

# **Right of Way and Utilities**

**A Guide for  
Property Owners  
And Tenants**



**The Virginia Department of Transportation**

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## COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
1401 EAST BROAD STREET  
RICHMOND, 23219-2000

Dear Property Owners and Tenants:

From time to time, it is necessary for the Commonwealth of Virginia to acquire private property. This is an essential part of securing a safe and effective transportation system for all Virginians.

This brochure has been created in order to assist those citizens affected by the Virginia Department of Transportation's Right of Way process. Relocation can be stressful and disruptive, but we here at VDOT are striving to ensure that all property is obtained at fair market prices and that the transition is as smooth as possible.

Sincerely,

A handwritten signature in cursive script, appearing to read "Philip A. Shucet".

Philip A. Shucet  
Commissioner

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## **INTRODUCTION**

The Virginia Department of Transportation (VDOT) is responsible for building and maintaining the Commonwealth's transportation system. Transportation improvements bring many advantages to an area - ranging from shorter commutes to increased business activity.

To accomplish this, it is often necessary to acquire land from private property owners.

Private property rights are protected by both the Virginia and United States Constitutions. VDOT respects these fundamental rights and is committed to treating all customers with fairness and respect.

VDOT recognizes that the acquisition and relocation process can create serious inconvenience, stress and disruption for citizens. The department does its best to ensure that the property is obtained at fair market prices and that VDOT representatives work with property owners and tenants to make the transactions and transitions of the move as smooth as possible.

This brochure will provide you with information about VDOT's process of acquiring rights of way for public improvement projects.

In it you will find information on public hearings, the valuation process, negotiations between you and the right of way agent, what happens if you refuse the state's offer to buy, and how the state will assist you if you have to move.

In the back of this brochure, you will find the addresses and phone numbers of VDOT district offices. The district right of way and utilities managers will be glad to assist you in any way possible.

## **HOW WILL I BE INFORMED OF A TRANSPORTATION PROJECT?**

Public hearings are held for many transportation projects. At these community meetings, VDOT representatives will answer your

questions and provide information and maps on the proposed construction.

You will have a chance to voice your opinions about the construction and to propose alternatives or changes.

After the hearing, you will have 10 calendar days to provide comments and/or written documents about the project.

All information received at and after the hearing will be carefully reviewed by VDOT. A report will be given to the Commonwealth Transportation Board, which will make a decision to continue, modify or abandon the project.

You should be able to get an idea about how the project will affect you and your family.

VDOT decides whether to hold a hearing based on public interest and the magnitude of the project. If a request for a public hearing is received, notice of time and place of the hearing will be posted as a retail display in your local newspaper thirty days prior to the hearing date. A Notice of Willingness may be used to satisfy the public hearing requirement for projects with minor improvements.

When a Notice of Willingness is posted and no request for a public hearing is received, a right of way agent will contact you at some point to answer your questions and explain the planned road improvement.

### **WHAT IS THE ACQUISITION OFFER BASED ON?**

You will receive the fair market value for any property, including land or buildings, required to build the project.

To determine fair market value, a qualified individual values your property, using the best information available. They consider recent property sales in your community and neighborhood, as well as building costs and land values.

You may want to point out any unusual features of the property or to provide information you think may help determine its value. You will be provided the opportunity to accompany this individual on their visit to your property.

Once the valuation is completed and approved through an independent review process, negotiations are ready to begin. You will be provided with a copy of the approved value document.

### **HOW ARE NEGOTIATIONS CARRIED OUT?**

Negotiations are a crucial stage in the acquisition process and successful communication is essential.

You may initially be contacted by mail, but a VDOT representative will always offer to arrange a personal visit with you to explain the project and the amount of property required, along with any permanent or temporary easements. These easements allow utilities to use a certain amount of your property to construct their facilities which must be relocated or for the department to build sidewalks, slopes or storm drainage. The negotiator will tell you the amount of the property value offer and discuss how it was determined.

If you have any questions about what is being acquired, how much compensation is offered, and how the construction will affect the rest of your property, do not hesitate to ask the negotiator.

You will have time to consider the offer, and the negotiator will contact you again to discuss the offer and answer any questions.

### **WHAT IF I DECIDE TO ACCEPT VDOT'S OFFER?**

If you decide to accept the offer, you will be asked to sign a binding agreement between you and VDOT, called an "option."

The option commits you to sell your property for the amount of the offer and commits the department to pay you that amount.

You will be expected to sign the deed when the check is delivered.

If there is a mortgage on the property, additional time may be required to contact your lender and secure a release to be sure your rights are protected before payment can be made by VDOT.

