

Real Estate Peer Exchange

Hosted by the Wisconsin Department of Transportation

September 15-17, 2009



WISCONSIN DOT
Wisconsin Department of Transportation Research & Library Unit



**WisDOT Real Estate Peer Exchange
September 15 – 17, 2009**

**Hosted by the
Wisconsin Department of Transportation
Division of Transportation Systems Development**

**Funded by the
Wisconsin Department of Transportation
Research & Library Unit**

**Final Report by
CTC & Associates LLC**

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WisDOT Real Estate Peer Exchange September 15-17, 2009

Introduction

The Wisconsin Department of Transportation Division of Transportation Systems Development hosted a peer exchange September 15-17, 2009 in Madison, Wisconsin. Representatives from seven state DOTs joined representatives from WisDOT and FHWA-Wisconsin to share experiences in managing real estate programs for state DOTs. The meetings consisted of both informal presentations and roundtable discussions aimed at highlighting best practices and lessons learned.

This report presents the key observations that came out of the peer exchange discussions.

Objectives

The peer exchange covered a range of topics related to the management of real estate programs. Of primary concern to WisDOT on the first day of the event was how states effectively organize their programs to address the challenges of dwindling resources, outsourcing and training. The second day covered access management, surplus land sales, site clearance contracting, negative equity mortgages, and valuation of outdoor advertising signs. The final day included two more topics, valuation of temporary easements and accelerating the acquisition timeline, along with reporting out the key takeaways of the event.

Participants

Visiting team members

- Robert Wright, Alaska DOT
- Paula Gibson, Arizona DOT
- Michael Brand, Illinois DOT
- Matt DeLong, Michigan DOT
- Mike Stensburg, Minnesota DOT
- Jim Viau, Ohio DOT
- John Campbell, Texas DOT

Peer exchange planning team

- Rebecca Krugman, Bureau of Technical Services, Wisconsin DOT
- Tanace Matthiesen, Bureau of Technical Services, Wisconsin DOT
- Norman Pawelczyk, Northeast Region, Wisconsin DOT
- Roger Szudera, FHWA – Wisconsin Division
- Jennifer Queram, Southwest Region, Wisconsin DOT
- Joe Farmer, Southwest Region, Wisconsin DOT
- Colleen Bos, CTC & Associates for Wisconsin DOT
- Kim Linsenmayer, CTC & Associates for Wisconsin DOT

Other peer exchange participants

- Craig Andersen, Wisconsin DOT
- Ron Borree, Wisconsin DOT

- Rick Dickson, Wisconsin DOT
- Bob Duffeck, Wisconsin DOT
- Bruce Enke, Wisconsin DOT
- John Fandrich, Wisconsin DOT
- Al Holmstrom, Wisconsin DOT
- Peg Hutnik, Wisconsin DOT
- Larry Knutson, Wisconsin DOT
- Jim Kuehn, Wisconsin DOT
- Sherry Miner, Wisconsin DOT
- Mike Ostrowski, Wisconsin DOT
- Claudia Peterson, Wisconsin DOT
- Mike Roach, Wisconsin DOT
- Brent Stella, Wisconsin DOT
- John Sobotik, Wisconsin DOT
- Ken Wickham, Wisconsin DOT



Real Estate Peer Exchange – Day 1

Resource Planning and Structure

Overview of State structures

- Of the invited seven states, five have decentralized structures.
- Arizona is a centralized state with nine districts reporting to Phoenix, their central headquarters.
- Ohio is a hybrid between centralized and decentralized. They have a central office of real estate experts and managers that includes the statewide Real Estate Director. The four region offices handle right of way acquisition and report to the Real Estate Director. The 12 district offices are responsible for excess lands, LPA oversight, plan and legal description review, and certifications. These districts do not report to the Real Estate Director

State experiences with consultants

WisDOT Background: Due to continuing budget constraints and potential position cuts, WisDOT is considering increasing the use of consultants. They're looking at how to maintain effective oversight, staff expertise and efficiency in the process.

- States are losing staff due to budget restrictions and retirements, raising concerns about workloads, quality of service and knowledge transfer.
- States are losing in-house expertise as senior employees retire and consultants do more of the work.
- States are consulting out a wide range of real estate services, including demolition work, surveying, titles, appraisals, ROW acquisition, utility coordination and more. Consultants primarily perform production work, but in some cases consultants provide oversight for quality assurance.
- Costs increase as more consultants are hired to do the work—oversight required for each consultant hired.
- Internal staff are often opposed to the hiring of consultants, making collaboration and oversight challenging.
- Texas is seeing a steady stream of expertise walking out the door. State staff leave to join the private sector and then eventually retire. That leaves the DOT and consulting firms with much less experienced workers. Need to figure out how to give new employees lots of experience in short time.
- Need to clearly communicate the role of consultants to the public being served. The DOT is responsible for stewardship of the public trust.
- With the exception of Ohio, States participating in this Peer Exchange keep all Appraisal Review and Property Management in-house with the exception of demolition.

