

Section 10.4

ROADWAY RESERVATIONS

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Section 10.4

ROADWAY RESERVATIONS

PURPOSE

To identify the process for consideration of the release and transfer of road reservations.

AUTHORITY

Chapter 18296 (Murphy Act of 1937), Laws of Florida
Chapter 25270, Laws of Florida
Chapter 25420 Laws of Florida
Chapter 373, Florida Statutes
Rule 18-2.014(2) Florida Administrative Code

SCOPE

This section will be utilized by the Florida Department of Transportation (FDOT) District and Central Office Right of Way staff.

REFERENCES

Chapter 18296, Laws of Florida
Right of Way Manual, Section 10.1, Inventory of Properties Acquired Through the Right of Way Process; Rodent Control Inspections; Maintenance
Rule Chapter 18-2.104 (2), Florida Administrative Code

TRAINING

Each District Level II Agent attending the *Right of Way Fundamentals Course* will be trained on the activities required by this procedure.

FORMS

None

10.4.1 Murphy Act Reservations, Board Of Trustees Of The Internal Improvement Trust Fund (T.I.I.T.F.)

10.4.1.1 These reservations were created by adoption of a rule by the State Cabinet that when selling lands that reverted to the state under **Chapter 18296, Laws of Florida**, the deed was to contain a roadway reservation. They are considered to be an encumbrance on real property. Often, property owners are unaware of these encumbrances until a title search is done.

10.4.1.2 To obtain a release from the Trustees of the Internal Improvement Trust Fund (T.I.I.T.F.) for Murphy Act Roadway Reservations, the property owner may apply to the Florida Department of Environmental Protection (FDEP) for a form to request release of the reservation. Prior to releasing the reservation FDEP will advise the property owner to seek approval of the release from the Florida Department of Transportation (FDOT). This section outlines the process FDOT follows to determine whether to recommend release of the reservation.

10.4.1.3 The owner of the underlying fee title encompassed by the reservation shall file an application for release in accordance with existing FDEP **Rule 18-2.104(2), Florida Administrative Code (F.A.C.)**. The owner will forward the application to the appropriate FDOT District Office. The application must include the following information, if the information is insufficient, the FDOT District Office shall contact the applicant and request the additional information:

- (A) Murphy Act deed number;
- (B) County in which the property was located on the date the Murphy Act deed was issued;
- (C) The date the Murphy Act deed was issued;
- (D) Section, township and range;
- (E) The name of the present title holder (the applicant);
- (F) A legal description of the subject property to be released which was contained within the original Murphy Act deed;

- (G) A plat, sketch or survey of the land and bounds proposed for release;
- (H) Copy of Murphy Act deed (T.I.I.T.F.).

10.4.1.4 Upon receipt of the completed application, the District Office shall make no determination regarding the validity of the twenty acre clause but shall only review the application to determine the following:

NOTE: Some research sources are Right of Way Surveying and Mapping, all legislatively designated roads, and if appropriate, the public records for the county in which the reservation exists:

- (A) If the deed contains a municipal clause. If the clause is present, indicate whether the road and the property were within the municipality on the date of the Murphy Act deed issuance.
- (B) If the property was within 100 feet of the centerline of any existing state road or designated state road on the date the Murphy Act deed was issued.

10.4.1.5 If the provisions of **Section 10.4.1.4 (A) and (B)** are not applicable, the recommendation for release of the entire reservation, referencing the appropriate segment number, District and road number or county miscellaneous number, shall be made on the application, which shall be signed by the District Secretary or designee. The application shall then be returned to the applicant.

10.4.1.6 If the reservation is not within 100 feet of the centerline of a road on the State Highway System at the date of the Murphy Act deed issuance and meets the criteria of the **Right of Way Manual, Section 10.1, Inventory of Properties Acquired Through Right of Way Process; Rodent Control Inspections; Maintenance**, the District Office shall forward the request to the appropriate county/city for handling. A copy of the transmittal memorandum is sent to the applicant. A copy is also to be maintained by the District Office.

10.4.1.7 If the property is within 100 feet of the centerline of a road on the State Highway System at the date of Murphy Act deed issuance, the application is circulated to the affected District divisions to determine if, or how much of, the reservation should be requested to be released by FDEP. Based on this review, the recommendation for or against the release, referencing the District, segment number, and road number or county miscellaneous number, shall be made on the application, which shall be signed by the District Secretary, or designee, and returned to the applicant.

10.4.2 Everglades Drainage District Reservations South Florida Water Management District

10.4.2.1 The Everglades Drainage District has sold certain lands with a highway reservation clause similar to the Murphy Act reservation. An owner of Everglades Drainage District land conveyed with a reservation clause in the deed may apply for a release of the reservation.

10.4.2.2 The owner of the underlying fee title encompassed by the Everglades Drainage District reservation shall file an application for release with the South Florida Water Management District (SFWMD). SFWMD will forward the requests to the appropriate FDOT District Office for review.

10.4.2.3 The FDOT District Office determines the validity of the reservation for FDOT's purposes. The following criteria shall be met for a reservation to be considered valid:

- (A)** The land is more than one (1) acre. If the land is less than one (1) acre the reservation is not valid.
- (B)** The property affected by the reservation was within one hundred (100) feet of the centerline of a state road or designated state road on the date the Murphy Act deed was issued; or, within fifty (50) feet of the centerline of any county road on the date the Murphy Act deed was issued.

10.4.2.4 If the FDOT District Office considers the reservation to be invalid based on criteria in **Section 10.4.2.3 (A) or (B)** above, the FDOT District Office returns the request to SFWMD with a recommendation to release the entire reservation.

10.4.2.5 If the reservation is considered valid, is not within 100 feet of a road on the current State Highway System and is within 50 feet of a road on a county or city system, the FDOT District Office shall forward the request to the affected county or city for their further handling and recommendation. The FDOT District Office shall attach a cover memorandum instructing the city or county to return the application to SFWMD. A copy of the transmittal memorandum shall be forwarded to SFWMD. A copy shall also be retained by the District Office.

10.4.2.6 If the reservation is affected by a road on the State Highway System and is considered valid, the District Office recommendation to release or not to release the reservation shall be signed by the District Secretary or designee. The application is returned to SFWMD. A file number may be assigned to the application in accordance with **Section**

10.4.3 Road Reservation Retention/Release Tracking System

The District Office is responsible for developing a tracking system to ensure the inventory of all retentions and releases is accurately maintained. To accomplish this, the District Office may assign a parcel number to the file. If the reservation is on a state project, the county, section, job number should be used. If not, the county miscellaneous number should be used. The next available parcel number on the parcel register should be assigned to all files of reservations wherein it appears FDOT has a valid interest. If no interest appears to be valid, tracking is not required.

10.4.4 Reservation Release Documentation

Copies of all applications and support documentation of recommendations for reservation releases shall be retained by the District Office in the official files. The information for each individual release application shall be maintained in separate files.