VTA’S RIGHT OF WAY PROCESS

Board of Directors

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Today’s Discussion

1. Legal Framework of Public Right of Way Acquisitions

2. Overview of VTA’s Right of Way Process

3. Role of VTA Board of Directors

4. Near Term Projects
LEGAL FRAMEWORK
Legal Framework
(Eminent Domain/Condemnation)

• United States Constitution
• California State Constitution Article 1, Section 19
• California Code of Regulations, Title 25, Chapter 6042 (California Relocation Assistance and Real Property Acquisition Guidelines)
• 49 Code of Federal Regulations, Part 24.204(a)(Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs)
• California Code of Civil Procedure
1. APPRAISAL PROCESS: Statutory and procedural requirements ensuring proper market valuations of property by qualified eminent domain appraisers

2. NEGOTIATIONS: Good faith attempts to acquire property through a structured negotiation process with the property owner

3. RESOLUTION OF NECESSITY (RON): Public hearing held by the governing board of the public agency to adopt a RON if a negotiated settlement is not achieved within the specified timeframe

4. LEGAL PROCEEDINGS: Condemnation process is triggered by the adoption of a RON
OVERVIEW OF VTA’S RIGHT OF WAY ACQUISITION PROCESS
The appraisal process generally starts with the preparation of an appraisal map and continues until a valuation is determined and appropriate transaction documents are prepared.
Negotiations and Settlement

All attempts are made to obtain needed property through negotiations and settlement with the property owner.

- Make First Written Offer
- Was Settlement Reached in 60 Days?
  - YES: Is FTA Approval Required on Settlement?
    - NO: Open Escrow/Obtain Possession
    - YES: VTA Board Approval
  - NO: Go to Condemnation Process
- 30 Days Additional
- ROW Certification

FIRST WRITTEN OFFER TO OBTAIN POSSESSION: 3-5 MONTHS
Property Owner Outreach

Multiple interactions occur with each property owner during the overall acquisition process.

- Relocation Planning
- Pre-Acquisition Activities
- Extended Negotiations Period
- Panel Hearings
- Board Hearing for Adoption of the Resolution of Necessity
Resolution of Necessity

Adoption of a Resolution of Necessity is the trigger for commencing the condemnation process and a critical role of the VTA Board

• 15 DAY NOTICE OF INTENTION: Sent to property owner informing of VTA’s intention to hold a hearing for the adoption of the Resolution of Necessity (RON)

• RON HEARING: Public hearing legally required as property owner has right to appear and be heard on issues of public interest and necessity, and proper planning

• ADOPTION OF RON: Resolution must state all required findings have been made and be adopted by 2/3 vote of VTA Board

• FINDINGS: RON is to establish findings of public interest and necessity, and proper planning; not to determine amount of compensation
Legal Proceedings (Condemnation)

VTA Board adopts RON

General Counsel completes suit docs, files suit and serves

No Relocation

Court Hearing for Order of Possession - Possession 4 months after complaint filed.

Relocation

Court Hearing for Order of Possession - Possession 6 months after complaint filed.

ROW Certification

VTA continues to negotiate throughout process
ROLE OF VTA
BOARD OF DIRECTORS
The VTA Board has a critical role in the Right of Way Process

• Adoption of Relocation Plan

• Delegation of Authority to General Manager for Administrative Settlements

• Approval of Settlements Over Delegation

• Adoption of Resolutions of Necessity

• Approval of Negotiated Settlements during Condemnation Process
NEAR TERM PROJECTS
Near Term Projects

- Highway 880 HOV Project
- Highway 101 Auxiliary Lane Project
- BART Silicon Valley Berryessa Extension (SVBX)
- Capitol Expressway Pedestrian and Bus Improvements Project
- Santa Clara Alum Rock BRT