Best practices with consultants

- Avoid multiple consultants on same project unless there are distinct activities and clear expectations for when the DOT will be involved. (Texas)
- Maintain DOT positions at all levels of expertise and across all functional areas. Forecast staff needs to an average.
- Think of consultants as another tool for delivering a program. Staff become more cooperative with consultants when they embrace a team mindset to deliver a project.
- A new skill set is required among DOT staff to effectively manage consultants. Start training now for those who will backfill need for oversight role down the road.
- Don't contract out 100% of an activity. Hold back some work so that internal staff can maintain expertise and new staff can be trained.
- Keep the percent of consultants at an appropriate level (less than 50% consultants overall highly recommended). When the consultant to staff ratio is out of balance, maintaining adequate expertise to direct and review outside work becomes very difficult.

- Avoid low-bid contracts so as not to compromise the quality of work, but keep it competitive so costs stay down.
- Consultants sit on site with state staff in Arizona, reinforcing the team approach to the projects and making coordination more efficient.
- Use caution when considering the use of consultants to manage consultants. Insist on the proper consultant skill set for project management while maintaining internal program controls.
- Prequalify individuals, not firms, for right of way consultant services due to frequent movement of consultants between firms.
- Require consultants to hire someone new when they are awarded a project so as to develop a new pool of experienced workers (Illinois DOT model)
- Contracting with work orders helps keep engineering firms with different expertise (residential, commercial, industrial) on the projects that are best for their skills.
- Arizona uses a staff planner to coordinate with the 18 attorneys in their attorney general's office.
- Ohio holds quarterly meetings with their attorney general's office to review everything on a six-month horizon—how they plan to protect DOT money and what experts can be offered to help with cases.
- Illinois uses private attorneys (special assistant attorney generals – SAAG's) to supplement the two attorney generals that handle their eminent domain litigation.

Training

Several training programs and other resources are available for real estate professionals:

- [Uniform Act](http://www.fhwa.dot.gov/REALESTATE/rowtrain.htm) training by FHWA's National Highway Institute
<http://www.fhwa.dot.gov/REALESTATE/rowtrain.htm>
- National Association of Public Sector Real Estate Professionals ([NAPREP](#))
Uniform Act Designation Program:
<http://www.uniformact.org/documents/NAPREPURADesignationProgram-draftAugust2009.pdf>
- AASHTO Subcommittee on Right of Way and Utilities
<http://www.transportation.org/?siteid=61>

One of the five goals for this subcommittee in their 2009-2010 work plan relates to education:

Professional Education and Training

The Subcommittee in coordination with FHWA and other partners in professional education will expand efforts to develop and update professional education initiatives and partnerships. FHWA has now made available an updated, web-based, course on the "Uniform Act" for use at no cost to all state DOTs, their partners and consultants. The Office of Real Estate Services and FHWA's National Highway Institute (NHI) currently offer the following courses related to real estate program activities:

Basic Relocation - NHI# 141029

Advanced Relocation - NHI# 141030

Business Relocation - NHI# 141031

Appraisal for Federal-Aid Highway Programs - NHI# 14043

Appraisal Review for Federal-Aid Highway Programs - NHI# 14044

The latest course offering is a web-based course on "Outdoor Advertising Control". Additionally, as noted above, FHWA is pursuing development of a new NHI course on LPA Oversight and Stewardship, and is also exploring opportunities for additional courses in the future.

The Subcommittee has followed the federal lead and expanded participation with our private partners in professional right-of-way education in order to promote enhanced and consistent quality in training opportunities for both state and industry personnel. This is an ongoing item that

will involve a variety of educational programs and providers including the National Highway Institute (NHI), the International Right of Way Association (IRWA), NCHRP initiatives, and AASHTO publications. The Subcommittee supports the initiative by the IRWA to overhaul and modernize course materials and instructional methods.

The Subcommittee will continue to coordinate and work in partnership with FHWA to explore the feasibility for development of a right-of-way training curriculum, sponsored at the university or college level with particular emphasis on long distanced or web-based learning. In 2009, it is anticipated that this will result in an interactive web based tool on the FHWA website to identify training available to achieve varying levels of proficiency in the various right-of-way disciplines. FHWA is undertaking this initiative in conjunction with a steering committee that will include the Subcommittee and other stakeholders in the right-of-way field.

Best practices in training

- Invest in training in-house staff to maintain the flow of qualified, experienced workers who can both produce and oversee contracts as senior staff retire. (Ohio DOT model)
- Require and provide the same in-house training of consultants so that they can learn DOT processes. (Arizona DOT model)
- In Minnesota retirees return to work half time for up to two years, which allows for effective transfer of expertise.
- Minnesota and Arizona have also used summer student employees half time to do jobs done by FTEs, particularly on the survey/technical side. It helps with the workload and serves as a recruitment tool; students may have the chance of job after.
- Ohio provides extensive training opportunities for staff (23 classes beginner to advanced) and strongly encourages all staff to participate in the program. The classes are free for staff and local public authorities. The classes are available to consultants for a fee.
- Ohio pairs up new employees with senior ones to help them put what they learn in class into practice.
- Some classes are available online or you may be able to get instructor and student guides from NHI to enable a State to put the course on itself.
- Texas DOT has an educational initiative through the International Right of Way Association (IRWA) to get new people trained quickly. Six TXDOT employees are certified as IRWA facilitators who teach the course purchased by TXDOT.
- Minnesota created a right of way professionals workshop that's held every year for Mn/DOT state staff, consultants, local public agencies and attorneys. It's been a great way to teach people what they need to know.

