

# Office of Capital Facilities

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LOB #57:

## **LAND ACQUISITION**

### **Purpose**

Land Acquisition's purpose is to acquire the land rights necessary to enable construction of all County capital improvement projects. This includes all aspects of property analysis during design, legal land title research, appraisal or appraisal review, as well as negotiations and coordination with land owners and owner representatives to acquire property or land rights in an efficient and timely manner. Land Acquisition provides strategic leadership in the planning, negotiation, design and implementation of land issues for increasingly complex, public-private partnership capital projects.

### **Description**

Services are provided to several County departments and agencies including:

- Department of Transportation;
- Building Design and Construction Division;
- Utilities Design and Construction Division;
- Stormwater Planning Division;
- Maintenance and Stormwater Management Division; and,
- Wastewater Collection Division.

The land acquisition program provides a critical and necessary service required for the implementation of public use capital facilities. The County's recent focus on economic development and related public private partnerships has required special services for providing land rights for project implementation. Land Acquisition support is essential to foster economic sustainability as the County encounters more specialized processes for providing land.

Land Acquisition staff performs all aspects of property analysis during project design, including:

- Title review.
- Acquisition of land or right of way and other land rights.
- Permanent and temporary easements.
- Real property conveyances.
- Settlement or litigation.
- Eminent domain.
- Appraisal or appraisal review, and other land valuation processes.
- Negotiations and coordination with land owners and owner representatives to acquire property or land rights in an efficient and timely manner.
- Coordinating with the Office of the County Attorney to settle litigation pertaining to the Board's exercise of eminent domain when warranted.

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The division's standard operating procedures are specifically designed to meet all state and federal legal requirements for land acquisition that are critical to maintaining state and federal funding for capital projects or ensuring against legal challenges.

The Land Acquisition Division is part of Capital Facilities in DPWES. The division consists of 19/19.0 FTE positions, headed by a Division Director, and organized into two branches whose concentration is the acquisition of land rights required for the implementation of capital improvement projects (transportation, stormwater, buildings, wastewater) and support of public/private partnerships and large projects.

## Benefits

Land Acquisition is key to fulfilling the mission of Capital Facilities to provide Fairfax County with quality, cost-effective buildings and infrastructure in a safe, timely and environmentally-sound manner.

- As the County has grown, so has the need for public facilities. The longstanding and continued operation of Land Acquisition as a line of business remains an essential element of the construction, maintenance and expansion of capital projects. Without land acquisition and land rights, most capital projects cannot proceed to construction.
- Land Acquisition is responsible for securing land and land rights for a combined project portfolio valued between \$750 million to \$1 billion dollars. Land Acquisition secured land rights on 122 properties for transportation projects in FY 2015.
- Public acquisition of land, temporary and permanent easements, letters of permission and other land rights are governed by specific state and federal regulations that can have adverse effects on County projects if not strictly adhered to. Land Acquisition assures that land and land rights are obtained in compliance with all state and federal regulations while tailoring the acquisition process to remain sensitive to the needs of significant stakeholders within the County such as landowners, homeowners associations, civic associations and the public at large.
- This LOB provides the centralization of services for multiple county customers, maximizing service efficiency and minimizing redundancy from duplicate staff efforts spread through several agencies.
- This LOB implements several Vision Elements in the 2015 Strategic Plan to Facilitate the Economic Success of Fairfax County.

## Primary Correlation to County Vision Elements

**Building Livable Spaces:** Land Acquisition secures the land rights for providing public infrastructure that supports a distinctive and desirable place for communities to grow and thrive. Land acquisition and land rights, including temporary and permanent easements, clear the way for construction of projects that become prominent facilities in the community. These include fire stations, police stations/district governmental centers, libraries, commuter parking garages, Public Safety Headquarters (PSHQ), and community centers, as well as facilities to support operations and maintenance.

**Connecting People and Places:** Constructing new transportation infrastructure and adapting existing roads and pedestrian networks to the needs of present and future residents requires the acquisition of land and land rights in a timely fashion for landowners and project stakeholders. The vast majority of priority transportation projects requires the acquisition of additional land rights. The projects vary widely in scale and scope, from the Route 29 improvements to Route 1 pedestrian improvements, bus stops or intersection improvements. These projects address the County's growing transportation needs, and require an individualized approach.

