

IRWA Legal Symposium – April 20, 2016

Presenter: Mark D. Mathewson

Topic: Negotiations in Right of Way Acquisition

Duration: 40 Minutes

Presenter's Biography:

Mark D. Mathewson is an attorney concentrating in area of land acquisition. Mr. Mathewson is the owner of Mathewson Right of Way Company (MROWCO). He has been on the Illinois Department of Transportation Approved Negotiator List since it was established in 1989. He has provided negotiation services throughout the State of Illinois. His clients have included the State of Illinois, the Illinois Tollway, the Counties of Cook, Lake, McHenry, Boone, DuPage, Kane, Will, and Kendall. He has also represented the City of Chicago and over 60 local municipalities. Private sector clients include two Class I Railroads. Mr. Mathewson has provided negotiation services on more than 10,000 parcels throughout his career.

Presentation Outline:

- I. Introduction and Discussion of the Negotiator's role in the Land Acquisition Process
- II. The Uniform Act
 - a. Passed by Congress in 1970
 - i. Establishes minimum standards for federally funded programs and projects that require the acquisition of real property or displace persons from their homes, business, or farms.
 - ii. Applies to all Federally Funded projects.
 - b. Objectives of the Uniform Act
 - i. To provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.
 - ii. To ensure relocation assistance is provided to displaced persons
 - iii. To ensure that no individual or family is displaced unless decent, safe, and sanitary housing is available within the displaced person's financial means
 - iv. To help improve the living conditions of displaced persons living in substandard housing.
 - v. To encourage and expedite acquisition by agreement and without coercion.

- c. Uniform Act's Impact on Real Property Acquisition
 - i. Appraise the property before negotiations
 - ii. Invite the property owner to accompany the appraiser during the property inspection
 - iii. Provide the owner with a written offer of just compensation and a summary of what is being acquired
 - iv. Pay for property before possession
 - v. Reimburse expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes or other expenses
 - d. Discussion of "Good Faith Negotiations" and what that means under the Uniform Act
- III. What occurs before negotiations commence
 - a. Engineering Design
 - b. Survey
 - c. Title Search
 - d. Appraisal
- IV. The Negotiation Process
 - a. Making contact with the owner
 - i. In-Person Meeting
 - 1. Making the offer
 - b. The Property owner's options
 - i. Accept the offer
 - ii. Condemnation Trial
 - iii. Counter Offer
- V. Conclusion of Negotiations
 - a. Sixty-Day Notice, or other notice prior to filing condemnation
 - b. Reaching a deal
 - i. Conveyance documents
 - ii. Clearing Title
 - c. Forwarding the file for the initiation of Condemnation Proceedings