Real Estate Peer Exchange – Day 2

Access Management

Wisconsin Background: The goal is to look at how different states manage access and to look at how each state defines “reasonable access” and how aggressively they are managing access.

- In Michigan, Arizona and Ohio, property owners are not compensated for circuitous travel required to access a business during construction.
- Wisconsin has lost cases related to compensation for circuitry of travel.
- In Texas, if there is “impact” to the property owner, then the state sees a property interest that has a value. There is a distinction between states that value taking the land from the property owner and states that value both taking or impacting the land.
- If you impact parking most states compensate for that.
- Wisconsin made the point that they do not “pay” for access. They pay damages for the remaining property. It’s important not to set a standard of valuing the access as something other than damages to the property owner.
- Arizona can condemn private property to provide legal access to state owned property.
- , Minnesota and Michigan can condemn private property to provide driveway access to private citizens.
- In Texas and Illinois, they can create additional alternative public access rather than impact a property owner’s rights.
- Ohio does not allow a new development to circumvent paying for access when they are adding a road that only serves a private development, such as a subdivision that is not hooked into the public road system.
- Texas purchases options for future development rights in anticipation of the development of future projects.
- In terms of valuing access, Ohio deducts infrastructure costs from the appraisal whereas Wisconsin appraises it as undeveloped.
- Wisconsin emphasized the value of looking at the “before” condition to determine that the property owner actually has legitimate access rights rather than just looking at the plat without doing background research.
- In designating access sometimes the DOT ends up creating de facto zoning by their designation. Illinois suggested that you have to designate use or else you are not managing your roadway system.
- Most states, with the exception of Arizona, cannot review and restrict private certified survey maps.
- States use “shared driveways” as an option for reasonable access. Only Michigan actually requires owners to establish an agreement of responsibility for shared driveways that the DOT files. Most states don’t get involved in determining the future maintenance of a shared driveway.
- In Alaska, putting in medians and restricting left turn movements are issues of growing concern.
- Michigan uses the following specific wording to avoid saying they are buying access: “Your access is no longer consistent with the operation of the highway.”

Surplus Land Sales

Wisconsin Background: In Wisconsin there has been some attention focused on getting surplus land back into the tax rolls for municipalities. There is one central office position and there are also people in each region whose job it is to market and sell land. Some of the key issues are: how to appraise land-locked parcels; ideas for mass marketing of low-value parcels; private sales versus open bid and what constitutes a private sale.

- All the states agreed that the key issue with selling low-value property is to get it back on the tax rolls and to no longer have to maintain it.

- Valuation can be complex, because the land may be valuable if assembled with adjacent property, but not actually worth anything on its own. The adjacent land owner is not always interested though.
- Ohio has the discretion to sell land at auction for 2/3 of its value if it doesn't attract a bid for the full value, which is extremely beneficial in disposing of surplus land.
- Ohio uses some excess land and active right of way parcels (eg, ramp infields) for cell towers, which are considered a transportation purpose by Ohio law.
- Illinois has the authority to transfer the jurisdiction of right of way to another highway authority (county, township, village, etc.) but puts a restriction on the deed that IDOT reserves the right to seek compensation for the right of way if at any time it ceases to be in public use.
- Michigan noted that they use a first refusal clause rather than a reversionary clause because you may not always want the parcel back.
- Alaska shared their experience of selling hundreds of parcels in the 1980's and then having to buy many of them back in the last decade. Therefore they do not sell off right of way anymore. They often still need to expand right of way because they are a younger state and were conservative in buying right of way early on.
- Public/private partnerships were discussed in terms of developing surplus land. However, most states agreed that joint public ventures were more common.
- Ohio shared an example leasing space over a highway in Columbus, which is a pilot project for Ohio. Kansas City and Seattle have also done this. Although there are benefits, it is a costly venture.
- Arizona has the ability to reduce excess land values by 20% of the low appraisal in certain circumstances.
- Arizona can convey specific highway easements free of charge to local governmental agencies over excess land; Reversionary clause included in case property is not utilized for the use intended.
- The group was encouraged by several panelists to get involved in the AASHTO Technical Councils for these topics. These are teleconferences that you can sign up for at <http://www.transportation.org/?siteid=61&pageid=1021>.

Site Clearance Contracting

Wisconsin Background: There have been three recent instances of being openly criticized for demolishing buildings that the public thinks should have a second life. In some cases there simply wasn't sufficient time to do anything other than demolish the building.

- Wisconsin noted that if you sell to the contractor they can sell the buildings and not have to go through a bid process (which is often a source of delay).
- Ohio has an agreement with Habitat for Humanity and they are allowed to salvage whatever they would like and any profit on these materials goes back into the homes they build. They would also extend this to any charitable organization that receives funding from the state. In all cases, they sign waivers for liability.
- Minnesota also works with Habitat for Humanity and the Housing and Redevelopment Authority took on liability for Habitat for Humanity.
- Several states mentioned allowing firefighters or police officers to use the houses for practice, although Illinois had a bad experience with this, because some residents felt it was meant to intimidate them.
- Minnesota noted that demolishing wells and basements are both important and challenging parts of the demolition.
- In all cases, it is necessary to check for friable asbestos before demolition occurs.