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## Mandates

State provisions and requirements set a standard for public agencies apart from the normal pursuit of land rights and acquisition that private entities, individuals and businesses employ. The maintenance of a land acquisition program is essential to ensuring that these mandates for compliance are met as listed below:

- The County is authorized to condemn property for public use pursuant to Code of Virginia §§ 15.2-1901, et seq., and in particular in §15.2-1901.1, with procedures dictated by §§ 15.2-1902-1905.
- Code of Virginia Title 25.1 regarding the general powers and procedures for eminent domain/condemnation, with slow take procedures provided in Chapter 2 (§§ 25.1-200 - 25.1-251).
- Quick take (transferring defeasible title by certificate) procedures provided in Chapter 3 (§§ 25.1-300 - 25.1-318).
- Relocation requirements (Virginia) are provided in Chapter 4 (§§ 25.1-400 - 25.1-421) and Virginia Administrative Code Title 24, Agency 30 (Department of Transportation), Chapter 41 (Sections 10 – 760). Code of Virginia § 1-219.1 provides limitations on the exercise of the power of eminent domain.
- Further Code of Virginia provisions relating to eminent domain are found in Title 33.2, Chapter 10 (§§ 33.2-1000 - 33.2-1034), with Code of Virginia § 15.2-1902 expressly making §§ 33.2-1007 through 33.2-1011, 33.2-1014, and 33.2-1017 applicable, with respect to any condemnation by the County of property for highway purposes.

Where federal money is involved in the project, federal code and regulations must also be followed for land rights and land acquisition, or federal funding can be withheld as noted below:

- USC Title 42, Chapter 61, noting that 42 U.S.C. 4604(c) Federal financial assistance may be withheld to any displacing agency found by the Federal agency “...to have failed to comply with the laws described in subsection (a) of this section.” 42 U.S.C. 4655 references this also to acquisition. Code of Federal Regulations, Title 24, Subtitle A, Part 42 provides the regulations applicable to federal acquisitions and acquisitions in which a project receives Federal money.

## Trends and Challenges

- Challenging environmental requirements brought about by a more restrictive regulatory environment for the exercise of eminent domain.
- In response to property rights initiatives within Virginia, the 2012 amendment to the State constitution and subsequent changes to the State Code restrict the conditions and the process by which condemnation of private property for public use can be conducted, and expanded the impacts for which compensation could be applicable.
- The Board of Supervisors has made a commitment to prioritize the expenditure of \$1.4 billion in funding over the next 6 years for transportation projects.
- Funding identified from state and regional funds will provide for approximately 180 projects, including new roads, sidewalks and bike lanes.
- The transportation bond referendum approved in November 2014 authorized bonds to provide for \$16 million in spot road improvements to increase roadway capacity, reduce congestion, and improve safety. Another \$77.5 million was authorized for pedestrian improvements. The majority of these improvements require land rights from adjacent properties in a timely and efficient manner to ensure project completion.
- In FY 2015, land rights from 122 affected properties were obtained for transportation projects and that number is expected to increase and expand once more projects are realized from the November 2014 referendum.

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- Maintaining environmental infrastructure is a mandate that over the long-term will require the acquisition of land rights to enable stream restoration projects to be completed to fulfill the goals of the County's Strategic Plan for the Economic Success of the County as well as the requirements of the County's Municipal Separate Storm Sewer System (MS4) permit.

A key goal of the Strategic Plan for the Economic Success of the County, is to further diversify the County's economy through public private partnerships. Land Acquisition has adapted to provide support to the County's increased participation in public private partnerships, requiring the acquisition of land rights often in a different form from traditional acquisition, through land exchanges, reciprocal easements or other cooperative endeavors with private entities.

## Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
<b>LOB #57: Land Acquisition</b>			
<b>FUNDING</b>			
<u>Expenditures:</u>			
Compensation	\$1,067,922	\$1,097,626	\$1,678,231
Operating Expenses	37,910	56,971	24,695
Work Performed for Others	(747,546)	(768,338)	(1,134,762)
<b>Total Expenditures</b>	<b>\$358,286</b>	<b>\$386,259</b>	<b>\$568,164</b>
General Fund Revenue	\$0	\$0	\$0
Net Cost/(Savings) to General Fund	\$358,286	\$386,259	\$568,164
<b>POSITIONS</b>			
Authorized Positions/Full-Time Equivalents (FTEs)			
<u>Positions:</u>			
Regular	17 / 17	19 / 19	19 / 19
<b>Total Positions</b>	<b>17 / 17</b>	<b>19 / 19</b>	<b>19 / 19</b>

