

Port Everglades Expressway – I-595 Fort Lauderdale, Florida

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INTRODUCTION

Construction of Interstate 595 in South Florida established new standards in the field of highway right of way acquisition. I-595 presented a challenge in acquisition because the roadway was built through the heart of a highly populated urban area. The project is believed to be the first in the country in which a single construction manager oversaw right of way, design and construction.

ICF Kaiser Engineers, Inc., (KE) was hired by the Florida Department of Transportation (DOT) in 1983 to manage the design and construction of the \$1.2 billion project.



Looking east along I-595 and its four-level \$62 million interchange with US 441 (State Road 7). This one interchange has 38 lane miles and 19 of the project's 93 bridges, and occupies a footprint of approximately 300 acres.

Interstate 595 was opened to traffic on October 21, a full five years ahead of the original schedule.

PORT EVERGLADES EXPRESSWAY

Kaiser Engineers, Inc. has had the opportunity to provide engineering consulting, construction management and right-of-way services for Florida's largest public works project and the nation's second largest ongoing highway construction project. The Port Everglades Expressway – Interstate 595 – is a 13.4 mile freeway which connects Port Everglades on the east with Interstate 75 and the Sawgrass Expressway on the west. Interstate 595 connects to nine major north-south roadways including Florida's Turnpike, I-95 and U.S. 1. The \$1.2 billion roadway encompasses some of the

most heavily developed areas in Broward County, Florida and has radically changed the development and redevelopment patterns of nearby properties.

As the right-of-way services consultant to the Florida Department of Transportation (DOT) KE has provided a full range of right-of-way services which include contract administration, appraisal,

appraisal review, acquisition, relocation, property management and environmental services. KE has acted on behalf of the Florida DOT for the procurement of approximately 500 parcels. When taking on such a large project, a number of challenges are presented in the area of appraisal administration.

This is especially so on the I-595 project because of the project's size, the type of properties in the highway alignment and the complexity of the Florida eminent domain laws. Most acquisitions were commercial or industrial properties and

required a substantial oversight effort.

A problem area was the classification of real property and personal property for the acquisition appraisal. One procedure developed over the course of the project seemed to offer the best control from a managerial viewpoint and the best results from an acquisition perspective. A team of right-of-way personnel representing the appraisal, acquisition, relocation, environmental and property management departments inspected all commercial and industrial properties. These inspections were conducted to classify real property items, personal property items and to locate environmental hazards or pollution. A **realty/personalty inventory** of each property was prepared. Interviews with owners and tenants were conducted in order to determine the property classification using guidelines provided by the Florida DOT. Written lease copies were requested from the



Looking southeast across a major part of the I-595 project nearing completion – the I-595/I-95 four-level interchange and the three-level I-95/S.R. 84 interchange. This \$120 million construction contract is DOT's largest ever.

Early Identification of Real Property, Personal Property and Environmental Hazards

owners and tenants. Leases helped to determine the ownership of items and helped the appraiser in determining property interests. The participation of both owners and tenants in the preliminary inventory helped to eliminate ownership conflicts during the acquisition phase.

In complex property ownerships interest situations or in franchise or sublease situations the realty/personalty inventory was invaluable in sorting out the complex arrangements of property ownerships and classification.

A sample scenario of the complex interworkings of property ownership interests and property classification could be the typical mini-mart gasoline station. The underlying fee could be owned by one party giving a long term land lease to another party who owns the building but sub-leases to an oil company or other party who installs their underground tanks, gas pumps or walk-in coolers while maintaining a sublease with the right

to remove all trade fixtures.

The trade sign face might be owned by the sublessee while the base could be owned by another. Phone systems could be either purchased or leased or a combination of both. Many different situations can arise in a landlord/tenant situation.

The three tests as shown below were used to differentiate between real property and personal property.

1. The manner of affixation – an item which cannot be removed without causing damage to the remaining realty, or to the item itself is generally considered a part of the real estate. If no damage would be inflicted by its removal, the item meets one test of being classified as personal property.
2. Adaptation to real estate – an item installed, or constructed that contributes to accomplishing the purpose for which a structure was built is usually real estate. Such an item characteristically becomes a permanent component of total

improvements and contributes to overall value.

3. Intent of party who attached the item – an item attached by the owner or tenant with the intent for the attachment to become permanent, most likely becomes a real estate item. If the intent of the party responsible for the attachment is to remove the item at some time in the future, the item is generally classified personal property.

The intentions of the parties involved is usually the most important, and often the deciding factor in determining whether an item is realty or personalty. One needs to be alert for specific language in leases or other written documents such as a mortgage deed for determinations of property classification.

During the property inspections a preliminary realty/personalty inventory classification was made. Shortly thereafter the KE staff met

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Environment Seminar Videotapes

Buckeye Chapter 13 held its 32nd annual seminar on September 28 and 29. The single-topic format was well received by the more than 130 persons in attendance.

The thought-provoking sessions gave helpful insights, valuable information and a logical continuum of subject matter. These pervasive issues, which concern most of us today, were covered in depth by the excellent speakers.

Anyone interested in such areas of concern as "Wetlands-Regulations and Development," "Acquisition & Relocation of Affected Properties," "Environmental Hazards to Your Development," or "Pre-Acquisition Site Audits," presented by authoritative professionals will want to purchase videotapes of the sessions in which you have interest.

These sessions would be excellent for presentations at one-day chapter meetings. If your members are concerned about Right-of-Way environment issues, the videos would be excellent resource materials.

