

Highway Occupancy Permits

Agenda

- Release Process
- Indemnifications
- Security
- Expedited Review Process
- R/W Process
- Design Waivers

Action Plan

Team	Action	Date
Mitigation	Link HOP to Smart Transportation	9-9-08
Mitigation	Releases and Security	2008
Timely	HOP Expedited Reviews	2008
Mitigation	TIS Guidelines	2008
Mitigation	Indemnification	2008
Mitigation	R/W Requirements	early 2009
Mitigation	Design Waiver	early 2009
Local	Local Inclusiveness	early 2009
Timely	Consistency	mid 2009
Timely	HOP Web Site	mid 2009
All	Outreach/Education	ongoing

Release Process

M-950 R (2-04)
PENNDOT

**AGREEMENT OF RELEASE
(Consequential Damages Free Release)
Interference with Access (Section 441.8(d)(j)(m) & (n))**

County	
Municipality	
SR-Segment-Offset	
Application/Permit No.	
Applicant/Permittee	

THIS INDENTURE, made this _____ day of _____, 20____,
by _____

_____ owner(s) of property affected by the construction or improvement of the above mentioned State Route (SR) pursuant to the above referenced application/permit, their heirs, executors, administrators, successors and/or assigns, hereinafter, whether singular or plural, called the OWNER, which property is described on Exhibit A, title to which is evidenced by a deed dated _____, and recorded in the Office of the Recorder of Deeds of _____ County in Deed Book _____, Page _____, and the Commonwealth of Pennsylvania, Department of Transportation, hereinafter, whether singular or plural, called the COMMONWEALTH,

WITNESSETH:

In consideration of the benefits accruing to the above OWNER as a result of the aforesaid construction, the OWNER does hereby remise, release, quitclaim and forever discharge the COMMONWEALTH its agents, employees and representatives of and from all suits, damages, claims and demands of any type arising against it as a result of granting of the permit to permittee including any claim which the OWNER might otherwise have been entitled to assert under the provisions of the Eminent Domain Code, Act of June 22, 1964, P.L. 94 as amended (26 P.S. 1-101 et. seq. as amended), for or on account of any injury, destruction or interference with access to the aforesaid property of the OWNER through or by reason of the aforesaid construction or improvement under the above referenced application/permit.

Release Process

- Department needs to balance the rights of an applicant and the rights of those property owners who will be impacted by permit work.

Release Process

Sections of Regulations which address property owner rights:

- Chapter 441.8(d)
 - Radius in front of adjacent property
- Chapter 441.8(j)(5)
 - Auxiliary lane
- Chapter 441.6(4)(i)
 - Median barriers, new signalization, taper at end or beginning of auxiliary lane limits turning movements

Release Process

Proposed Process

- Clearly defined process.
- Provide consistency.
- Improve timeliness of reviews.

Release Process

3 situations that can occur:

- 1) Existing driveways that are impacted by permit work, but need not be reconstructed or have turning movements restricted
- 2) An auxiliary lane will be located along property frontage at which there is no existing driveway.
- 3) Existing driveways that must be reconstructed or have turning movements restricted due to permit work.

Release Process

- 1) Existing driveways that are impacted by permit work, but need not be reconstructed or have turning movements restricted.
- 2) An auxiliary lane will be located along property frontage at which there is no existing driveway.
 - Need to obtain a release.

Release Process

- 3) Existing driveways that must be reconstructed or have turning movements restricted due to permit work.
 - Impacted landowner should apply for a permit.

Release Process

- Does not apply to:
 - When additional land is required from impacted property (permanently or temporarily).
 - Properties within the auxiliary lane's taper/transition area in which an existing driveway is not being modified or there is no existing driveway.

Release Process

If a release or application can not be obtained, applicant must explore remedies to mitigate the adverse impact through an engineering study.

Release Process

Engineering study of alternatives w/conclusions and recommendations (Stand-alone document).

- One of three conclusions must be recommended:
 1. Design modified to eliminate impact (no further action required).
 2. Design modified to mitigate but not completely eliminate impact (attempt to obtain release or application again).
 3. No mitigation is feasible (A determination must be made on whether impact may give rise to a condemnation claim for unreasonable interference with access).

Release Process

- If determined that interference with access is not unreasonable, the Department will request Indemnification from applicant.
- If determined that interference with access is potentially unreasonable, Department should request a loss assessment or appraisal.

Release Process

- Applicant shall share proposed alternative plan and/or compensation offer with impacted property owner after Department reviews.
- Attempt to obtain release or application again.
- Alternatives proposed by impacted owner should be considered and documented.

Release Process

- Unless interference with access is unreasonable, and Department determines that reasonable mitigation and/or offers of compensation have been unreasonably rejected, the Department will request the applicant to indemnify.
- Prior to issuance, notify property owner of intent to issue permit.

Release Process

Questions?

Indemnification

3 circumstances that may require indemnification under Chapter 441:

- Impacts to other properties
- LOS/Design Waivers
- Drainage Release

Indemnification

- Why?
 - To protect the Department from liability relating to the specific matter under consideration.

Indemnification

Creation of 3 separate forms:

- M-950 IA
- M-950 IDW
- M-950 ID

Indemnification

M-950 IA & M-950 ID

- Considering Personal Guarantee/Covenant Running w/ Land on a case-by-case-basis
 - District decision, not OCC
- Time limitations (6 years)

M-950 IDW

- Considering Personal Guarantee/Covenant Running w/ Land on a case-by-case-basis
 - District decision, not OCC
- Time limitations (Until deficiency corrected)
- Design Waiver will be attached as Exhibit

Questions?

Security

- If security is required as part of a driveway/local road permit, Letter of Credit is required.
- Other security permitted if compelling reasons are justified.
- Will now accept a non-PA Bank.
- Revised M-950 L & M-945 L.

Expedited Review Process

- Priority reviews
- Fast turn-around time
- Bill for cost of the review

R/W

- Department will not condemn
- County & municipality have condemnation rights
- Clarify R/W plan & acquisition requirements

Design Waivers

- Provide clarification on process
 - Formalize
 - Attached to I.A.

Questions?

Contact Information

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