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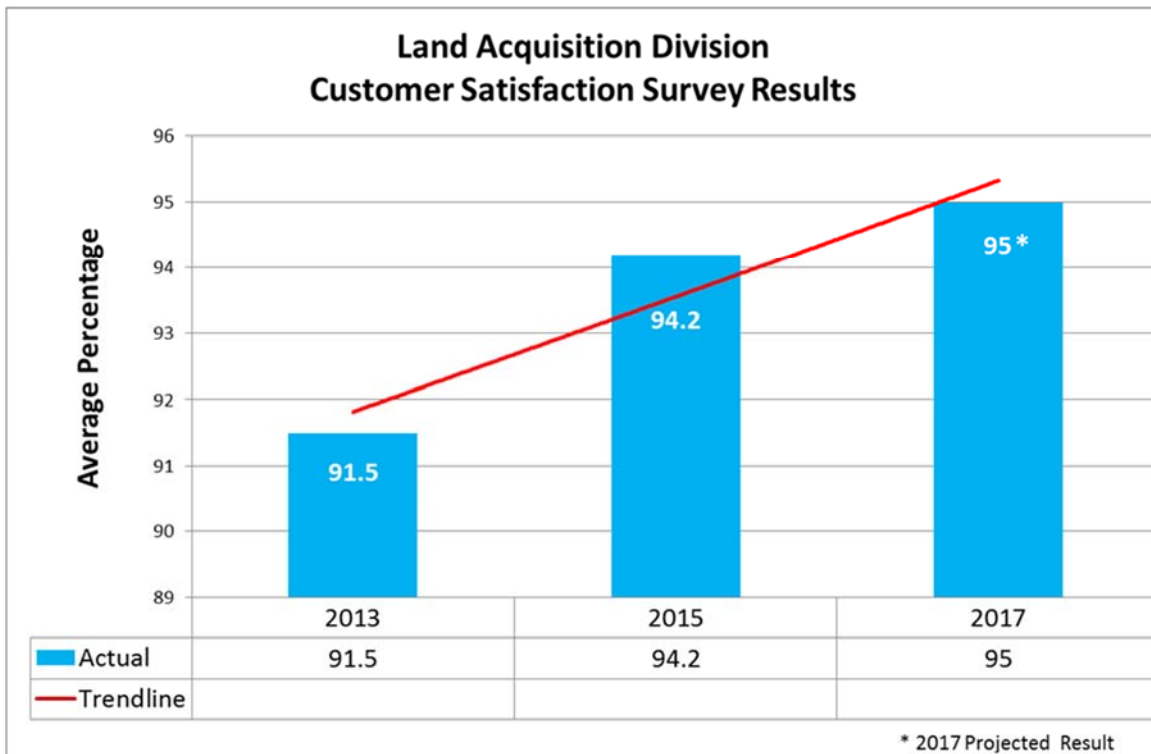
## Metrics

Metric Indicator	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimate	FY 2017 Estimate
Customer Satisfaction Survey	91.5%	NA	94.21%	NA	95.00%
Average Number of Days to Complete Acquisition Phase by Year per Full-Time Employee/ Equivalent	20 days	13 days	12 days	12 days	12 days

### **Customer Satisfaction Survey**

Two metrics provide direct measurement of the land acquisition line of business' efficiency and effectiveness: the customer service survey performed on a biannual basis, and the average number of days per full-time employee/ equivalent to complete the acquisition phase of county projects where land rights or acquisition are required.

The customer service survey was first implemented in FY 2013 and surveyed project management personnel involved in Transportation Design Division, Stormwater Management, Utilities Design and Construction, Wastewater Management and Building Design and Construction Division, as to the efficiency, effectiveness, and timely response to their project requirements. The intent of the survey was to provide a metric to measure ongoing initiatives within the Land Acquisition Division to improve outreach to customers who rely on acquisition of land and land rights in order to proceed with construction of capital projects. A benchmark of a 90 percent satisfaction rate was established as a goal to maintain in this effort. In FY 2013, the results of the survey measured a 91.5 percent customer satisfaction and increased to 94.21 percent in FY 2015, reflecting an improvement in service quality resulting from incorporating constructive feedback received from the last survey and incorporating changes in process to improve acquisition services. The results are summarized in the table below showing continued service quality improvement.



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## **Average Number of Days per FTE to Complete Acquisition Phase**

Land Acquisition has streamlined land title review, valuation and negotiation procedures, while adhering to state and federal mandates to provide land rights and maintain the project schedule. This metric was developed as a measure of the average number of days to complete the acquisition phase per full-time employee/equivalent. As a result, the average number of days needed to complete the acquisition phase of all projects was reduced from 27 days per full-time employee/equivalent in FY 2013 to 12 days per full-time employee/equivalent in FY 2015 reflecting greater efficiency. The average number of days needed to acquire land rights is anticipated to remain steady, in order to ensure continued compliance with state and federal requirements.

