

## Introduction

All governments, whether National, State or local, have a duty to serve the public welfare. In order to meet this responsibility, it often is necessary for governments to acquire private lands to accommodate public projects. The authority to acquire privately-owned property for public use has long ben recognized as an inherent power of organized government, known as Eminent Domain. As a safeguard against government abuse of this power, Article V of the Unites States Constitution reads in part "...Nor shall any private property be taken for public use without just compensation."

### I. Overview of the Office of State Aid Road Construction

Legislative passage of Chapter 6, Laws of the Extraordinary Session of 1949 (Section 65-9-9) of the Mississippi Code of 1972) provided for the creation of a division within the State Highway Department to be known as The Division of State Aid Road Construction and for this division to be charged with the responsibility of administering the State Aid Road Program at the State level.

The legislation also provided for a system of local roads, to be composed of Principle Collector Roads and Distributor Roads in the 82 counties, connecting the State Highway System of roads and other principle county roads to form a network of local secondary roads for the State. Under current state law, this system of roads cannot exceed 25,857.04 miles with each county allocated a percentage

of the total eligible mileage. This system of local roads in commonly referred to as State Aid Roads.

Under this law, it is the responsibility of the **Board of Supervisors**, as the governing agency of the county, to designate the roads to be included in the county's State Aid Road System, to adopt annual Construction programs, **to acquire rights-of-way for construction projects**, to advertise for bids, to award contracts, and to maintain completed projects.

### II. Right-of-Way Acquisitions and the State Aid Road Program

Under the State Law establishing the Office of State Aid Road Construction, the responsibility for acquiring private property for Rights-of-Way to accommodate State Aid administered projects is delegated to the Board of Supervisors, as the governing agency in the county. This law clearly prohibits the use of State Aid Funds for the purchase of Rights-of-Way. In the early years of the State Aid Road Program, most counties were in great need of bridges and improved roadways to serve the local traveling public. Historically, many property owners freely donated Rights-of-Way to the county for projects designed to improve local travel conditions. Donation of Rights-of-Way by private property owners continues to be an important element of the road building process that the Boards of Supervisors utilize to fulfill their responsibility under state law.

Legislation known as the "Real Property

Acquisition Policies Law" (Section 43-37-1, et seq. Of the Mississippi Code of 1972) became effective in 1972 as an attempt to make public acquisition of private property as fair and equitable as possible. The fourfold purpose of this law is to:

1. Encourage and expedite Government acquisition of Real Property by arrangements with property owners.
2. Assure consistent treatment for property owners.
3. Promote public confidence in Government acquisition practices.
4. Avoid litigation and reduce congestion in the courts due to Eminent Domain proceedings.

### III. Property Owner's Rights

Just as Government has the right or power of Eminent Domain to acquire private property, the owner of private property also has rights and options. The "Real Property Acquisition Policies Law" assures the private property owner of certain rights. These rights are an option of the property owner. The owner may claim any or all of his rights, or the owner may release the acquiring Government Agency form the obligations these rights embrace.

## CERTIFICATE

I certify that a copy of the brochure entitled "State Aid Roads and Local People" was delivered

To \_\_\_\_\_ On \_\_\_\_\_ Date \_\_\_\_\_

Property Owner's Name \_\_\_\_\_

Delivered in person \_\_\_\_\_

Delivered by mail \_\_\_\_\_

Other \_\_\_\_\_ Explain \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Project Number \_\_\_\_\_

NOTE: THIS CERTIFICATE SHOULD BE EXECUTED BY A COUNTY OFFICIAL AND RETAINED IN THE PROJECT FILES.

Private Property Owners Have the Right to:

1. Make a gift or donation of the portion of their property required for the benefit of improved local roadways.
2. Receive just compensation for their property, which cannot be less than the acquiring agency's appraisal of the fair market value.
3. An opportunity to accompany the appraiser who appraises the property.
4. A written offer and explanation for the amount established by the acquiring agency as just compensation.
5. A determination of just compensation by a court of law.
6. Payment of the agreed upon purchase price (or a deposit in the court) before being required to surrender possession of the property.
7. Reimbursement for expenses incidental to the transfer of title to the acquiring agency.
8. Reimbursement of certain litigation expenses.
9. At least 90 days written notice to vacate occupied property.
10. Relocation service and payments. (Applicable only to displaced persons).

#### **IV. Summary**

Since the establishment of the Office of State Aid Road Construction in 1949, the 82 counties of the State have through the State Aid Road Program built and improved a system of roads that has provided for safe and efficient transportation to meet the needs of local residents, as well as agricultural, industrial, and recreational enterprises. Increasing reliance on motor transportation demands counties to continue building, improving and modernizing local roads. To do so requires, in many instances, additional Rights-of-Way from private property owners.

Hopefully the information contained in this brochure will be of value to you, the private property owner. With knowledge, understanding and cooperation, County Governments and local people can continue to meet the need for local public transportation facilities.

# **State Aid Roads and Local People**