

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Department of Transportation (department) is committed to an access management policy that balances the needs of mobility and safety on the state highway system with the needs of access to adjacent land uses. Access management involves not only the control of access through the designation of locations at which access to or from the highway is permitted or denied, but also the state's acquisition of an adjoining landowner's right of ingress and egress to the highway as needed for a state highway purpose, and sale of those access rights that are no longer needed.

Transportation Code, §§201.103, 203.002, and 203.003 authorize the Texas Transportation Commission (commission) to plan and make policies for the location, construction, maintenance, and operation of a comprehensive system of state highways and public roads. Transportation Code, §§203.051 and 203.052 authorize the commission to acquire an interest in real property that the commission determines is necessary or convenient to a state highway, including a landowner's right of ingress and egress to the highway. The appraisal method for valuing the landowner's access rights in an acquisition is based on legal doctrines of state and federal eminent domain and inverse condemnation law.

Transportation Code, §202.021 authorizes the commission to recommend the sale of access rights to the adjoining landowner if those access rights are owned by the state and the commission determines that the rights are no longer needed for a state highway purpose. Section 202.021 also requires the commission to determine the fair value of the state's interest in the access rights as a condition of the sale. The method for determining the value of the state's access rights in a surplus sale is not prescribed by law.

To emphasize the department's commitment to a balanced and fair approach, the commission desires to implement a policy that is designed to apply the same standard for determination of value to both the state's acquisition and sale of an adjoining landowner's right of ingress and egress to a state highway.

IT IS THEREFORE ORDERED by the commission, for a sale or transfer of access rights occurring after January 1, 2011, that the standard for determination of fair value of the state's interest in the sale of access rights to a highway right of way under Transportation Code, §202.021 (d) shall be the same standard that is required by law to be used by the department in the acquisition of access rights under Transportation Code, Chapter 203, Subchapter D, and the payment of damages in the exercise of authority under Transportation Code, Chapter 203, Subchapter C for impairment of highway access to or from particular adjoining land.

Submitted and reviewed by:

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Recommended by:

Emilio Lopez
Executive Director

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Minute Date
Number Passed