### **WHAT HAPPENS IF I CANNOT ACCEPT THE OFFER?**

State law recognizes your right to refuse the purchase offer and to have the value of your property established by the courts.

The law also allows VDOT to acquire a property even when agreements cannot be reached, so that development of the project can continue. The right of a government to take private property for public use is called "eminent domain."

If you refuse the state's offer, VDOT files a legal document called a "certificate" with the circuit court in your county or city, indicating the need to obtain your property for project construction.

This allows VDOT to go ahead with the project. The state's offer will still be available through the court, provided you have clear title to the property. Negotiations between you and VDOT do not end and should continue in efforts to reach a settlement.

If a settlement still is not reached, the attorney representing VDOT will initiate legal proceedings necessary to allow you to present evidence as to the value of your property and any losses which you feel will occur due to the project.

After hearing testimony and viewing the property, the court will establish a value binding to you and VDOT. Either side may appeal if a legal error has been made or if the award is deemed unacceptable by the judge.

Eminent domain, or condemnation proceedings, can have benefits:

### **For you:**

- You have additional time to consider the offer.
- By petitioning the court, you could get your money while negotiations continue if you have clear title to the property.

### **For VDOT:**

- The project continues on schedule.
- There is more time to review the owner's expectations.

While condemnation proceedings may be necessary, mutual agreement is preferred.

## **WHAT IF I HAVE TO MOVE BECAUSE OF THE PROJECT?**

Unfortunately, transportation facilities cannot always be routed around homes, businesses, farms or non-profit organizations. It may be necessary for you to move, but state and federal Relocation Assistance Acts have been established to minimize any inconveniences caused by relocation. Once negotiations begin for the property that you now occupy, you will receive a notice from VDOT giving an assurance that you will not have to move for at least 90 days. A final notice to vacate will be issued at least 30 days prior to the date you will be required to move.

## **HOW WILL VDOT ASSIST ME?**

For those who must move, VDOT offers the following services:

- Assistance in determining your needs and preferences.
- Information on properties available for rent or sale.
- Help with inspecting your proposed replacement home, assessing required housing standards, and determining whether the home meets state and federal guidelines.
- Transportation to replacement properties if necessary.
- Information on other federal and state programs which offer assistance to those who are eligible (low income housing, social services, Small Business Administration).

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## HOW WILL I FIND A NEW HOME?

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VDOT's goal is to offer you the opportunity to relocate to a comparable replacement home.

The replacement home must meet certain standards, including state and local building, plumbing, electrical, housing and occupancy codes.

**Please do not sign a sales contract or lease agreement for a new home until a VDOT representative has inspected the dwelling and certified in writing that it meets the guidelines.**

## WHAT HAPPENS IF I OWN MY HOME?

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If you have been a homeowner (owner-occupant) for 180 days or more before negotiations began, you are eligible for certain benefits.

If another home cannot be found that meets the guidelines and is comparable to your current home at the price offered you for your house, you may be entitled to a replacement housing payment.

You also may be entitled to a mortgage interest differential payment if the interest rates on the new mortgage exceed those of your former mortgage.

You will also be reimbursed for certain eligible incidental closing costs.

The combined total of these payments cannot exceed \$22,500, and the payments will be limited to the amount you actually spend on eligible expenses in buying your home.

If you have been a homeowner for at least 90 days but less than 180 days and choose to buy another home, you may be eligible for a maximum of \$5,250 as reimbursement for reasonable expenses required for the purchase.

If you were a homeowner for at least 90 days before negotiations began and choose to rent rather than buy, you may be entitled to a maximum of \$5,250. The exact amount would depend on the rent required for a house that meets the state's guidelines and on the rental value of your current home.

### **WHAT HAPPENS IF I RENT MY HOME?**

If you have rented your home for at least 90 days before negotiations began with the owner of the property, you may be entitled to a maximum of \$5,250. If you rent but wish to buy, you may be eligible for a maximum of \$5,250, which could be applied to the purchase price of another home.

### **WHAT IF COMPARABLE HOUSING IS NOT AVAILABLE?**

If comparable housing is not available within the \$5,250 and \$22,500 limits, it will be necessary to consider other options under the "last resort" housing program, such as building a new home. If you are eligible for reimbursement under the last resort housing program, the various options will be fully explained to you by a VDOT representative. You will not be required to move until comparable housing has been made available.

### **HOW WILL I BE REIMBURSED FOR MOVING EXPENSES?**

VDOT will pay actual reasonable moving expenses for a maximum distance of 50 miles. **It is important to keep receipts of all expenses.**

Payment from VDOT also may be paid on the basis of a fixed moving cost schedule.

