



Project & Right of Way Acquisitions

Acquiring right-of-way for infrastructure projects is a complex and time-consuming process that should be considered as early as possible in the project design and environmental review process. In order to meet project deadlines, it is critical to understand the timing and available options for right-of-way acquisition – and their associated costs and risks.

We have decades of experience counseling public agency clients with right-of-way planning, including overseeing the project's preliminary acquisition activities. Such oversight and coordination ensures the necessary steps are taken to meet the project's construction schedule, thereby minimizing construction delays or the potential loss of project funding.

When agencies involve us early on in their projects, they routinely experience a high percentage of voluntary acquisitions at a significant cost savings. Where agreements with property owners cannot be reached, agencies typically see fewer challenges to their right to take or their attempts to secure prejudgment possession.

Our attorneys prepare a plan of action that involves working back from the acquiring agency's scheduled construction commencement or project operation date. We ensure sufficient time and attention is allocated to:

- Preparing right-of-way action plans – including analysis of potential alternatives to condemnation and oversight of project design to minimize, where possible, right to take challenges and exposure to claims for severance damages and loss of business goodwill;
- Preparing appraisals and appraisal reviews – including providing appraisers with instructions on legal issues impacting valuation;
- Negotiating with impacted properties and businesses – including oversight and analysis of negotiations with recommendations on settlements; and
- Securing possession of necessary property through the court system – including a strategy on where and how to file actions to address potential court delays.

Aside from ensuring compliance with the project's schedule, we also provide a significant benefit by working with the project's engineers to ensure all necessary interests are acquired – such as temporary access rights or easements for utility relocations. Working with the engineers also allows for the identification of potential design alternatives, such as slight alignment shifts, a reduction or elimination of temporary construction easements, or the inclusion of appropriate access, all of which will minimize acquisition costs and reduce damages claims. We also ensure the project plans and bid documents contain necessary construction work rules. This step leads to more realistic construction bids, fewer opportunities for construction change orders, fewer claims from impacted properties and businesses, and a higher likelihood of meeting the project's construction schedule.

An effective precondemnation effort often eliminates the need for a condemnation action. A well-planned appraisal and offer process, coupled with timely relocation counseling, goes a long way toward obtaining voluntary acquisitions that avoid condemnation cases. In short, we strive to take steps to acquire right-of-way without the need for an eminent domain lawsuit. We regularly succeed in creating opportunities for voluntary acquisitions that may have seemed impossible before the implementation of our strategies.

When our eminent domain attorneys do litigate, we regularly achieve a noteworthy level of success both in California's trial courts and in Courts of Appeal.