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