You must apply to VDOT in advance, using the application furnished, indicating how and when you anticipate moving. Once your application is reviewed, you will be notified in writing of the approved amount. VDOT will be glad to assist you with the application.

Payment will not be made until the move is completed and the property has been inspected.

**Actual Reasonable  
Moving Costs**

**-OR-**

**Fixed Moving  
Cost**

Packing and Unpacking  
Temporary Storage  
Transportation  
Moving Insurance  
Other Related Costs

One Maximum Payment  
Based on Per Room Schedule.

**HOW IS A BUSINESS, FARM OR NON-PROFIT  
ORGANIZATION REIMBURSED?**

**ACTUAL MOVING EXPENSES**

A business, farm or non-profit organization can be reimbursed for the actual cost of moving a maximum distance of 50 miles. **Please keep all receipts of expenses.**

In some instances, you can be reimbursed for the **loss of tangible personal property** and the **expense of looking for a replacement site.**

As part of actual moving expenses, a small business, farm or non-profit organization may be entitled to a **re-establishment payment not to exceed \$25,000** for expenses actually incurred in relocating and re-establishing such small business, farm or non-profit organization at the replacement site.

**FIXED PAYMENT IN LIEU OF ACTUAL MOVING EXPENSES**

**A business operation may be entitled to a fixed payment in lieu of payment for actual moving and related expenses of \$1,000 minimum and a maximum of \$50,000 if:**

- The business vacates or relocates from the displacement site.

- The business cannot be relocated without a substantial loss of clientele or net earnings.
- The business is not a part of a commercial enterprise having more than 3 other entities which are not being acquired by VDOT.
- It is a source of income for the displaced owner.

**A farm operation also can receive a minimum of \$1,000 or a maximum of \$50,000 if:**

- The farm operation stops or is relocated elsewhere on the remaining property.
- The project impedes the efficiency of the farm operation.
- The project makes it economically unfeasible to operate the remaining property as a farm.

**A non-profit organization can receive a minimum of \$1,000 or a maximum of \$50,000 if:**

- It cannot be relocated without a substantial loss of clientele or membership.

You must apply to VDOT, using an application available from our representative, before you move, whether you are moving a business, farm or non-profit organization. If VDOT has approved the move, you will receive payment after the move takes place, a moving cost claim has been submitted, and the property has been inspected.

### **WHAT IF I AM DISSATISFIED WITH THE RELOCATION SERVICES?**

If you do not agree with the relocation services you have received, you may appeal in writing to the district right of way and utilities manager within 90 days of the date VDOT makes its relocation offer or notifies you of your eligibility to receive a payment.

If you find the right of way and utilities manager's decision unacceptable, you have 10 days to appeal in writing to the Commonwealth Transportation Commissioner. VDOT will appoint a panel to review your case.

You will have an opportunity to present supporting evidence to the panel, which will give a written report to the commissioner. The commissioner will render a decision and advise you in writing.

If that decision is unacceptable, you have thirty days to seek recourse through the courts.



**DEPARTMENT OF TRANSPORTATION  
RIGHT OF WAY AND UTILITIES**

<b>CENTRAL OFFICE</b>	1401 East Broad Street Richmond, VA 23219	(804)786-2923 Director
<b>DISTRICT OFFICES</b>		
<b>BRISTOL</b>	P.O. Box 1768 Bristol, VA 24203-1768	(276)669-9923 Manager
<b>SALEM</b>	731 Harrison Avenue Salem, VA 24153	(540)387-5366 Manager
<b>LYNCHBURG</b>	P.O. Box 11649 Lynchburg, VA 24506	(434)856-8235 Manager
<b>RICHMOND</b>	P.O. Box 3402 Colonial Heights, VA 23834	(804)524-6017 Manager
<b>HAMPTON ROADS</b>	P.O. Box 1070 Suffolk, VA 23434-1070	(757)925-2527 Manager
<b>FREDERICKSBURG</b>	87 Deacon Road Fredericksburg, VA 22404-0808	(540)899-4253 Manager
<b>CULPEPER</b>	1601 Orange Road Culpeper, VA 22701-0671	(540)829-7701 Manager
<b>STAUNTON</b>	P.O. Box 2249 Staunton, VA 24402-2249	(540)332-9128 Manager
<b>NORTHERN VIRGINIA</b>	14685 Avion Parkway Chantilly, VA 20151	(703)383-2296 Manager

**IMPORTANT INFORMATION**

**All transactions involving the exchange of property will be reported to the Internal Revenue Service.**

**Relocation Payments Have No Adverse Effects On:**

- **Social Security Eligibility**
- **Welfare Eligibility**
- **Income Taxes**

**The Virginia Department of Transportation acquires property rights and provides relocation assistance in accordance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act.**

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