



Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

September 1, 1999

#99-09

CITY ENGINEERS/PUBLIC WORKS DIRECTORS
COUNTY ENGINEERS/SUPERINTENDENT OF HIGHWAYS

On January 1, 1999, [Public Act 90-755](#) modified [605 ILCS 5/4-508](#). This statute change allows the state to enter into a written contract with another highway authority to convey land, dedications, easements, access rights, and any interest in the real estate that the state holds to a specific highway in conjunction with a jurisdictional transfer.

Prior to this statute change, the state had the authority to transfer highway jurisdiction, but not the real estate interest. Thus, the underlying fees of many highways under local jurisdiction are controlled by the state. In the past, this has caused confusion regarding who has authority to issue permits and assess usage fees. Also, some municipal parking ordinances have been challenged when the underlying fee of the highway belongs to the state.

The law allows for the conveyance of any real estate interest from the state to another highway authority in conjunction with a past or present transfer of jurisdiction. The conveyance of any real estate interest from the state to another highway authority is not mandatory and must be mutually agreeable to both parties. Thus the state can transfer jurisdiction to another highway authority without the conveyance of any real estate interest.

To accommodate the current law, the attached [BLR forms, 1600 and 1601](#), have been revised with regard to whether a land transfer is involved and the "effective date" of the jurisdictional transfer. Also, Chapter 5 of the department's [Land Acquisition Policies and Procedures Manual](#) (LAPPM) has been revised. This chapter was distributed to all LAPPM holders with David E. Schinneer's June 7, 1999 memorandum.

A copy of Article 5.11 of the LAPPM addresses the Land Conveyance procedures involving jurisdictional transfers from the state to other highway authorities and is attached.

Questions should be directed to your district Engineer of Local Roads and Streets.

Sincerely,

A handwritten signature in cursive script that reads "Darrell W. McMurray".

Darrell W. McMurray, P.E.
Engineer of Local Roads and Streets

cc-
District Engineers

5.11 LAND CONVEYANCE PROCEDURES INVOLVING JURISDICTIONAL TRANSFERS TO OTHER HIGHWAY AUTHORITIES

Jurisdictional Transfers prior to the enactment of 605 ILCS 5/4-508(d) empowered the recipient with authority and obligation to administer, control, construct, maintain, and operate a highway or street subject to the provisions of the "Illinois Highway Code." They did not include the conveyance of property.

605 ILCS 5/4-508(d) effective January 1, 1999, provides "If the department enters into or currently has a written contract with another highway authority for the transfer of jurisdiction of any highway or portion thereof, the department is authorized to convey, without compensation, any land, dedications, easements, access rights, or any interest in the real estate that it holds to that specific highway or portion thereof to the highway authority that is accepting or has accepted jurisdiction."

Jurisdictional Transfer Agreements can be divided into two categories -- those executed and those yet to be executed. Although quite similar, the procedure for conveyance of property is slightly different for each of these categories. The process to be followed is enumerated in the following sections. Flow charts, Exhibits 5.11-A and 5.11-B are also included outlining the

courses of action. Conveyances under this section must receive prior FHWA approval when appropriate.

PAST JURISDICTIONAL TRANSFERS

Conveyance of land associated with a highway whose jurisdiction has previously been transferred may be initiated by either the department or a Local Public Agency. In either case, District Land Acquisition (DLA) should seek conditional concurrence/general agreement from District Operations (DO), Project Implementation (DPI), Local Roads and Streets (DLR&S), Studies and Plans (DSP), and Program Development (DPD) before initiation or continuation of discussions with the Local Public Agency.

