

UCI Meeting

Right of Way and Eminent Domain

2014 Statutory Changes

- Billboard Relocations HB377/SB295 (33.1 – 95.2)
 - Now includes sound wall affects
 - Allows billboards to remain until utility relocation date or certificate for construction
 - Requires rent payment
- Relocation Assistance HB990
 - Changes maximum state limits for residential displace payments
 - Provides relocation benefits to advance acquisition properties
- Deed Correction SB116
 - Allows an attorney to correct certain errors in deeds with an adavit
- Date of Valuation-Inverse SB194
 - Adds to code the fact date of valuation is date set by Judge

Current Issues

- Loss Profit Claims
 - Claim can be made before or after filing eminent domain
 - VDOT's position is that a claim cannot be made if a whole take (must be a residue)
 - VDOT has denied several claims as loss must have resulted from area taken (i.e. strip Take, but entrances remain the same)
 - VDOT is engaging experts and can provide names
 - VDOT's position is that certain tax deductions cannot be added back to net income
 - VDOT is using a form to require data from owners (available to all)
 - Recommend locality contact VDOT's Michal McCall to seek guidance and advice on paying loss profit claims
- Public Use
 - Pay attention to need to formally document the public use in accordance with statute 25.1-204 which requires 1.219.1(A) public use
 - Should justify areas taken as well as easements versus fee (i.e. why take cut/fill slopes in fee vs. permanent easement)
 - These items are being challenged in some VDOT eminent domain taking but no ruling yet
- Compliance
 - Remain focused on use of federal and state funds and the required written documentation
 - This is critical to localities receiving reimbursement