Negative Equity Mortgages

Wisconsin Background: FHWA has put out a waiver to assist with situations where relocation is necessary and the homeowner is in a negative equity situation. Wisconsin has applied for the waiver, though it doesn't apply if you aren't using federal dollars in acquisition.

- Michigan's approach is that if you can show you did not put yourself into the upside down position then you qualify for a waiver. So, they look for an appraisal from the time of the financing to determine that the mortgage was for more than a valid appraised amount or not.
- Michigan has seen a 33% drop in housing values during this recession, compared to 10% in Wisconsin.
- Some states may not be encountering a need for the waiver themselves but should consider setting policy and getting a waiver mainly to assist the municipalities using federal aid that encounter this issue.
- Wisconsin notes the challenge is in using the waiver equitably and being as consistent as possible in handling each situation. For example, they must always be current on payments and able to continue making those payments in order to qualify.
- Michigan and Illinois both feel that each situation is unique and requires research to identify if the waiver applies. Wisconsin also emphasized the importance of up front research and title work to understand each case.

Valuation of Outdoor Advertising Signs

Wisconsin Background: Valuation of Outdoor Advertising Signs has been a challenge in terms of appropriate compensation for a long time. In the 1990's, Wisconsin established some guidelines with the Outdoor Advertising Association of Wisconsin but not every sign owner belongs to that. It solved many compensation problems though not all of them and it's getting harder and harder to find places to relocate the signs, which is amplifying the problems.

- Alaska has a state law against outdoor advertising, as does Maine, Hawaii and Vermont, so this is not an issue that Alaska has to address.
- Texas and Illinois consider signs to be personal property, rather than real property. Visibility and traffic are non-compensable.
- Michigan looks at valuation with the property owner as well as the leaseholder. The settlements vary based on location because local control as "sacred" in Michigan. Sometimes some "horse trading" goes on to resolve relocation issues.
- Ohio sees a lot of variation, although they do not differentiate based on whether they can relocate the sign or not. They attempt to value based on the "sticks and bricks" but typically accept counter-offers to avoid creating case law in this area.
- Most states did not allow non-conforming signs to be relocated, although in Minnesota there are no non-conforming signs left.
- Illinois and Minnesota both give one settlement and the property owner and leaseholder have to agree how to divide the settlement.
- Arizona 2007 case law established that billboards are valued based on income-earning potential. However, they have a lot of land in Arizona, so relocation is usually possible.
- Wisconsin's position is that the sign itself is not the business, so impact to the sign does not necessarily interrupt the business and they do not have relocation rights.

Ron Borree presented information on WisDOT's approach to valuation of outdoor advertising and highlights included:

- Wisconsin is taking an approach similar to Minnesota and Illinois, where there is a single valuation of the property. The parties of interest will need to agree on how to divide up the proceeds.
- It is important not to just add the permitted sign site value of the property as an "odd land use," because billboard use is a legitimate land use. We are assessing the "contributory value of the permitted sign site to the underlying fee simple single value. The unified rules include the unite rule with the components of the real estate and also the undivided fee which includes the various real property interests of the various parties holding a real property interest.
- Failure to adhere to the Unified Rules will open the door to claims that a total outdoor advertising business operation is all "real property" with damages amounting to the capitalized value of the outdoor advertising business income generated on a location.
- The permitted sign site value can be found by analyzing rentals by outdoor advertising companies of total billboard packages consisting of a "permitted sign site with structure" on fee simple land

owned by a third party. These rentals could also be on “permanent outdoor advertising easements. Also, look for permanent outdoor advertising easement sales between knowledgeable parties, as they will include a “permitted sign site.”

- The outdoor advertising billboard in its location needs to be looked at for its real estate component and the business component. These are two separate issues. The real estate component is shared with the underlying fee property owner.

Real Estate Peer Exchange – Day 3

Valuation of Temporary Easements

Wisconsin Background: For several years the temporary construction easements have always stated what they are for and when they terminate, although they did not give a specific date. Appraisers used a pretty simple methodology to determine the value. However the General Counsel has strongly urged Wisconsin to not leave the temporary easement as undefined as they were previously. Wisconsin agreed to place a “date certain” by which they would terminate moving forward. The “date certain” is fairly conservative and includes 5 years beyond the scheduled completion date to account for project delays. However there are now concerns about whether appraisers are using proper methodology to value the easements, which has resulted in paying higher amounts than seems appropriate for the easements. The current approach looks at the rent for the entire period of the easement, rather than the actual use.