Should ensuing discussions between the Local Public Agency and the department produce an agreement to proceed, DLA should prepare a Letter of Intent to be sent to the Local Public Agency (LPA). It should propose conditions of a land conveyance and include:

- A general description of the property: termini, length, etc.
- Copies of pertinent prior Jurisdictional Transfers
- Details associated with how plat(s) and legal descriptions will be prepared
- A statement that “conveyance documents will include only property deemed to be necessary for highway use and not attendant excess property”
- A statement that “no part of the transferred property can be vacated or disposed of without the approval of the department, which may require compensation for non-public use”
- A statement that conveyance would be subject to existing permits
- Copies of existing permits (utility and access)
- An LPA sign-off area for concurrence/nonconcurrence
- A general location map indicating the limits of the area conveyed

This Letter of Intent is then transmitted to the LPA for its consideration. If the LPA acknowledges concurrence by either returning the Letter of Intent properly noted or by separate letter, DLA should then begin the more detailed preparation of materials for the proposed conveyance required to be submitted to the Central Bureau of Land Acquisition (CBLA).

DLA should now initiate a Statement for Transfer of Land Rights As associated With a Jurisdictional Transfer (Exhibit 5.09-4D) for review and concurrence of other district bureaus and sections whose operations will be affected by the proposed transfer. This statement is similar to the Statement for Disposal of Excess Land or Rights. A major difference is the inclusion of a review and concurrence by the District Local Roads and Streets Engineer.

Upon concurrence by the affected district bureaus, the DLA or the LPA should then prepare or cause to be prepared a plat and legal description of the property proposed to be transferred. The plat must show a north arrow, area to be transferred, and sufficient lines, dimensions, angles, bearings, etc., so the parcel may be laid out on the ground. The legal description should be prepared on the “Legal Description Master Copy” form compatible with the department’s word processing network and titled A Transfer of Land Rights Associated With a

Jurisdictional Transfer. If it is determined that the plats and legals are to be prepared by the LPA, the survey and title records located in the district offices shall be made available to the LPA if necessary.

Construction plan sheet(s) associated with the original Jurisdictional Transfer should be assembled and have the area proposed to be transferred clearly indicated. Copies of permits issued within the area to be transferred should also be assembled. These permits are to include access/entry and utility uses.

DLA, on behalf of the district, then submits a recommendation for transfer, and the above information, in duplicate, to the CBLA for review and further processing.

This data is then reviewed by the CBLA. Other central bureaus will be invited to review and comment on the recommended transfer if deemed appropriate. If found acceptable, CBLA will obtain the approval of the Director of Highways and the FHWA when necessary. Subsequent to approval by the Director, the CBLA will prepare the necessary conveyance documents. This type of instrument shall be a Quit Claim Deed. These documents will be transmitted to the DLA along with a notification to proceed.

The district will then examine the CBLA material and, if in agreement, submit the documents to the LPA for review/appropriate action.

Should the LPA find the transfer material acceptable, it should pass and execute the appropriate ordinances/resolutions, thereby agreeing to accept the conveyance upon execution by the Secretary of Transportation. Five certified copies of the ordinance/resolution are to be provided to the district by the LPA.

DLA reviews this material and forwards it to the CBLA if found to be proper. CBLA finalizes the documents, obtains the Secretary's signature and returns them to the DLA for the act of recording.

DLA records the documents in the appropriate county(ies), retains a copy(ies), sends the originals to the LPA and copies to the CBLA, CBLR&S, DO and DLR&S.

FUTURE JURISDICTIONAL TRANSFERS -- JURISDICTIONAL TRANSFERS NOT YET EXECUTED

A question of Jurisdictional Transfer for a particular highway may arise in the course of planning or design. Should it be determined to be in the best interest of the public or department to transfer the real estate interest in conjunction with the JT, the district and Local Public Agency (LPA) should prepare a Letter of Intent and begin the process to enter into a Jurisdictional Transfer Agreement utilizing BLR Form 1600 (Rev. 01/99) or 1601 (Rev. 01/99). The Letter of Intent is to be prepared by District Land Acquisition (DLA) and propose conditions of a land conveyance and include:

- A general description of the property: termini, length, etc.
- Details associated with how plat(s) and legal descriptions will be prepared
- A statement that "conveyance documents will include only property deemed to be necessary for highway use and not attendant excess property."

