentary stamps, the pro-rata portion of any prepaid real property taxes and penalty costs. Should you wish to contest the reimbursement for any of these items, you may file a written appeal no less than 60 days after receiving written notification of your claim.

What Must I Do to Reach A Settlement with the NCDOT?

If you accept the offer by the NCDOT and can clearly convey clear title, you may expect payment within 30 days from the time necessary documents are signed. It is your responsibility, however, to satisfy any outstanding liens and encumbrances on the property. These encumbrances are normally paid at the time the department's attorney or Right of Way Agent closes the transaction.

Usually, the Right of Way Agent handling your claim will secure a release from the lien holder prior to closing the claim when there is a partial acquisition of property. This procedure will enable you to receive early payment of the claim.

You are eligible to be reimbursed for a portion of your current real property taxes as well as certain eligible deferred or "recaptured taxes" pro-rated on time and value of the area acquired by the department. You should submit the paid tax receipts to the Right of Way Agent handling your claim. These receipts will be forwarded to the central Right of Way Office in Raleigh for pro-rating and payment. You also will be notified of an appeal procedure concerning real property tax reimbursement.

The sale of property for public purposes comes under the Internal Revenue Service (IRS) classification of "Involuntary Conversion." It is suggested that you contact the nearest IRS office to learn of the requirements in your case with regards to federal income taxes.

An advantage in reaching a settlement with the department is that you receive full prompt payment. You will not pay real estate commissions, title insurance, abstract costs or legal or appraisal fees unless you hire an attorney or appraiser.

When applicable, you will receive payment for moving expenses. In some instances, you will receive replacement housing payments as determined by state and federal regulations.

May I Retain Certain Buildings, Etc.?

If there are buildings and/or other improvements located on the land needed for right of way purposes, you will be given first option to retain these improvements.

You may keep the buildings and/or improvements considered as real estate at the appraised retention value and move them to another location of your choice. You may choose to move the buildings and/or improvements on remaining property outside of the right of way limits or you may choose to move the buildings and/or improvements to a site located away from the proposed highway project.

How Long Do I Have to Vacate Once the Property Is Acquired?

If you are displaced, you will be given a minimum of 90 days written notice to vacate the property from the time a right of way claim is closed and payment received or from the time the property is condemned.

What If An Agreement Is Not Reached with the Department?

It is the NCDOT's policy to make every reasonable effort to acquire property by negotiations. In the event the department is unable to reach an agreement with a property owner, a settlement will then be reached by the courts under Article 9 of Chapter 136 of the General Statutes of the State of North Carolina.

The department will institute the necessary court procedures in the county where the property is located. The department promptly will deposit the full amount of the estimated just compensation with the Clerk of Court when the condemnation proceedings are filed.

If at any time, after the action is instituted, you decide to accept the deposited amount in full settlement of the claim, you need to notify the Right of Way Agent negotiating your claim. The agent will see the action is terminated through the Attorney General's Office without cost to you.

If you wish to contest the compensation amount, you must secure the services of any attorney and file answer to the complaints filed by the department within one year from the date the summons is served. Title to the property within the right of

way passes to the department. The department then has the right of immediate possession on the date condemnation proceedings are filed.

If you are required to vacate your farm, home, business or nonprofit organization, you will have 90 days written notice to vacate from the time the condemnation proceedings are filed with the Clerk of Court in the county where the property is located. A tenant also will receive a 90 day written notice.

You must satisfy all liens and encumbrances against the property, whether the right of way claim is concluded by agreement or by court action.

What If I Have Additional Questions?

If you have any questions, please contact the Right of Way Agent who delivered this brochure. If relocation assistance is applicable to your claim, the Right of Way Agent will answer any questions you may have. This agent is more familiar with your specific claim. In his or her absence, the division Right of Way Agent will be happy to assist you. Contact information appears below.

Name of Right of Way Agent delivering this brochure:

Date: _____ Phone: () _____

Division Right of Way Office:

_____ Address

_____ Phone: () _____

_____ City / Zip Code

Name of Division Right of Way Agent:
