When the County Needs Your Property... A Right-of-Way Road Map

Acquiring public right-of-way can be a tough road to travel...

We live in one of the fastest-growing counties in Washington. As Thurston County's population grows, we've got to keep pace by improving outdated and unsafe roads, replacing old bridges, and upgrading the county road system.

In some cases these improvements can be made in the existing county right-of-way. In other cases the county needs to purchase more land from people who live along the existing or proposed road.

We wish that we could improve our county's road system with no impact or inconvenience to any of our citizens. Unfortunately, the best we can do is to work closely with you to lessen the impacts and give you fair market value for your property.

We hope this right-of-way "road map" will help you understand how road projects are developed and what happens when the county needs your property. We encourage as much participation from you as possible to make sure that both your and our needs are met.

If you have any questions or concerns, please call us at (360) 867-2300 Callers with hearing impairments may call the county's TDD line at 711 or 1-800-833-6388. We want to make the road ahead as smooth as possible.

STARTING OUT

What is Right-of-Way?

Right-of-Way is publicly owned land for transportation purposes. The public owns right-of-way along much of the county's road system. However, in places where there is no right-of-way or there isn't enough room for improvements, the county often purchases more land.

Why do you need my property?

As Thurston County's population continues to grow, the number of vehicles using county roads increases. Many of our roads are old trails or horse and buggy roads that follow the existing contours of the land. The sags, dips and curves in these roads are hazardous to the growing numbers of drivers and pedestrians using them.

Other road problems that need attention include:

No shoulders for emergency use and pedestrian or bicycle traffic.
Steep ditches with no recovery zone for vehicles.
Obstacles such as vegetation, power poles and signs too close to traffic lanes.
Narrow underpasses.
Old, narrow bridges made for horses and buggies, not cars and trucks.
Flooding caused by poor drainage.

Busy intersections without signals or turn lanes.

How much right-of-way will you need?

The county begins a road improvement project by carefully examining the proposed site -- studying traffic and accident histories, testing the soil, surveying the surrounding area, identifying potential environmental impacts, and weighing the costs of different designs. A right-of-way plan is developed after considering these factors and talking to property owners at a public information meeting. To minimize the impact on you and the costs to taxpayers, the county tries to acquire as little land as possible.

Will I have a chance to comment on the right-of-way plan?

Yes. The county will present a right-of-way proposal to property owners. All potentially affected property owners are notified and encouraged to comment on the right-of-way plan.

SITES ALONG THE WAY

How will you determine my property's worth?

The county will arrange to have your property appraised to find its "fair market value" -- that is, the amount of money that would be paid for the property by a willing and informed buyer, who does not have to buy, to a willing and informed seller, who does not have to sell. The appraisal is based largely on the sales of similar nearby properties.

Who does the appraisal?

Your property will be appraised by the county or a state-certified appraiser hired by the county. In both cases the appraiser is a professional with considerable training, experience and knowledge of property sales in your area.

Can I talk to the appraiser?

Yes. We encourage you to give the appraiser any information that might have a bearing on your property's worth. The appraiser will tell you when he or she expected to visit your property and will try to schedule the inspection when you will be there. Appraisers are trained to know what to look for, but without your help and cooperation, it is possible to overlook an important item.

What will the county pay for?

Compensation may include the fair market value for land, buildings and other improvements to the property being purchased. It also may include any loss in fair market value (damages) on any portion of the property that remains. If the remaining portion of property is too small or of such a shape that it has little or no value or utility, it is called an "uneconomic remnant." The county will offer to buy this remnant from you.

How will the county make its offer?

A county right-of-way agent will deliver or mail you a written offer for your property. The agent will then work with you to answer any questions about the offer.
What happens if I accept the county's offer?

The agent will handle all the details of the sale, including preparing the deed and real property voucher, and clearing title to the property. You may meet with the right-of-way agent several times to prepare and sign all the necessary documents.

As with any property sale, this process can be lengthy and confusing. Please call the agent whenever you have questions about the sale. The agent's job is to handle your concerns and help the purchase happen as smoothly as possible.

Who pays the selling costs?

When the county buys your property, we pay all the costs of the sale, including the recording and escrow fees, the title insurance premium and other normal expenses. You will not pay a real estate commission. If you sold to a private buyer, the closing costs and commission could lower your profits on the sale of your property.

When will I receive the money?

Payment is usually made within 30 days after the title is cleared. Thurston County Public Works will send you a check, which is processed through the county Auditor's Office. The county cannot become the legal property owner until payment is made.

Will I have to pay capital gains tax on the profits?

You will be required to provide information on the transaction to the county so that we can complete IRS Form 1099-S. Because tax laws change frequently, we recommend that you check with the Internal Revenue Service, a tax consultant or your attorney about current capital gains tax laws.

CURVES IN THE ROAD

What if I have to move?

In the few cases where a county road project requires someone to move, Thurston County follows the state and federal guidelines for relocation assistance. We will contact a representative of the Washington State Department of Transportation's Relocation Section to help you. Please call Thurston County Public Works (360) 754-4998 for a brochure on the state's Relocation Assistance Program.

What if I feel the county's offer is too low?

Explain to the right-of-way agent why you believe that you should receive a higher settlement. Point out any items of value that you think the appraiser overlooked.

The agent will give you the opportunity to get your own appraisal or ask someone with knowledge of real estate values to help evaluate the county's offer. As per RCW 8.25.020, the county will reimburse you for up to $750 of the evaluation cost, upon presentation of the bill or paid receipt.

After reviewing the evaluation and the information that supports it, the county right-of-way agent may give you a revised offer.

Can I prevent my property from being acquired?

Our state constitution grants counties the right of "eminent domain," or the right to acquire property for public use upon payment of "just compensation." Without this right, the county could not meet public needs for roads and other public facilities. However, the county must prove to the court why your property is needed for a public purpose, and the county will fairly compensate you
for the property that you give up.

What if we can't agree on a price?

The law safeguards you, as the owner, from receiving less than the fair market value for your property. But it also prevents the county from making payments that would be unfair to the taxpayers funding the project.

If the county cannot agree with you on a purchase price, a legal action to acquire the property by eminent domain will be filed.

What happens if I go to court?

We recommend that you hire an attorney familiar with eminent domain to represent you. You also may employ expert witnesses to support your position. The Thurston County Prosecuting Attorney's Office will represent the county.

Trials are normally held in Thurston County Superior Court and are tried before a jury, unless you waive the right to a jury trial. The verdict is binding on both parties unless there is a valid basis for an appeal.

Can I recover any of the trial costs?

Under certain conditions, the court may set an amount that the county must pay to reimburse a property owner for attorney and witness fees. Generally, to receive such an award, the owner must grant immediate possession and use of the property and receive a verdict that exceeds by 10 percent or more the highest offer made by the county at least 30 days before trial. You should consult with your attorney before the trial about recovering attorney and witness fees.

THE END OF THE ROAD

This "road map" gives an overview of the right-of-way acquisition process. It can be a long and complicated journey, and we encourage you to ask questions and get more details about how this process applies to you and your property. For more information, please contact our Real Estate Services division, at 360-867-2300.