- Michigan uses grading permits and “possession and use agreements,” which their construction section secures. The state can condemn a property on a grading permit.
- Michigan commented that Wisconsin’s paying for longer time frames is paying for risk management.
- In Alaska, the Temporary Land Easement (TLE) date commences at the start of construction. They suggest not being so explicit about the use of the TLE.
- Alaska refuses to get TLE’s up front for shelf projects. They open up a new phase of the project to acquire the TLE’s later, as funding becomes available for those projects.
- Ohio pays for the full number of years of the easement, but they try not to add in too much extra time.
- Minnesota has been using 5 years after the construction date as their timeframe.
- Ohio, Alaska, Minnesota, Wisconsin and Arizona all mentioned a general rule of valuing based on 10% of Fair Market Value, though Minnesota sometimes values at 15% for farm property. The key differences between states are in the length of time for the “rental” and how specific they are about the purpose.
- Illinois commented that they value the maximum length of occupancy that you indicate is possible, because the property owner may need to put a hold on changes or enhancements they’d like to make to their own property.
- Wisconsin made the suggestion to wait to record a TLE until the beginning of the construction season.
- Texas tries to buy the land it needs in fee rather than using temporary easements and then try to operate within their existing footprint in urban areas. They also discourage contractors from getting their own permissions. When they are used, their TLEs identify an explicit use to eliminate inappropriate use.
- Arizona Temporary Construction Easements (TCEs) run for two years from date of execution and expire 30 days after completion of the construction project. Typically they are recorded to provide notification to future buyers.

Accelerating the Acquisition Timeline

Wisconsin Background: Wisconsin is looking for new ideas and best practices on accelerating the acquisition timeline.

There is an NCHRP research project on this topic. John Campbell and Jim Thiel are on the committee that is developing the RFP to select a researcher to head this effort. The selection will be made on November 23rd. John presented an overview of the study and a related scan tour.

- John Campbell described the purpose of this NCHRP research project: to do a study of how you streamline the right of way acquisition process.
- Although Engineers selected the project, the committee is a group of highway real estate experts who are developing an RFP to select a researcher for the project. It’s a \$500,000 project and they would like to see this as a two-year study.

- In 2000, there was an NCHRP Synthesis Report 292 on how to streamline the delivery of right of way acquisition which will be used as a resource for the current research.
- There will be a proposed implementation plan as part of the research project as well.
- The RFP for NCHRP Study 20-84 - Streamlining R/W Business Practices has been posted and information is available here:
<http://144.171.11.40/cmsfeed/TRBNetProjectDisplay.asp?ProjectID=2730>

John also participated in an international scan tour on this same topic, which helped generate some of the momentum to get the research study approved.

- The scan tour visited Canada and Australia.
- There were 21 implementation ideas generated from the scan tour.
- The report will be out shortly, but the draft is available here:
<http://international.fhwa.dot.gov/pubs/pl09011/index.cfm>
- The group could see a few areas for improvement, but they didn't see huge opportunities for streamlining while still ensuring that due process is served.
- As the NCHRP research project comes out, they hope to be able to look at some of the implementation ideas that have been put into practice.

Recommendations and outcomes from the Scan Tour included:

- Trying to remove the competitive spirit between Utilities and DOT. Both parties should participate in scoping the project.
- Alliance Contracting is likely a future model for contracting in the United States.
- Doing some reciprocal travel and exchange by right of way leaders in Australia and the US.
- Attracting talented staff in part by offering interesting professional opportunities via outsourcing services to third world developing countries. This also becomes a source of revenue.
- Focusing on good long-term master planning of the extension of road routes. Canada and Australia both do this and also go to great lengths to acquire the requisite property as it becomes available.

Additional Topics

With the remaining time available the group discussed the following additional topics:

- The occasional need for corrections to conveyance documents and what is allowed after they are signed.
 - The key issue was whether the conveyance documents had been recorded or not.
 - Otherwise, policy varied between states from Ohio and Texas which don't allow any changes to Michigan which allows administrative errors to be corrected to Arizona which allows minor changes.
- Whether it's worthwhile to get mortgage releases and accept the delays and costs involved or it's better to accept the risk and be able to move more quickly.
 - Although there were some exceptions, a threshold of \$5,000 to \$15,000 was typical for requiring the release.
 - The FHWA has recommended \$10,000 as a cut-off.
 - For some states it also depends on the bank they are working with and how quickly they are known to respond, although Arizona has a law that requires a response within 180 days.
- Whether or not it is worthwhile to get title insurance.
 - Some states look at the level of risk, while others consistently get title insurance so the title company will handle the closing, which saves the DOT money.
- Acquisition IT systems and what people are using.
 - Most states agreed that a web-based system is useful, especially for giving access to consultants.
 - Each state had a different system and most states with newer systems (which provided more support for generating documents and management documents) were very pleased with the benefits.