- A statement that “no part of the transferred property can be vacated or disposed of without the approval of the department, which may require compensation for non-public use.”
- A statement that conveyance would be subject to existing permits
- Copies of existing permits (utility and access)
- An LPA sign-off area for concurrence/nonconcurrence
- A general location map indicating the limits of the area conveyed

The appropriate BLR form and Letter of Intent are then transmitted to the LPA for consideration. If the LPA acknowledges concurrence by either returning the Letter of Intent properly noted or by separate letter, DLA should then begin the more detailed preparation of materials for the proposed conveyance required to be submitted to CBLA.

DLA should now initiate a Statement for Transfer of Land Rights Associated With a Jurisdictional Transfer (Exhibit 5.09-4D) for review and concurrence of other district bureaus and sections whose operations will be affected by the proposed transfer. This statement is similar to the Statement for Disposal of Excess Land or Rights. A major difference is the inclusion of a review and concurrence by the District Local Roads Engineer.

Upon concurrence by the affected district bureaus, the DLA or the LPA should now prepare or cause to be prepared a plat and legal description of the property proposed to be transferred. The plat should show a north arrow, area to be transferred, and sufficient lines, dimensions, angles, bearings, etc., so the parcel may be laid out on the ground. The legal description should be prepared on the “Legal Description Master Copy” form by way of the department’s word processing network and titled “A Transfer of Land Rights Associated With a Jurisdictional Transfer.” If it is determined that the plats and legals are to be prepared by the LPA, the survey and title records located in the district offices shall be made available to the LPAs if necessary.

Construction plan sheet(s) associated with the Jurisdictional Transfer should be assembled and have the area proposed to be transferred clearly indicated. Copies of permits issued within the area to be transferred should also be assembled. These permits are to include access/entry and utility uses.

DLA, on behalf of the district, then submits a recommendation for transfer, and the above information, in duplicate, to the CBLA for review and further processing.

This data is then reviewed by the CBLA. Other central bureaus will be invited to review and comment on the recommended transfer if deemed appropriate. If found acceptable, CBLA will obtain the approval of the Director of Highways and the FHWA when necessary. Subsequent to approval by the Director, the CBLA will prepare the necessary conveyance documents. The type of instrument shall be a quitclaim deed. These documents will be transmitted to the DLA along with a notification to proceed.

The district will then examine the CBLA material and, if in agreement, submit the documents to the LPA for review/appropriate action.

Should the LPA find the transfer material acceptable, it should pass and execute the appropriate ordinances/resolutions, thereby agreeing to accept the conveyance upon execution by the Secretary of Transportation. Five certified copies of the ordinance/resolution are to be provided to the district by the LPA.

DLA reviews this material and forwards it to the CBLA if found to be proper. CBLA finalizes the documents, obtains the Secretary's signature subsequent to the enactment of the Jurisdictional Transfer and returns them to the DLA for the act of recording.

DLA records the documents in the appropriate county(ies), retains a copy(ies), sends the originals to the LPA and copies to the CBLA, CBLR&S, DO and DLR&S.

5.11-1 LAND VACATED OR DISPOSED OF SUBSEQUENT TO IT
 BEING CONVEYED UNDER 605 ILCS 5/4-508(D)

605 ILCS 5/4-508(d) includes a provision that " no part of the transferred property can be vacated or disposed of without the approval of the department, which may require compensation for non-public use." The deed of conveyance from the department to the other highway authority will include specific language to reserve this right to approve future conveyances.

The Secretary of the department or the Secretary's designee will approve or disapprove all subsequent vacations or disposals of property conveyed by the department under 605 ILCS 5/4-508(d).

Any highway authority who desires to vacate property conveyed to them under 605 ILCS 5/4-508(d) will submit their request through the appropriate district office. The district will prepare a memorandum forwarding the request to the Central Bureau of Land Acquisition. It is important to note that any subsequent vacations or disposals which involve a non-public use of the property originally conveyed by the department may require the department to receive compensation. This compensation will be determined by district land acquisition in the form of an appraisal of the fair market value.

The Central Bureau of Land Acquisition will process the request to vacate or dispose of the subject property through the Office of the Secretary. The Secretary's decision will then be returned to the district by CBLA. The district will, in turn, inform the impacted highway authority.