

Limestone County Water & Sewer Authority

Description: Easement Acquisition Policy

Policy No.: 2007-11

Effective: July 27, 2007

Board Approved: July 26, 2007

PURPOSE

The purpose of this policy is to ensure that all easements are acquired in a fair and efficient manner. As a public entity whose goal is to serve the entire community, it is imperative that consistency and expediency are maintained with public health issues such as the timely availability of water & sewer service.

GENERAL

This policy outlines the proper steps and parameters for determining the location of the easement, notifying the property owner, calculating the compensation, or delivering the necessary paperwork for acquisition through proper legal channels. No deviation from this policy is authorized without Board Approval. From request to access should not take longer than 45 days.

1. Engineers/Staff determine easement needs based on engineering constraints while minimizing impact to property owner.
2. Engineer/Staff delivers dated request, legal description, and site map to Assistant General Manager (AGM) and Planning & Construction Manager (PCM).
3. Upon receipt, drawings and paperwork should be scanned and entered into the approved folder.
4. AGM has seven calendar days to determine property owner and make verbal notification.
5. Within ten calendars of receipt of easement request form, certified letters outlining terms for acquiring utility easements should be mailed to property owners.
 - a. Dollar amount to be determined at future board meeting
 - b. "Good neighbor" care of property
 - c. If an easement has not been signed with 14 calendar days of receipt of certified letter, the easement is hand delivered to Board Attorney.
 - d. Should the easement be agreed to after legal proceedings have started the offer is reduced by any expenses occurred due to the undertaking of the condemnation process.
 - i. Legal Fees
 - ii. Appraisal Fees
6. As many face to face meetings as necessary can be held with the property owners to explain the need for the easements and the Board policy concerning the

acquisition of same. All face to face meetings will be conducted by a minimum of two individuals.

7. A memo of understanding will be issued to all parties following each meeting. Or when some condition has been agreed to verbally.
8. If the easement has not been signed in the allotted time a date request for legal intervention is issued to the Board's Attorney.
9. The Attorney has 18 calendar days to acquire the appraisal based on the following procedures:
 - a. Obtain property appraisal to determine just compensation for the taking.
 - i. Notify property owner in advance when the inspection will be conducted; Owner must be given an opportunity to accompany the appraiser during the inspection of the property.
 - ii. If property owner refuses to permit entry onto property, can file for court order in circuit court permitting entry; bond shall be required (of any party other than the state) for double any potential damages or interference of ownership which may result from entry.
 - b. Submit to the property owner an offer to acquire the property for the full amount to be considered just compensation based on the appraisal; offer must include the appraisal as the basis for just compensation.
 - c. File a complaint with the probate court; probate court must enter an order appointing a day for the hearing thereof and must issue to the defendants a copy of the complaint and notice of the day set for the hearing unless such notice is waived.
 - d. File a notice of proceeding with the probate court (similar to lis pendens)
 - e. Defendant/Owner may file an answer within 30 days but is not required to do so unless defendant challenges the right to condemn or questions or disputes the area to be acquired or remain. If a defendant claims no interest in the just compensation to be awarded he may file a disclaimer.
 - f. If defendant files any preliminary objections regarding power to condemn, failure to follow statutory procedure, or lack of jurisdiction, then those matters must be heard by the probate court prior to final determination.