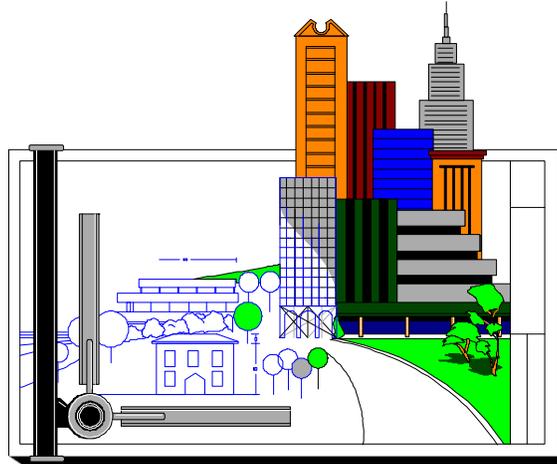


The Mayor and City Council of Baltimore City

Presents



Your Land and Your Highways

Your Rights and Benefits Guide

- *Property Acquisitions*
- *Property Appraisals*
- *Condemnations*
- *Minor Adjustment Agreements*
- *Right of Entry Agreements*
- *Easements*

Purpose:

The purpose of this manual is to provide the citizens of Baltimore City and the City of Baltimore, Department of Transportation, Right of Way Services Division, Right of Way Section, these Operating Guidelines for the function of acquiring Real Property for use in Public Works and Transportation Projects for the public welfare.

The Right of Way Section is responsible for property acquisition, appraisal, condemnation, minor adjustment agreement, right of entry, and easement processes. The City of Baltimore Agency that needs Real Property for their project contacts the Right of Way Section to begin the process.

To The Property Owner:

The City of Baltimore has prepared this booklet as your guide to the right-of-way process. Inside you will find information about your rights as a private property owner, as well as an explanation of the procedures used by the Department of Transportation to purchase land and buildings for a public project.

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

We hope you find this booklet useful and informative for your needs.

If there are any questions, the Right of Way Section Supervisor may be of assistance:

Department of Transportation
Right of Way Services Division
Right of Way Section
200 North Holliday Street, Room 204
Baltimore, Maryland 21202

Attention: Supervisor, Right of Way Section

Phone: 410-396-3667

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Why are 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 the improvement of our highway system through the construction of new roads or the upgrading of existing roads.

These improvements are planned to fit into the City of Baltimore's overall transportation and public works plan. The Maryland Department of Transportation's State Highway Administration (SHA) works closely with local, State and Federal officials in developing these plans. The City of Baltimore Agency that needs Real Property for their project schedules the public hearing or community meeting(s). Staff from the Right of Way Section typically does not attend these. Public hearings and community 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 City of Baltimore has the right to acquire private property for public purposes. This process is commonly known as **eminent domain (condemnation)**. This is not a right that is exercised lightly by the City of Baltimore and it is limited by your rights as guaranteed by those same documents. The U.S. Constitution states that no citizen may be deprived of their property without the payment of just compensation. The City of Baltimore, State and Federal laws also define how the just compensation is determined and how the acquisition process is conducted.

THE PROPERTY ACQUISITION PROCESS

Pre-Negotiation

The earliest steps in this process concern determining the amount of land that may be needed for the new improvement and its impacts on the adjacent properties. The Right of Way Section is usually brought into the Transportation or Public Works Project plan review at the 30% Preliminary Design Stage. Pre-Negotiation activities include reviewing the construction plans and determining which property(s) will be affected by the construction. During this period, soil tests may be conducted, surveys are made to set the property lines and Title information is gathered. Plats may be requested to be prepared by the Department of Transportation Survey Computation Section, or by an engineering firm. The property owner is to be contacted before anyone goes onto their property for either the soil tests or the survey. The gathering of title information is done at the courthouse from the public land records.

If your property is affected by the project improvement, you will receive an **introductory letter** from the City of Baltimore through the U.S. mail advising you of the project. A plat may be included with this letter. The introductory letter will include information about the project and inform you that a real estate appraiser will be in contact with you to visit the site and appraise the parcel needed (in some instances the appraiser may attempt to visit the site prior to the introductory letter being mailed).

