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# Easement Valuation Along Highway Frontage

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## **Valuation of the type of easement that essentially does not affect use or value**

■ EDWARD A. COREY

**T**his article deals with the valuation of the type of easement that essentially does not constitute a detriment to the property's value in itself, such as a narrow water and wastewater easement along the front property line. "Fair" compensation (market value) for the taking of this type of easement is directed more toward compensation for the use of the surface rights and, possibly, the inconvenience of business disruptions during utility installations and subsequent maintenance than toward the value of the easement itself. The computation of this compensation tends to be more a matter of accepted convention in any particular locality than the analysis of the situation. This article outlines an analytical method as the basis of compensation as a preferable alternative to accepted convention, which varies widely and haphazardly from area to area.

I investigated this problem by first sampling actual appraisal practice. Second, I sampled developer's opinions on the subject. Third, I researched the impact of easements on the actual land sales data in the area that I was working with at the time I wrote this article. And finally, I surveyed the site uses for the easement portion of the properties in the same area and analytically arrived at an estimate of compensation.

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*Edward A. Corey, MAI, SRPA, is President of Capital Foresight, Inc., a real estate appraisal firm located in Austin, Texas.*

### **Appraisal Practice**

I conducted an informal interview of appraisers regarding how they would go about performing the type of valuation problem noted above and what would be their general level of compensation or estimate of market value for it. I spoke with appraisers in six cities, and each city tended to have their accepted level of compensation for an easement of this type. The compensation amount varied an incredible amount, from 0% to 100% of the fee simple market value of the land contained within the easement (one end of the spectrum to the other). Five of the six cities ranged from 0% to 10% and averaged approximately 5%, a fairly tight range. The sixth city stood out at far above the others at a range of 25% to 100% and usually tended to be at the lower end of their respective range. This "Sixth City" was the reason for the wild results from the interviewing process. None of the appraisers in any of the cities questioned could explain how they arrived at their level of compensation, other than referring to accepted practice in the area.

The sixth city was looked at a little closer than the others. In this city, it was noted that for ROW taking appraisal work, as considered separate from *Easement* taking appraisal work, no adjustments were ever made to the part taken due to any easements that it contained. It should be emphasized here that if the easement has an effect on land value, then its effect on the part taken should usually be much larger than on the whole property, due to the

easement usually being a much larger proportion of the part taken as compared to the whole property. If no adjustments were made for the easement contained within the ROW taking, then the effect which these easements had on land value, in the opinion of these appraisers, was zero. This was, of course, a direct contradiction to the value recognized for the easement taking itself, for the same property, at the same point in time.

The results from this simple interviewing clearly indicated that accepted practice in any one area varied widely and haphazardly from the other areas and could not be relied on to give consistent results nor adequate explanation for the basis of those results. If the accepted convention from area to area agreed with each other fairly well, then there would be some validity to using it. Due to the amount of variability in its use, however, I feel that it cannot be relied on in this instance.

### **Developer's Opinion**

In sampling developers' opinions, the results were unanimous, every one agreed that an easement of this sort would have no adverse effect on the land value, as long

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as the overall development potential of the site remained the same. They also agreed in saying that having a water and wastewater easement along the front of the site would probably *add* to the site's value, due to eliminating the potential costs of having to extend the utilities to the site.

It should be emphasized here that the opinions of the developers were *unanimous* and were expressed with *certainty*. Since developers are the prime buyers of commercial land along highways, this form of *market data* should weigh heavily in forming an opinion for an appraiser.

### **Land Sales Data**

Land Sales activity in the area that I was analyzing were relatively slow and I chose the last five sales that occurred, which span

a period from 1985 to 1988. The results of these sales are indicated below:

- a. Closed 2/8/85; \$13.10/SF; 2.85 acres; 25' front yard setback; 7.5' side yard utility easement; 28% of area affected by setbacks or easements.
- b. Closed 5/1/85; \$12.45/SF; 1.08 acre; 10' front yard utility easement, 25' rear setback, 5' side yard utility easement; 16% of area affected by setbacks or easements.
- c. Closed 7/27/87; \$16.58/SF; 0.429 acre; 25' front yard setback; 17% of area affected setbacks or by easements.
- d. Closed 12/30/87; \$12.85/SF; 2.18 acres; a corner lot with 25' setbacks on both street frontages, 30' side yard drainage and utility easement; 27% of area affected setbacks or by easements.
- e. Contract Pending 1/88; \$14.50/SF; 0.554 acre; 25' front yard setback; 10' rear drainage easement; 20% of area affected by setbacks or easements.

As can be seen from the data, the market has been very flat with no applicable time

adjustments indicated. All the properties were similarly zoned and located, and all had easements present. It is doubtful if any property could be found in the area without some sort of easement present, so this condition is the norm for the market. Comparables a, b, and d were similar in size in price; however, their percentage affected by easements varied from 17% to 28%. The

There appeared to be no relationship between value and the amount of area encumbered with this kind of assessment.

small amount that these comparables varied in price was in an inverse relationship with the proportion encumbered, showing that the presence of the easements did not have any particular bearing on their value. Comparables c and e were smaller sites and sold for more per square foot due to their

small size. Each had approximately the same proportion encumbered, but c sold for more because of its relationship with two large "anchor" retailers on each side of it. Again, no relationship of value and the easements were noted.

As can be seen from this data, underground easements of this sort are routinely run along the property lines because of their not usually affecting the use or value of the property. Based on these data, there appeared to be no relationship between value and the amount of area encumbered with this kind of easement.