Appendix A

Agenda WisDOT Real Estate Peer Exchange September 15-17, 2009

Tuesday, September 15, 2009

- | | |
|----------------------|--|
| 7:45 – 8:00 | Registration and Refreshments |
| 8:00 – 8:15 | Welcome Messages <ul style="list-style-type: none">• Becky Krugman (Wisconsin DOT) |
| 8:15 – 8:20 | WisDOT Real Estate Agenda Overview <ul style="list-style-type: none">• Colleen Bos, Facilitator (CTC & Associates) |
| 8:20 – 9:45 | Resource Planning and Structure <ul style="list-style-type: none">• Overview of WisDOT's Real Estate program and organizational structure, Becky Krugman (Wisconsin DOT).• Brief organizational overviews by each visiting state.<ul style="list-style-type: none">○ Bob Wright (Alaska DOT)○ Paula Gibson (Arizona DOT)○ Michael Brand (Illinois DOT)○ Matt DeLong (Michigan DOT)○ Mike Stensburg (Minnesota DOT)○ Jim Viau (Ohio DOT)○ John Campbell (Texas DOT) |
| 9:45 – 10:00 | Break |
| 10:00 – 12:00 | Resource Planning and Structure (continued) <ul style="list-style-type: none">• Facilitated question and answer/round table discussion:<ul style="list-style-type: none">○ Organizational structure and effective use of consultants○ Resource planning○ Contracting methods and management of consultants○ Recruitment and retention |
| 12:00 – 1:00 | Lunch in the conference room |
| 1:00 – 2:45 | Resource Planning and Structure (continued) <ul style="list-style-type: none">• Facilitated question and answer/round table discussion. |
| 2:45 – 3:00 | Break |

Tuesday, September 15, 2009 (continued)

- 3:30 – 4:30 Training and Certification**
- Brief overview of WisDOT's current Real Estate training program, resources used and training concerns, Norman Pawelczk (Wisconsin DOT).
 - Discussion of other State DOT training programs or external resources
 - Partners in professional R/W education, John Campbell (Texas DOT).
 - Facilitated question and answer/round table discussion.
- 4:30 – 5:00 Recap Discussions and Takeaways**

Wednesday, September 16, 2009

- 7:45 – 8:00 Networking and Refreshments**
- 8:00 – 8:10 Welcome**
Colleen Bos provides welcome, recap of Tuesday meeting, and overview of goals for the day.
- 8:10 – 10:00 Access Management**
- Brief overview of WisDOT's issues, Tanace Matthiesen (Wisconsin DOT).
 - Facilitated question and answer/round table discussion.
- 10:00 – 10:15 Break**
- 10:15 – 12:00 Surplus Land Sales and Valuation Procedures**
- Brief overview of WisDOT's issues, Tanace Matthiesen (Wisconsin DOT).
 - Facilitated question and answer/round table discussion.
- 12:00 – 1:15 Lunch on your own**
- 1:15 – 2:00 Site Clearance Contracting**
- Brief overview of WisDOT's issues, Joe Farmer (Wisconsin DOT).
 - Facilitated question and answer/round table discussion.
- 2:00 – 2:45 Effects of Negative Equity Mortgages on Acquisition and Relocation**
- Brief overview of WisDOT's issues, Roger Szudera (FHWA-Wisconsin).
 - Facilitated question and answer/round table discussion.

Wednesday, September 16, 2009 (continued)

- 2:45 – 3:00** **Break**
- 3:00 – 4:30** **Valuation of Outdoor Advertising Signs**
- Brief overview of WisDOT's issues, Tanace Matthiesen (Wisconsin DOT).
 - Overview of WisDOT's new appraisal methodology for sign/site valuation, Ron Borree (Wisconsin DOT).
 - Facilitated question and answer/round table discussion.
- 4:30 – 5:00** **Recap Discussions and Takeaways**
- 6:30** **Group dinner at Tutto Pasta (305 State Street)**

Thursday, September 17, 2009

- 7:45 – 8:00** Networking and Refreshments
- 8:00 – 8:10** **Welcome**
- Colleen Bos provides welcome, recap of Wednesday meeting, and overview of goals for the day.
- 8:10 – 9:20** **Valuation of Temporary Easements**
- Brief overview of WisDOT's issues, Joe Farmer (Wisconsin DOT).
 - Facilitated question and answer/round table discussion.
- 9:20 – 10:30** **Accelerating the Acquisition Timeline**
- Brief overview of WisDOT's issues, Becky Krugman (Wisconsin DOT).
 - Brief presentation by Jim Thiel (WisDOT Counsel) and John Campbell (Texas DOT) on related research project.
 - Facilitated question and answer/round table discussion.
- 10:30 – 10:45** **Break**
- 10:45 – 12:00** **Peer Exchange Wrap Up and Closing Remarks**
- Review peer exchange highlights, key takeaways for WisDOT and potential next steps.

Appendix B

Real Estate Peer Exchange Topics and Discussion Questions

Day One (September 15)

Resource Planning and Structure

Due to continuing budget constraints and further indication from our Governor that we can expect more position cuts, all functional areas have been asked to develop future org charts that reflect a move towards a much greater use of consultants. While it is unknown whether we will be pushed toward a complete oversight structure, we are being asked to look for areas of our business that could be completely outsourced (where retaining expertise is not important) and other areas where we would increase the use of consultant to 60% or more but still try to retain some level of expertise.

We ask that each State come prepared to summarize their current structure and program size.

- Average number of parcels acquired over the past 3 years
- Average annual Real Estate program dollars spent in same 3 year period
- Current DOT Real Estate structures (centralized/decentralized)
- Number of Real Estate staff and management (in-house)

Questions or concerns that we would like to discuss and get insight on from others include:

Organizational structure and effective use of consultants

- How is centralized staffing structured? How does it work in a geographically large state?
- Is there a blended approach possible to centralization? Centralizing some functions and keeping some functions decentralized.
- Do you utilize a multi-regionalized structure for any of your functions (For example: where, perhaps, 2 or 3 staff handle the relocation work for multiple districts or regions?)

