

# BROWNSTONE

## Representing Land & Business Owners in Eminent Domain

### IMPORTANT PRE-CONDEMNATION MATTERS

#### PD&E STUDY

##### Project Development & Environment

PD&E study provides cost estimates and environmental impact of project. Government Right of Way team provides resources to help planners or consultants find pond sites and talk to property owners. The Right of Way cost estimators provide comments and suggestions for cost saving opportunities. The Right of Way project file is started.

#### DESIGN

Government Design Teams initiate a formal design process. The production schedule requires meetings of the multifunctional teams at 0%, 30% and 60% Design.

The government design teams include PD&E, Cost Estimates, Design, Survey & Mapping, Utilities, Right of Way, Eminent Domain, Maintenance and Construction. Representatives from local governments and utility companies impacted by the project are invited and given the opportunity to have influence in the design process. A standard agenda includes project overview, technical design issues and right of way issues. The Government Right of Way has a full time employee assigned to support project development and design. The employee attends all design team meetings, reviews construction plans, contacts landowners, obtains rights of entries for environmental assessments and works with the design consultants and project managers to identify and resolve right of way issues.

#### CERTIFICATION

The Right of Way team meets with the construction team to share information on the project, parcels that settled, conditions of the agreements, and issues being litigated. *Construction begins.*

#### PUBLIC MEETING

The government Right of Way team participates in public information meetings. Agents answer landowner questions about the acquisition process, relocation eligibility and project schedule. Brochures and other informational materials are distributed. The government provides understanding of the project prior to the start of the right of way phase. The goals of early involvement in the public meeting are: Identification of advance acquisition opportunities; Better initial design and fewer design changes later in the process; Wetlands and contamination issues resolved early; Early resolution of right of way issues (access, water retention pond locations, driveway impacts, improvements); Identification of difficult relocation cases; Awareness of commitments made to landowners and local governments.

#### RIGHT OF WAY

The government acquires right of way by appraisal, acquisition, eminent domain and property management team effort. Four months prior to the scheduled delivery of maps and documents, a Right of Way team is assembled on every project. The team assumes full responsibility for management of the project including: (i) Development of a comprehensive right of way schedule; (ii) Selection of fee appraiser/general consultant (acquisition/legal/appraisal participation); (iii) Identification of parcels for appraisal waivers; (iv) Field trips – Agents, appraisers, reviewers, general consultants, attorneys; (v) Data Book Meetings – Team meets at data book delivery to review values and appraisal approaches before final reports are completed; (vi) Funding – Tracking of right of way cost estimates against parcel settlements; (vii) Negotiation strategy – Appraisers, agents & attorneys decide value of property; (viii) Risk management decisions on minor title issues; (ix) Right of Way clearing meeting and demo plan is developed; (x) Best & final offer meeting – Best offer made during negotiations. Litigation strategy developed.

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