### Survey of Land Use And An Analytical Approach To Estimate The Level of Compensation For An Easement of This Type

After sampling the actual appraisal practice and developer's opinions in the area, and after researching the impact of easements on the actual land sales data in the area, the following analytical approach was developed to solve the issue of compensation for the taking of an easement of this sort.

To clarify exactly the type of easement being considered here, it was a proposed water and wastewater easement that consisted of a narrow strip, 15' in width, which ran parallel to, and abutted the highway ROW. The improvements that existed on the proposed easement were asphalt pavement and concrete curbing. The following conditions pertained to the easement:

1. The rights being conveyed in the easement were the rights for the construction, operation, and maintenance of the subsurface water and wastewater systems by the city, its successors, and its assigns.
2. The surface improvements contained over the easement area would be repaired at the expense of the city if and whenever they are damaged or destroyed by accessing the utilities contained within the easement.
3. The surface area over the easement can be used as an integral part of the site, except for the construction of a building.

A review of all properties along both sides of the highway revealed that not a single property had structural improvements within 15 feet of their front property line. This clearly demonstrated that there was

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negligible demand for the use of the front 15 feet for other than parking and other uses that will be permitted after the easement is taken. After conveyance of the easement, the area over the easement will still be considered in the site area when calculating zoning restrictions, floor to area ratios, parking requirements, and other critical calculations which contribute directly to a property's development potential and therefore to its value. Since these factors are unaffected, there is essentially no negative effect on overall property value caused by the taking of the easement itself.

I found no empirical evidence from the analysis of land sales data in the area or from sampling developers' opinions to suggest that a decline in value results from the conveyance of an easement of this type. Due to the effect of the easement being negligible on the overall property value, "Paired Sales Analysis" is incapable of yielding a differential between sites with and without easements of this type. Based

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on conversations with developers, the existence of water and sewer on the front property line would, if anything, increase the site's value and definitely would not decrease it. Therefore, any empirical technique designed to extract a "loss in value" adjustment due to the presence of the easement would be incapable of doing so, because of its negligible impact on property value, or an actual possible beneficial effect arising from such an easement.

For analysis purposes, the rights involved in the taking of the easement can be divided into subsurface and surface rights. The subsurface rights are those associated with the physical space occupied by the utilities, while the surface rights are associated with the temporary occupancy of the surface area of the proposed easement during installation and maintenance. The develop-

ment potential of the site will remain the same after the proposed easement, because the portion of the property encumbered by the easement will still be used in determining floor to area ratios and parking requirements for the future development of the property. No additional site planning or other costs should result from the encumbrance, and, thus, the subsurface rights conveyed by the taking itself are of negligible value and cannot be quantified.

Since the market value of the subsurface rights conveyed by the easement is a negligible amount, approaching zero, I selected a rounded 1% as being more than adequate compensation for these rights.

The value of the surface rights conveyed by the easement, which are associated with the rights to construct and maintain the subsurface improvements, is measurable and was considered separate from the subsurface rights. The taking of the easement would limit the use of the remaining surface rights during the period of time in which it is occupied for the purpose of utility installation, repair, and possible future replacement. A value associated with this aspect of the encumbrance may be calculated by treating the period of occu-

pancy and disturbance of the surface of the easement area similar to a land lease, the term of which would be equal to the anticipated period of occupancy.

In conversations with the Project Management Division of the City Water and Wastewater Department, it was learned that the installation of the utilities in the easement should be accomplished in less than 1 week and that the property would be accessible during this period. Under the worst case scenario, involving poor weather conditions and other possible disruptions, the maximal installation period would be 2 to 3 weeks. The design life of the utilities being installed is 50 years and might realistically last 80 to 100 years without further disturbance. Therefore, additional access to the easement area would not be expected for at least 50 years. The surface area after construction should be restored to a condition similar to its current state within 2 to 3 weeks following the completion of the installation of the utilities. Therefore it is anticipated that a maximum of 4 to 6 weeks total would be required to complete the original construction or any subsequent modification of the utility systems located in the easement.

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For the purpose of analysis, a 100% safety margin was allowed when considering each element associated with compensation for this type of easement. Since a maximum of 6 weeks (1.5 months) would be necessary to install and repair the damage made by such installation, and this should not occur more than once in 50 years, a 3-month period was allowed for every 25 years. Both of these elements, of 3 months every 25 years, allows a 100% buffer between itself and what should actually be realized. Basing annual compensation, on what is typical in the local for real estate, at 12% of the value per year, would result in a net amount of 3% (12%  $\times$  3 mos/12 mos) for the 3-month period. The present value of a similar temporary occupancy 25 years from now, discounted at 12% per year, would amount to only approximately 0.2% currently due to the time factor of money. Any future disruptions

tions of the surface in any future 25 year cycles would be of negligible value today.

The total estimated value of the rights associated with the surface and the subsurface rights estimated above results in the following determination of the compensation for or the market value of the easement:

#### Valuation Summary

Subsurface Rights	1.0%
1st Disruption to Surface Rights	3.0%
2nd Disruption to Surface Rights	0.2%
Future Disruptions to Surface Rights	0.0%
Total Value of Rights Taken:	4.2%
	of Fee Simple

Rounded Up and  
Unforeseen  
Contingencies:

5.0% (r)

The results from the above analytical method agrees well with all of the other market data collected. The average compensation level based on the appraisal practices from the first five cities sampled was 5%, in full agreement with the results above. The developers' opinions and the analysis of the land sales data were oriented toward the period of time after which the easement would have already been installed, so they did not consider the effects of the installation process itself. Therefore, we can conclude that the results are accurate and verified as best as can be expected for this type of assignment. (IRWA)

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