

Acquisition Procedures

The procedural steps commonly involved in transactions related to greenways and trail rights-of-way are similar to those that occur when real property, such as a residence, is purchased.

Identification of the land parcels needed for the greenway can be accomplished based on the general alignment of the area to be preserved. For a trail, particularly where the ROW may be restricted to little more than the actual width of the tread, the design of the facility must be worked out in greater detail. For a water trail, individual sites needed for access, rest areas, and camping are normally limited in size and separated by distance. In any case, the tax maps and records of the local government having jurisdiction over the property must be consulted. If this information was not collected in the master planning phase of the project, it must be done so now. This task can be time consuming and will be difficult for anyone not familiar with gathering real property information. When the exact boundary of the area needed is known, the individual parcels affected can be identified by locating the boundary relative to roads and significant streams. The tax maps show the boundary of all parcels for which deeds have been recorded and indicate the parcel number for each. The researcher must collect these tax map and parcel numbers for each parcel that will be affected, both by the actual facility to be created and by construction or access for construction or maintenance. The tax assessor's office will be able to provide the name and address of the person who owns each parcel and the address of where the tax bill is mailed.

The next step is for the researcher to go to the local court records clerk's office and find the latest recorded deed for each property. Those deeds will include the owner(s) names, and the legal description of the property

boundary. There may be references to easements that are already in-force on the property. In some cases, the deed may include a survey map, or plat, indicating boundary data (boundary lines, lengths, and compass bearings), structures, and existing easements. If there is no plat, the boundary can be approximated by comparing the tax map and the property description. When this information is overlaid on the greenway or trail plan, a picture develops of how much land from each parcel is needed.

When the exact portion of land has been identified for a section of the greenway or trail, a drawing of each should be prepared. The drawing should show the area of the parcel near the proposed easement and any structures or improvements nearby. Boundary lines, lengths, and bearings should be shown so that the parcel map resembles a plat. The area proposed to be transferred or covered by an easement should be shaded and marked with dimensions and angles as needed to clearly illustrate what land is intended for discussion.

An appraisal of the value of the area of land, and any improvements, must be completed before conclusive discussions with a land owner can proceed. If the needed land is completely visible from a public road or other property, the land owner may not need to be contacted in advance. The appraisal can be completed based on observations made from the public area, without the assessor entering the property. If the land is not visible or accessible, the land owner must grant permission for the appraiser to enter the property. In such cases, it is best if the proposed greenway or trail plan has had adequate prior public exposure. If it has not achieved wide public acceptance, or at least exposure, proponents will have to explain the whole idea to each land owner individually. It is much more efficient to inform the landowners as a group. You will ultimately have to negotiate with each of them separately for final

agreements and documents, but group meetings in the early stages of acquisition can limit the time spent explaining the project to individuals.

Assuming that access for appraisals is available, they should be contracted for as a group. Specifications should be prepared and the package distributed to appraisers in accordance with local, state, or federal procurement regulations, depending on the origin of funding for acquisition. The appraisals identify the fair market value of the land or easement to be purchased or donated. The map and appraisal for each parcel forms the package with which you approach the landowners with a proposal of purchase or donation. Because this work has been completed simultaneously for an entire section of greenway or trail, the owners will be reassured that it is fair and consistent.

Acquisition offers can now be made to individual property owners. Assuming that they all know about the proposed greenway or trail, they will have formulated ideas about the project and how it might affect them. Most will have made their opinions known, but some will reserve their ideas until approached individually, in private. If these negotiations can be completed, or guided, by an experienced individual, it may expedite the process. Because every property owner's situation is different there are likely to be a variety of questions that arise. If they can be authoritatively answered when asked, the negotiation can proceed efficiently. Even with experienced negotiators, this process may involve more than one visit with each property owner before they actually sign the documents.

Transfer documentation, normally consisting of titles and easements, as described above, will be created to put the final agreements into the proper legal form for recording with the local clerk of the court. As with the

documentation required for the purchase of a home, these papers must be presented in a form acceptable to the local authorities under state and federal code. The normal way to ensure that these materials are correctly prepared is to have them completed or checked by an attorney or title insurance closing agent familiar with the local procedures. The final papers are then signed and funds are transferred at the formal closing of the transaction.

Recording occurs after the closing when the signed papers are filed with the local clerk of the court. The transaction becomes official when the clerk processes the papers and places them in the official deed books of the locality. The clerk designates the specific date of the transaction, which is usually the day the papers are received, or very soon thereafter.