These videotapes are available in two-hour segments for the nominal price of twenty-five dollars (\$25.00) per tape. Contact Chapter 13 President W.W. Pemberton, Jr., SR/WA, for further information and ordering of taped segments. (513) 632-3554

Order your videotapes today!!

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with the Florida DOT's right-of-way department administrators to alert them early of possible problems in the acquisition process. Once the preliminary realty/personalty inventory is complete it is desirable to present it to the owner and tenant for concurrence.

Also, KE was better able to provide a scope of services description which would be used for requesting proposals from fee real estate and possibly fixture

appraisers. The real property versus personal property issue had become an important concern on this project.

Because there was Federal participation in the right-of-way acquisition, the project

was required to meet Section 302, Title 111 - *Uniform Real Property Acquisition Policy Act* which states (see also 49 CFR Part 24.105 acquisition of tenant-owned improvements):

Buildings, Structures, and Improvements

Sec. 302

- (a) Notwithstanding any other provision of law, if the head of a federal agency acquires any interest in real property in any state, he shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which he requires to be removed from such real property or which he determines will be adversely affected by the use to which such real property will be put.
- (b) (1) For the purpose of determining the just compensation to paid for any building, structure, or other improvement required to be acquired by subsection (a) of

this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or

improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the

tenant therefore.

(2) Payment under this subsection shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the

owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release to the United States

all his right, title, and interest in and to such improvements. Nothing in this subsection shall be construed to deprive the tenant of any rights to reject payment under this subsection and to obtain payment for such

property interest in accordance with applicable law, other than this subsection.

Because of the requirements of the law, it is essential that the real property owners and tenants be justly compensated for their interests and at the same time neither should be double compensated for any building structure or improvement. By determining which items were real property and which items were personal property and which items were owned by the landlord and which items were owned by the tenant(s), KE was better able to plan relocation needs and the appraisers were better informed as to what property they were appraising. KE was able to assure the Florida DOT and the Federal Highway Administration (FHWA) that all persons with an interest in the property were appropriately compensated.

Once the inventories were complete and the Florida DOT was in agreement with the property classification, the inventories were submitted, to the appraisers for their comments and/or concurrence. If the appraisers did not agree with the property classifications, they were to

discuss their ideas with the assigned review appraiser.

Otherwise, it was expected that those personal property items described in the inventory would be excluded from the real property appraisal. Any personal property would be dealt

with separately. Personal property or fixture appraisals would be obtained on an as needed basis by the relocation department of KE. The relocation department often needs personal valuations for the purposes of computing actual direct loss pay-



October '88 view of concrete segmental bridges being erected at I-595 and S. R. 7 interchange.



August '89 ground view of nearly completed concrete segmental bridges criss-crossing the interchange.

ments (49 CFR 24.407-10) or substitute personal property payments (49 CFR 24.403-12). Relocation agents can use the realty/personalty inventory to assist in the preparation of the pre and post move inventories and to make sure that no item of real property or purchased fixtures that might be retained are included in the move cost calculations and claims.

The realty/personalty inventory also provides guidelines for acquisition agents, relocation agents and property managers. The inventory facilitates the acquisition agent in the preparation of the summary statement of just compensation where the real property and any buildings, structures, and other improvements (including removable building equipment and trade fixtures) which

are considered to be part of the real property are enumerated (49 CFR part 24.102e). Property managers can use the inventory to check and make sure that all real property interests purchased are present and accounted for when taking possession of the property. Locations of underground tanks (septic, fuel, waste, etc.), process lines, drain fields and utilities, when their locations can be ascertained, can facilitate the demolition process.

A preliminary environmental assessment report was also presented to the Florida DOT. Some properties, simply by the nature of the business, can be identified in the inventory stage as a potential environmental consideration (gasoline stations, print shops, manufacturing plants, etc.). As

a result project managers for the Florida DOT had an early awareness to potential environmental problems.

The objectives of the preliminary environmental assessment report are to identify any sites within the right-of-way which have documented environmental contamination or a potential for environmental contamination and to provide the pertinent information necessary to develop a preliminary environmental sampling program. The analytical results obtained from the sampling program will then be used to record and evaluate any contamination which may exist so that if necessary, further assessment and remediation efforts may be pursued. The information is presented on a parcel by parcel basis and is divided into two categories;

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Courses Financed by the Foundation

Frequently members ask what courses have been financed by the Foundation. Here is a list:

New Courses:

- 206 Presentation Skills
- 403 Easement Valuation
- 700 Introduction to Property Management
- 802 Legal Aspects of Easements
- 901 Interpreting Engineering Drawings
- 902 Property Descriptions

New 1-day course:

Introduction to the Environment

Course Revisions:

- 101 Principles of Real Estate Acquisition
- 214 Skills of Expert Testimony
- 301 Leadership Skills for Right of Way and Real Property Professionals
- 501 Relocation Assistance
- 801 Land Titles

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parcel (property) information and tenant (operation) information. Parcel information includes data on property location, owner name and address, site description, present land use, septic system information, storage tank issues and site inspection observations.

Tenant information includes business name and address, owner/operator names, tenant history, hazardous materials handled, waste generation and management practices, environmental agency audit data and inspection results and observations. Recommendations were made regarding site sampling or follow-up activities.

The preliminary realty/personalty inventory conducted in the early stages of the project was an effective method of managing the potential appraisal, acquisition, relocation, environmental and property management concerns on the I-595 project. It provided early determination of property classifications and ownerships. The procedures outlined may not be necessary for all right-of-way acquisition projects. However, because of size and complexity of the I-595 project, it was a valuable tool for controlling the various stages of the right-of-way acquisition.



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