Resource planning

- How do you meet your needs for staffing?
- What activities do you currently consult out?
- What is your state's current in-house vs. consultant ratio in the various core functions of real estate (appraisal, negotiation, relocation property management, appraisal review, etc.) and what are some of the pros and cons of this type of structure?
- What percentage of in-house staff is needed in order to retain and grow expertise in any functional area
- Since appraisal is the cornerstone of our business, is it important to retain some level of in-house appraisal production to allow staff to do hands-on appraising?
- What new activities are you considering outsourcing?
- What might the pitfalls of consulting out appraisal review be?
- What are the responsibilities of your DOT field staff when consultants are doing production?
- Do you use any resource sharing between regions or districts and if so, how does it work?
- Would you ever consider entering into a resource sharing agreement between States?

Contracting methods and management of consultants

- What contracting methods do you use?
- What techniques do you use to manage consultants?
- How do you manage multiple consultants on a single project?
- Should consultants be placed in project management roles?
- What are the pitfalls of having consultants oversee consultants?
- How do you evaluate consultants (project performance, proper training and experience)

Recruitment and retention

- How do you approach recruitment, retention and succession planning for real estate?

- What techniques do you use to retain expertise?

Training and Certification

- What training, resources and certification do you have in place to help ensure good quality?
- What are the pros and cons of Uniform Act Certification? Should it be required for in-house staff?
- How would the initiation of a mandatory Uniform Act Certification for specialists affect your agency?
- What kind of certification or training do you require or provide for consultants?
- What other skills and criteria are required for consultants?
- Do you hire a company to do training if there isn't enough staff to do training? What companies have you used?

Day Two (September 16)

Access Management

- How aggressively does your state attempt to manage their access?
- How do you determine if you're leaving reasonable access?
- Do you use access valuation reports and studies?
- When do you decide you are going to acquire access versus use the State's police power to control?
- How do courts of law in your state view access restrictions? Do they agree with the department's interpretation of reasonable access?

Surplus Land Sales and Valuation Procedures

- How many surplus land parcels does your state DOT own? Does your state keep an automated inventory of these parcels?
- What are your state's procedures for surplus land sale/disposal? Specifically:
 - How does your state value or appraise land-locked parcels? Do your appraisers use market evidence for determining the value of land-locked parcels, or do they use an across-the board discount?
 - How does your state dispose of low-value surplus land parcels? (Wisconsin considers parcels at \$1,000 or less to be low-value, and can be sold to an abutting owner for \$1, if certain conditions are met.)
 - Do you allow private sales vs. open bid? What requirements do you have for private sales?

Site Clearance Contracting

WisDOT would like to 1) maximize the number of homes and other buildings that are saved from demolition and appropriately respond to the public perception that useable buildings are sometimes demolished; and 2) prevent the moving of buildings from causing project delays.

- What processes do you use?
- How do you maximize the number of homes/buildings that are saved from demolition?
- How do you handle public perception that useable buildings are sometimes demolished?
- How do you prevent the moving of buildings from causing project delays?

Effects of Negative Equity Mortgages on Acquisition and Relocation

The economic down turn has resulted in homeowners owing more on their homes than the home may be worth in the market place. Wisconsin has experienced a few negative equity acquisitions. These acquisitions have ranged from a couple thousand to several thousand dollars. The negative equity difference was handled through the administrative revision process and the replacement housing payment was computed using the process cited in the Federal waiver policy memo. Wisconsin is in the process of seeking approval to submit a request to FHWA for approval to utilize the Federal waiver process.

- What is the impact of the current economic/housing crisis in your state?
- How has this affected the relocation program in your state?

Day Two (September 16) – continued

- What steps do you use to resolve the negative equity issue, ie., the property owner owes more than the market value of the property?
- Does your state have any current legislation that provides assistance in resolving relocation benefits and services issues relating to negative equity mortgages?
- Has your state requested the Federal Waiver? If not, have you developed & implemented a process for dealing with negative equity situations?
- Does your state have any best practices or unique procedures to share?
- In your state, what are some of the biggest successes in your relocation assistance program?
- Does your state use consultants in the relocation program?
- Has your state developed a “formal” relocation assistance training program?

Valuation of Outdoor Advertising Signs

Wisconsin DOT has struggled with the appropriate methodology for determining compensation to the owners of off-premise outdoor advertising signs that need to be acquired as the result of highway projects. In the mid-1990's, Wisconsin DOT and the Wisconsin Outdoor Advertising Association negotiated a detailed agreement for the compensation due a sign owner when a billboard had to be moved due to a highway project, but could be relocated. This agreement has been fairly, although not completely, successful, in resolving compensation issues related to billboards. Compensation issues related to situations where the billboards could be relocated were primarily, although not completely, solved through the use of the agreement. Situations where the billboard could not be relocated, and had to be acquired by WisDOT, could often not be resolved by this agreement. These were usually worked out on a case-by-case basis, and many times the compensation awards were appealed.