Appraisal

Before the start of negotiations, where the amount of compensation is discussed, the City of Baltimore will have the property it intends to acquire appraised by a qualified real estate appraiser. The appraiser will notify you before they inspect the property and ask if you would like to accompany him 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, once notified.

When the appraisal is completed, it is then submitted to the City of Baltimore Department of Real Estate. These professional review 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 advise the Real Estate Agent to make an offer, as Policy the Mayor and City Council of Baltimore offers the highest approved value/just compensation. 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 to the remainder. This amount is then given to the Real Estate Agent in the Right of Way Section to offer to the property owner.

Title Services

The Right of Way Section will hire a private consulting firm to provide complete Title services for property ownership identification and verification. These firms are pre-approved by the City of Baltimore Department of Real Estate as to their capabilities. Titles are not obtained for easement acquisitions. Ownership of the property is verified by the City of Baltimore Department of Transportation Right of Way Services Division Property Location Section and the Maryland State Department of Assessments and Taxation records.

Negotiations

The Real Estate Agent will forward to the owner of record all the material and documents necessary to complete the property acquisition. If there are co-owners to the property, they should also be present when the agent visits to discuss the offer. Please notify the Real Estate Agent if you retain the services of an attorney or other third party. The negotiations will then be carried out with your representative. If applicable and under certain circumstances the negotiations may be carried out by mail or other means.

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

As Policy of the Mayor and City Council of Baltimore, two (2) independent appraisals are conducted. Once the appraisals have been reviewed and approved, the Right of Way Section offers the highest value to the property owner. If the appraisal shows that the acquisition will cause damage to the remainder of a business as to **render** or cause the company to go out of business, the City of Baltimore Department of Housing and Community Development (HCD) will assign a relocation agent to assist (see Relocation Assistance section below).

After the acquisition and the offer are explained, you may be asked to sign a Standard Highway Option Agreement ("Option Agreement", also known as a Standard Right of Way Agreement), Minor Adjustment Agreement, Right of Entry Agreement, or an Easement Agreement, which can be permanent or temporary for construction. These terms are explained in this document. Most of the paperwork for these are prepared by the Right of Way Section's Real Estate Agent, which are used to secure the funds and complete the transaction.

Once an Option Agreement, Minor Adjustment Agreement, Right of Entry Agreement, or Easement Agreement, is signed, it is processed for acceptance by the City of Baltimore. 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** (if required). 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 City of Baltimore pays for the preparation of the deed and any other expenses associated with the recording of the deed. The Real Estate Agent will remain in contact with you to answer any questions or concerns that may arise. The agent assigned to the project shall keep a formal negotiating record in accordance with these guidelines.

Once the transaction is completed, a Form 1099 may be issued to you 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.

Settlement

If the property owner approves the document for the City of Baltimore to acquire their real property (usually a small parcel), the agent assigned to the project prepares all necessary documentation and forwards it to the Board of Estimates. The agent will arrange the necessary times for settlement. Once the documents are returned from the Board of Estimates, the Right of Way Section requests a check and forwards it to the property owner for easements. For an Option Agreement, the settlement is scheduled, the Title company arranges for the preparation of the deed, and settlement takes place. The deed is then recorded and the property owner is justly compensated.

Ordinance

If the property owner does not agree with the offer from the City of Baltimore and all negotiations reach an impasse, then, with the Right of Way Section Supervisor's approval, the Real Estate Agent has the City's Survey Computation Section prepare an Ordinance to acquire the parcel(s). A copy of the Ordinance is then forwarded to the Office of Legislative Affairs to have it introduced to the Baltimore City Council. Prior to City Council introduction, the Ordinance will have a Planning Commission Hearing at the Department of Planning, at which time all affected property owners will have an opportunity to voice their opposition. If the Ordinance is found acceptable to the Planning Commission for a Hearing, a date is scheduled to have the Ordinance introduced to City Council.

