

**Delaware Department of Transportation
Division of Transportation Solutions
Design Guidance Memorandum**

Memorandum Number: 1 - 1

1. Road Design Manual
2. Bridge Design Manual
3. Utilities Design Manual
4. Right of Way Manual
5. Standard Specifications
6. Standard Construction Details

Title: **Right-of-Way Verification**

Effective date: 3-28-2018

Implementation by: X Project Development, X Bridge Design, X Team Support, Utility, X Right of Way, X Planning, X DTC, X Maintenance & Operations, Other PAR, TAP, Pave & Rehab Projects; Right-of-Way, Traffic Projects, Routine Maintenance Work

I. Purpose

To establish the Right-of-Way Verification process on DelDOT projects with minimal right-of-way impacts such as the Pedestrian Accessibility Route (PAR) Program, the Transportation Alternative Program (TAP), the Pavement & Rehabilitation (P&R) Program. It is also appropriate guidance when installing traffic control devices, and repairing and maintaining existing transportation assets.

II. Applicability

Application to other projects and programs will be made on a case by case basis considering the scope of the project and degree of right of way impact with concurrence from the DelDOT Chief of Right of Way.

III. Design Guidance

The limits of existing ownership, and the presence of existing property rights, must be researched to verify whether additional property rights are required as a result of DelDOT work that could impact land outside of the existing rights of way. Verifying the existing rights of way requires, as a minimum, researching available documents and gathering field evidence. The objective is to determine the existing rights of way with reasonable accuracy for the purposes of the work being performed.

There are multiple methods of carrying out that investigation from cursory review to complex analysis. The method used to verify existing rights of way should be commensurate with the scope of the project. The least complex methods of investigation should be used first because the time and cost of detailed right of way verification can exceed the cost of the types of improvements covered by this DGM and the time it takes to construct them. Only if those methods prove unreliable should the investigation progress to more complex methods. Knowing when the investigation is satisfactory will require judgment. The designer of record will be responsible for making the existing right of way determination.

Delaware law establishes standard roadway rights. These should be the first documents consulted. The documents described below provide an indication of the existing rights of way, which may have changed the roadway rights from the time of

the initial establishment under law. They vary in precision, accuracy and reliability from least reliable to most reliable as follows:

- *DelDOT Roadway Maintenance Inventory*: Listed by maintenance road number, it provides basic information about what DelDOT maintained at the time the inventory was performed. Reliance on this data is most applicable to routine maintenance and repair work in rural areas where other forms of existing right of way documentation are limited.
- *Archive DelDOT Plans*: Reliance on DelDOT archived plans to determine the existing right of way is most applicable where physical features shown on the archived plans still exist and can be found in the field. Most programs and projects covered by this DGM, with the exception of routine maintenance work, should utilize DelDOT Archive Plans as a starting point.
- *Recorded Land Development Plans*: This data can be helpful in finding dedications that may have taken place during the land development process. Reliance on this information is most applicable where physical features shown on the plans still exist and can be found in the field. This information should be recovered for projects that include improvements that initially appear outside the existing right of way based on the lower accuracy verification documents. Doing so will help avoid purchasing property rights on lands already dedicated to public use. Caution must be used to verify the recorded plan has not expired.
- *Recorded Deed Information*: This information identifies the current owner, provides a description of the parcel boundary, and the location and type of property corners. This information can help locate field evidence, such as property corners that provide reliable evidence of the existing right of way limits.
- *Title Search*: This data is derived by performing an industry recognized full title search to determine any liens, out conveyances, easements, subdivision, reservations, etc. on a tax parcel including who owns each property right. This data is essential when a right of way mosaic needs to be constructed in order to determine the existing right of way corridor along a roadway.

Field Evidence includes physical features visible at the project site that are shown on archived drawings such as property corners, existing edges of pavement, curb lines, building lines, utility poles, fence lines, etc. Gathering field evidence should start with the least extensive level of research, such as walking the project location. Only if that method proves unreliable should more complex levels of field investigations be conducted. The designer of record is to use the method necessary to reasonably establish the limits of the existing right of way to a level of accuracy commensurate with the scope of the project. Where field evidence cannot be found to determine the existing right of way it may be necessary to mobilize a survey crew to provide adequate field evidence commensurate with the scope of the project.

The Department has categorized three tiers of projects to be determined by the Project Manager based on the impact to the existing right of way. This DGM recognizes that sometimes projects are initiated with scopes that fall between the Tiers. The Chief of Right of Way will be consulted if applicability is unclear:

- Tier 1: this tier consists of projects which do not have impacts outside of the existing right of way. It still requires research to verify that all proposed work will occur inside the existing right of way. The level of research typically

includes review of the DelDOT Roadway Maintenance Inventory, archived plans and comparison to field evidence.

- Tier 2: this tier consists of projects which have minor impacts outside of the existing right of way at isolated locations. It requires research necessary to establish the existing right of way at the isolated location as well as establishing the area that is to be impacted by the proposed improvement. Tier 2 projects require that an Acquisition Plat be created in order to document the acquisition area.
- Tier 3: this tier consists of projects that will have major impacts outside of the existing right of way. This tier requires research necessary to both establish the area that is to be impacted by the proposed improvement as well as to create an archivable record of the proposed acquisitions. Tier 3 projects should be undertaken by the appropriate Project Development Section and require that Right-of-Way plans be created. Tier 3 projects generally utilize the most complex levels of right of way verification.

The Right of Way Section should provide advice and guidance to the Project Manager on the appropriate type(s) of acquisition for the project. All plans and/or plats shall be reviewed by the Team Support Section for accuracy of the proposed acquisition before handoff to the Right of Way Section.

IV. Justification

In order to promote efficient and cost effective project delivery.

Prepared by: Committee 2.28.18

Date

Recommended by:


Chief of Right of Way

3/28/18
Date

Approved:


Director of Transportation Solutions

3/28/18
Date

Distribution:

Transportation Solutions Assistant Directors

Consultants