

Guidance to Right of Way Determination

FINAL : October 31, 2023

1. Introduction / Purpose

- a. An issue has been identified in how Existing Right-of-Way is being established on roadway improvement projects, with inconsistencies seen across multiple projects from multiple sources. In light of this issue, this bulletin is intended to identify the necessary resources and processes to achieve the correct R/W width along with its relative location.
- b. The purpose of this bulletin is to guide the surveyor in determining how the Existing R/W is to be determined.
- c. While this guidance is not meant to cover every possible case or scenario, ultimately the PS (Professional Surveyor) is making their professional opinion as to how the R/W width was established using all available sources of record.
- d. Government agencies have a vested interest in making sure the Right-of-Way gets its due and is established correctly based on record information. Contact your owner agency or any of the governmental groups listed in Section 4 below early in the right-of-way resolution if you need any assistance or have any questions. These groups are available to assist the surveyor and collaborate resources.

2. References of Describing Right-of-way

a) ORC Section 4511.01 (2) A general term denoting land, property, or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation purposes.

b) A right of way is the privilege that one person or class of people has of passing over the land of another in some particular line. It is an easement but the term is used to describe either the easement itself or the strip of land that is occupied for the easement.

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c) A right of way may be public or private, and public ways as applied to ways by land are usually termed "highways" or "public roads" and every citizen has the right to their use.

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d) The term right of way may be used to describe both the easement itself and the strip of land that is occupied for the easement.

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e) The right of way line is the line defining the edge of the easement, denoting its extent. Generally, there are two, one on either side. Often the term right of way is used when the land itself is not an easement but a strip owned in fee simple by another.

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3. Questions the surveyor should answer when starting to research the Existing R/W.

- a. How was the right of way created or establish?
 - i. State of Ohio Road Laws
 - ii. County or City Road Records

- iii. County Commissioner Journals
 - iv. Plat
 - v. Ordinance
 - vi. Original R/W Plans
 - vii. R/W plans adding to Original R/W Plans
 - viii. Vacation Plat
 - ix. Deed
 - x. Standard Highway Easement
 - b. What type of right-of-way is it?
 - i. A deed by fee simple
 - ii. A highway easement
 - iii. A County Commissioner's journal or road record
 - c. Who owns the fee title?
 - i. State, County, or City
 - ii. Underlying fee owner
- 4. Process to Establish Existing R/W
 - a. The process to establish existing R/W can be an iterative effort. This can result in researching multiple resources, such as listed in 3(a) above. This may include contacting the State, County and local City offices, including trips to the County court house, field investigations, and possible historical societies if necessary.
 - b. See Boundary & ROW Determination Process exhibit attached.
- 5. Best Practices
 - a. Pins vs Records
 - i. A challenging question which the surveyor occasionally faces is whether to hold the pin or the stated width, distance, and/or bearing on the plat. When faced with this situation, an important question to be answered is whether the pins found are original set at the time of the survey. The normal presumption is that the width of the street is that dedicated by road record, plat or deed.
 - ii. In some cases where it is not clear what width has been dedicated on the boundary of a plat (or on an adjacent plat), a resolution needs to be established that pulls together both record information and field measurements.
 - b. Plans vs Records
 - i. Another challenge for the surveyor is to discern what record plans show vs recorded deeds. Record plans and prior surveys sometimes capture what was intended for acquisition, but the property conveyance was never completed (for whatever reason). While researching historic plans for new surveys, a recorded deed of transfer must be found and noted on the plans to truly represent the current state of right-of-way.
- 6. Links to other Resources – **see attached** for agency contact information
 - a. ODOT ROW Manual
 - i. Appendix C is The State of Ohio Road Laws
 - b. City of Columbus
 - i. D and E plans
 - c. Franklin County
 - i. Surveys, Road Records, Tax Maps, Railroad Valuation Maps

- ii. Judgements – Court of Common Pleas
- d. Other
 - i. Ohio Historical Society
 - 1. VMS records
 - 2. Columbus Library

Note: This guidance was developed by the City of Columbus (Public Service), the Ohio Department of Transportation (District 6), and the Franklin County Engineers Office, with contributions and support from a collective group of area surveying professionals and consultants.

Email address to City, County, and State agencies

Franklin County Records

Records@franklincountyengineer.org

Franklin County Clerk of Courts, use the following web address

[Public Records Request Form - Franklin County Clerk of Courts \(franklincountyohio.gov\)](#)

City of Columbus Plan Request

dpsplanrequests@columbus.gov

If City of Columbus utility infrastructure, including Water, Sanitary, Storm or Electric, is needed - email those requests to Department of Public Utilities at

DPU_GIS_MAPPING@COLUMBUS.GOV.

OHROW viewer https://gis3.dot.state.oh.us/ohROW_viewer

Jim Stafa James.Stafa@dot.ohio.gov

Dale Mead Dale.Mead@dot.ohio.gov

Boundary & ROW Determination Process