Once the Ordinance is introduced to City Council, it will be read three (3) times prior to final approval. After the first reading at City Council, the Ordinance is forwarded to various agencies for their review and comment. At this time, questions and review comments are received from the review agencies. The questions are answered and comments are addressed for the second reading at City Council. The Ordinance is then resubmitted to the various agencies for final review. After the third reading at City Council, Mayoral approval is obtained. A request is then forwarded to the Law

Department to approve the condemnation. The approved compensation for the property owner is placed in escrow. The Title Report is prepared and court dates are scheduled. If the judge approves the condemnation, the property transfer takes place and the project is allowed to proceed.

If a condemnation is not approved for any reason, the project scope can get revised to reduce or eliminate the private property impact, or the project could get cancelled altogether.

Option Agreement

A Standard Highway Option Agreement (“Option Agreement”, also known as a Standard Right of Way Agreement) is used for the acquisition of real property. Property needed for highway projects is identified when reviewing construction plans. Plats are requested and reviewed. An introductory letter is mailed to the owner of the property explaining the project and always must include these guidelines and procedures, “**Your Land and Your Highways – Your Rights and Benefits Guide**”. Two (2) appraisals are ordered and the same procedures are followed as they are for easements (see below). An offer letter and six (6) copies of the Option Agreement are sent to the owner. Refer to these guidelines for additional information. After the Option Agreement is approved by the Board of Estimates, the title work is ordered from a title attorney that has been pre-approved to do title work for the City of Baltimore. The title work, once completed, is reviewed by the City’s Law Department. Once approved by Law, the **settlement** can take place.

Alternate Methods of Acquisition

If an impasse in negotiations is reached, an alternative method of acquisition will be used. The Transportation and Real Property Articles of the **Annotated Code of Maryland (COMAR)** provide the following three alternative legal processes. Even if one of these processes is instituted, an agreement or understanding may be reached and an Option Agreement may be signed, ending the legal action.

1. The Real Property Articles in COMAR describe the procedures for regular condemnation proceedings. In this process, the Mayor and City Council of Baltimore files **condemnation proceedings** against the property. However, 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 rarely used by the City of Baltimore.
2. The next alternative method is the “**Quick Take Condemnation.**” Under this procedure, the Mayor and City Council of Baltimore post its estimate of just compensation with the Court at the same time the condemnation petition is filed. This makes the posted funds immediately available to the property owner without prejudice to their case and allows the City of Baltimore to take possession of the needed property.

- The case will then be heard by Courts within the jurisdiction the property is in. The Court will then render its decision. This decision may be appealed by either side. If the judge approves the condemnation and 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.
3. The final alternative method under the COMAR Transportation Article is "**Immediate Entry Condemnation by Commission, Direct Trial Procedure.**" This procedure again requires the City of Baltimore to post its estimate of the just compensation with the Court. These funds are again 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 may issue an **Inquisition**, transferring title of the property to the City of Baltimore and setting the just compensation to be paid for it. This process is normally used when improvements are to be acquired, a Board of Estimates award was appealed, or the owner requests the Board of Estimates be by-passed.

Donations

You may also donate the needed property to the City of Baltimore. This involves waiving your rights to compensation, but it may provide some tax advantages. Your accountant, attorney or tax preparer, should be consulted to determine the extent of the advantages to you.

Under certain circumstances, the City of Baltimore may request donations of the needed property in order to construct the project.

Minor Adjustment Agreement

Minor Adjustment Agreements are used for minor work along the private property line, such as sidewalks, driveway entrances, etc., where it is necessary to do construction work in order to complete a Transportation or Public Works Project. These Agreements do not require Board of Estimates approval. Three (3) copies of the Minor Adjustment Agreement with a letter explaining the project is sent to the property owner(s). A copy of the construction plan showing the work to be performed should accompany the Agreement. The letter must include a paragraph advising of the owner's **Federal property rights**. A copy of the Minor Adjustment Agreement is given to the City's Project Manager, a copy returned to the property owner, and a copy is kept on file at the Right of Way Section.