In 2007, WisDOT's Northeast Region began planning for a major highway project that was going to require the relocation or acquisition of numerous billboards. In order to save time & money, and ensure consistency along the project, the NE Region looked for a consistent method that could be used in awarding compensation for billboards that were going to be acquired by WisDOT, and could not be relocated. This led to the development of a pilot project to use a method for compensation that values the sign site in the real estate appraisal, that is, the underlying real estate that the sign sits on. This method seeks to estimate the value of the specific location as it relates to the placement of a billboard on that property.

- How does your State compensate billboard owners for signs that need to be relocated due to highway projects? In your answer, please address:
 - Does your State have a specific methodology in place for determining compensation?
 - Does your method consider the specific location, or the revenue-generating capability of the specific location?
 - Does your State have any agreements with the outdoor advertising industry for compensation?
- Do billboard owners have difficulty in your state in finding relocation sites for billboards that need to be relocated due to a highway project?
- Does your State differentiate between compensation due billboard owners for billboards that can be relocated and billboards that cannot?

Day Three (September 17)

Valuation of Temporary Easements

A recent change in legal description language regarding the duration of temporary easements has raised issues with the manner in which they are appraised.

In the past in Wisconsin, termination of temporary construction easements was defined in our legal descriptions as expiring “upon completion of the construction project”. Appraisers, for the most part, would determine damages attributed to the temporary easement based on, among other items, the period of occupation; e.g. one year of damages for a one year construction project. Their valuation methodology may have employed a market rent, return on investment or application of a simple percentage of market value.

More recently we were asked by WisDOT Counsel to incorporate definitive dates in our legal descriptions upon which these easements would be certain to have expired so that whether or not they are still in effect could be better ascertained when viewing the public record. (We had received occasional, but not frequent, complaints from title companies in this regard.) Here is an example of the new language: “**Temporary easement shall terminate on December 31, 2015 or the date construction of this project is completed, whichever occurs first**”. By policy, we set the date five years beyond scheduled construction to account for any unforeseen delays.

The addition of a date certain, beyond which these easements would be sure to expire whether or not the construction project is completed, has now caused many of our appraisers to view damages in a different light. While they employ the same methodologies (market rent, return on investment) they are now applying these methods over all years up to the date certain of the easement expiration, rather than just the period of occupation during construction. This is resulting in some inordinately high damage amounts for decidedly innocuous easements.

- What problems do you encounter with TLEs?
- How are they valued in your state?

Accelerating the Acquisition Timeline

John Campbell (Texas DOT) and Jim Thiel (Wisconsin DOT), members of the NCHRP research committee working on the “streamlining right of way acquisition issue,” will briefly discuss the charge of their committee and the results of their first committee meeting.

Peer Exchange participants will then discuss best practices and techniques each state is currently using or contemplating to help accelerate the acquisition timeline. This would be an opportunity to provide John and Jim some valuable feedback to take back to the NCHRP committee.

Appendix C



WisDOT Real Estate Peer Exchange

September 15 – 17, 2009

Visiting team members

- Bob Wright, Alaska DOT
- Paula Gibson, Arizona DOT
- Michael Brand, Illinois DOT
- Matt DeLong, Michigan DOT
- Mike Stensberg, Minnesota DOT
- Jim Viau, Ohio DOT
- John Campbell, Texas DOT

Resource Planning and Structure Highlights

Common Challenges

- States are losing staff due to budget restrictions and retirements, raising concerns about workloads, quality of service and knowledge transfer.
- States are losing in-house expertise as senior employees retire and consultants do more of the work.
- Costs increase as more consultants are hired to do the work—oversight required for each consultant hired.
- Internal staff are often opposed to consultants, making collaboration and oversight challenging.
- Need to clearly communicate the role of consultants to the public being served. The DOT is responsible for stewardship of the public trust.

Best Practices

- Think of consultants as another tool for delivering a program.
- A new skill set is required among DOT staff to effectively manage consultants.
- Don't contract out 100% of an activity. Hold back some work so that internal staff can maintain expertise and new staff can be trained.
- Keep the percent of consultants at an appropriate level (less than 50% consultants overall highly recommended). When the consultant to staff ratio is out of balance, maintaining adequate expertise to direct and review outside work becomes very difficult.
- Avoid low-bid contracts so as not to compromise the quality of work, but keep it competitive so costs stay down.
- Carefully consider the use of consultants to manage consultants. Insist on the proper consultant skill set for project management while maintaining internal program controls.
- Prequalify individuals, not firms, for right of way consultant services due to frequent movement of consultants between firms.
- Require consultants to hire someone new when they are awarded a project so as to develop a new pool of experienced workers (Illinois DOT model)
- Contracting with work orders helps keep engineering firms with different expertise (residential, commercial, industrial) on the projects that are best for their skills.
- Invest in training in-house staff to maintain the flow of qualified, experienced workers who can both produce and oversee contracts as senior staff retire. (Ohio DOT model)
- Maintain DOT positions at all levels of expertise and across all functional areas.
- Require and provide the same in-house training of consultants so that they can learn DOT processes. (Arizona DOT model)

Appendix D

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