Right of Entry Agreement

Under certain circumstances you may be requested to grant the City of Baltimore a right of entry by signing a Right of Entry Agreement. This agreement allows the City of Baltimore the right to enter onto your property to perform the necessary work. These Agreements are most often used on streetscape projects and to perform maintenance activities, where the construction activities can spill over onto your property. Three (3) copies of the Right of Entry Agreement are sent to the property owner with a letter of explanation of the project. This Agreement will contain an indemnification clause and therefore will need to go to the Board of Estimates for approval.

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 City of Baltimore to perform the needed work while compensation negotiations continue.

Temporary Construction Easement Agreement

A Temporary Construction Easement is used when the work needed for Transportation or Public Works Projects is for longer periods of time and may require construction equipment and vehicles to be stored on private property. An introductory letter is sent to the owner. If applicable, two (2) appraisals are then ordered. A survey plat is prepared by the engineering firm or the City's Survey Computation Section. Three (3) copies of the Temporary Construction Easement Agreement with an exhibit and letter with an explanation of the project is sent to the property owner. Once received, the appraisals (usually two (2) independent appraisals are conducted) are reviewed by an appraiser at the City's Real Estate Department for accuracy and the highest value is used. An offer letter and three copies of the Temporary Construction Easement Agreement are sent to the owner. Once signed by all parties, the Agreement is taken to Capital Funding to be stamped and then is sent to the Board of Estimates for final approval. Once approved by the Board of Estimates, a check is ordered. The check and copy of the executed Temporary Construction Easement Agreement is sent to the property owner.

Permanent Easement Agreement

A Permanent Easement Agreement is different from a Temporary Construction Easement Agreement in that it is perpetual. Examples of a permanent easement are the installation of a utility or re-grading of a slope on private property. The same procedures outlined above for a Temporary Construction Easement Agreement are followed. Once the easement plat has been prepared and approved, that plat is given a Right-of-Way number (RW - #) and R3 number, by the office of Right of Way Services

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 City of Baltimore's **Department of Housing and Community Development (HCD)** negotiator or another representative from the City of Baltimore 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 the Right of Way Section. 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 Right of Way Section Supervisor immediately.

Equal Opportunity Statement

It is the policy of the City of Baltimore 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 City of Baltimore program areas funded in whole, or in part, by the Federal Highway Administration. This policy has been 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. The City of Baltimore will not discriminate in the selection, or retention, of consultants and contracts whose services are retained, or are incidental, to the planning and construction of highway projects. The City of Baltimore will not discriminate in the acquisition of right-of-way or in the provision of relocation advisory assistance. Furthermore, neither the Department of Public Works nor the Department of Transportation will locate, design or construct a highway in such a manner as to deny reasonable access to, or use thereof, 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 **U.S. Department of Housing and Urban Development (HUD)**, 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 the City of Baltimore in the conduct of highway project activities may file such a charge with the **Chief of the Equal Opportunity Office**, 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 the City of Baltimore's Equal Opportunity Office.

Contacts:

Right of Way Section

200 North Holliday Street
Room 204
Baltimore, Maryland 21202
410-396-5023

Department of Transportation

Director
Charles L. Benton, Jr. Building
417 East Fayette Street
5th Floor
Baltimore, Maryland 21202
410-396-6802

Department of Real Estate

Real Estate Officer
3rd Floor
City Hall
100 North Holliday Street
Baltimore, Maryland
410-396-4764

Law Department

City Hall
100 North Holliday Street
Suite 101
Baltimore, Maryland
410-396-3297

Department of Public Works

Director
600 Abel Wolman Municipal Building
200 North Holliday Street
Baltimore, Maryland 21202
410-396-3310

City of Baltimore Equal Opportunity Office

Sandra Byrd
417 E. Fayette Street
5th Floor
Baltimore, MD 21202
410-396-6855

U.S. Department of Housing and Urban Development (HUD)

Baltimore Field Office
10 South Howard Street
5th Floor
Baltimore, MD 21201
410-962-2520