

S. Whitehead



State of New Jersey
DEPARTMENT OF TRANSPORTATION
DAVID J. GOLDBERG, COMMISSIONER
TRENTON NJ 08623

ADDENDUM

Partial Demolitions
and Party Walls

June 19, 1963

Rec'd March 5, 1970

MEMORANDUM TO: STATE HIGHWAY ENGINEER
ALL DIVISION DIRECTORS

The attached interim Directive shall be put into practice immediately.

After gaining experience in the use of these procedures, some revisions or refinements may be indicated. The Director of the Division of Right of Way, and the Director of the Division of Design shall maintain close liaison to assure the needed integration of their respective activities, and at the appropriate time make a joint recommendation to me concerning changes in the procedures, or on its adoption as now written.

Russell H. Kullen

Assistant Commissioner, Highways

June 19, 1968

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I. Purpose:

To provide a procedure for the conversion of party walls and the partial demolition of buildings as defined by the following two categories:

- Category 1: Proposed Right-of-Way line passes through a party wall between the two buildings; the property line being along the center line of the party wall.
- Category 2: Proposed Right-of-Way line intersects an improvement at a point other than a party wall leaving as a remainder a portion of the improvement as well as land.

This procedure is enforceable for demolition contracts and construction contracts.

II. Responsibility:

As Outlined Below.

III. Definitions:

Party wall - an interior dividing wall that separates two buildings.

Conversion - the act of transforming a party wall into an outside wall.

Demolition - the act of tearing down or razing buildings partially or entirely. The performance of demolition could include a modification of the building which could result in a partial demolition.

Building - a roofed and wall structure built for permanent use.

Property line - the division between two parcels of land.

Proposed Right-of-Way line - the line of taking separating lands to be used for highway purposes and remaining lands of the property owner.

Intersects - to pierce or divide by passing through.

Contiguous - being in actual contact - touching - adjoining.

IV. Authority:

Assistant Commissioner of Highways, Russell H. Mullen, through the general authority of the Commissioner of Transportation under Title 27 of the Revised Statutes.

V. Procedure: (Relating to Category I Party Wall conversions)

responsibility
view

The Division of Design during preliminary design and prior to the submission of Right-of-Way plans will collaborate with the Division of Right of Way and review the need for the conversion of a party wall where said wall becomes an outside wall of a remaining building or buildings within the terminus of the proposed project. This review will justify the feasibility of the conversion based on a physical and/or economic evaluation.

Artificial

When it is determined that the conversion of a party wall is feasible, the Division of Design will arrange for the services of a qualified architect for the following:

Right of Way plans

Estimate

1. To prepare plans and specifications in accord with the local municipal building code to convert the wall.
2. To render an estimated cost of the conversion for each building affected.
3. To determine a new line which is to serve the aforementioned Category I as follows:

Boundary line

A. Boundary line for the maintenance of the wall and building where the right-of-way line passes through a party wall (Category I). This line will delineate the area within our right of way that is to be covered by a permit issued by the Department's Division of Maintenance and Equipment over which the owner of the building remaining will have permit rights to use for the purposes of maintaining the remaining building. These permit rights shall be compatible with Federal and State regulations.

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From this data submitted by the architect, the Division of Design will create a special easement parcel and form for the purpose of the temporary use of land to demolish the building or a portion of the building which is within the proposed right of way, and provide compensation to the owner for the restoration of his wall based on the architect's estimate.

The Division of Design will also define the permit area to provide the necessary area for the owner of the property affected by the conversion of the party wall, or the wall, where the right-of-way line intersects the improvement at a point other than a party wall, to maintain said wall and building. This permit area will be identified as the Maintenance Permit Line on the right-of-way plan. This data and the special forms will be transmitted to the Right-of-Way Division along with other right-of-way documents for acquisition.

*By
Grant
else*

The Division of Right-of-Way will be responsible for the following:

1. The real estate appraisals of the temporary easement right necessary for the conversion of the wall, as provided by said architect through the Division of Design and all other appraisal matters by standard Right-of-Way procedures.
2. Negotiate for regular and temporary easement parcels. As applicable, the form of agreement for said temporary easement parcels will:
 - a. contain a clause relating to the aforesaid permit issued by the Division of Maintenance and Equipment.
 - b. contain a clause placing the maintenance of the wall on the owner.
 - c. contain a clause releasing the State from all claims for damages by the owner of the building, his heirs, devisees, successors and assigns from all claims whatsoever from anything or matter incident to the construction of the highway or the maintenance of the wall.
3. It is recognized that during negotiations, many owners of party walls from whom no property is taken may prefer to have the State perform the conversion of the party wall. In such instance, the Right-of-Way Division will include in the special easement agreement form:

- a. a clause indicating that the State will convert the party wall or modify the building.
- b. contain a clause relating to the aforesaid permit to be issued by the Division of Maintenance and Equipment.
- c. contain a clause placing the maintenance of the party wall on the owner.
- d. contain a clause releasing the State from all claims for damages by the owner of the building, his heirs, devisees, successors and assigns from all claims whatsoever from anything or matter incident to the construction of the highway or the maintenance of the party wall.

e. inform the Division of Design, by memorandum, to include the conversion in the specifications before the advertisement of the contract. The specifications used should be substantially those supplied by the architect.

4. The closing of title and final payment; it is recognized that all cases will not result in a settlement and Condemnation proceedings will be necessary. The Division of Right of Way will prepare and transmit the condemnation case to the office of the deputy attorney general, as is normal procedure. The architect whose services were used to establish the estimated cost of the conversion of the wall may be used as the State's expert along with the real estate expert who evaluated the damage of the temporary easement right. The Division of Right of Way, when requesting condemnation maps, will alert the Division of Design.

VI. Procedure: (Category No. 2)

In those instances where an acquisition intersects an improvement at a point other than a party wall leaving as remainder a portion of the improvement, the following procedures shall be followed:

1. The Division of Design shall furnish the Right of Way Division regular parcel maps and agreement description forms.

2. The Right-of-Way Division will appraise the property in accordance with standard procedure and negotiate for the taking, either arranging for the owner's retention and removal of the building (by price deduction), or for acquisition of the entire structure, if the appraisals indicate it has been 100% damaged by the severance.

In such instances, the Right-of-Way Division shall include in the agreement with the owner a clause permitting the State or its agents to enter on the remainder for demolition or disposition of the structure and if it is not disposed of, through public sale by the date of advertising, notify the Division of Design so that the building will be included by the Design Division in the demolition or road contracts as an entire demolition item in accordance with the terms of the agreement made with the owner which conveyed the structure to the State and permitted entry on the remainder for demolition purposes.

3. Where the initial real estate studies and/or evaluations indicate that the remainder of the structure outside the proposed right-of-way line has sufficient worth to be economically salvageable, the Right-of-Way Division, prior to negotiations, will, in addition to the real estate appraisals, secure complete and detailed architect's plans and specifications depicting both the most architecturally feasible method of restoring the wall to the part of the building remaining after the taking and shall also secure an alternative set of detailed plans and specifications with cost estimate providing for a temporary restoration which will be used only should condemnation later become necessary so as to make the structure weatherproof.

4. Conduct negotiations offering to pay for the damages based on the real estate appraisals and the most feasible architect's method of restoring the building. In such event the real estate contract may contain a clause providing that the owner will clear the Right of Way or will permit the State to enter on the remainder without further damage claims to demolish the building to the agreed point, or alternatively that the owner will accomplish the demolition to clear the Right of Way. In either event, the agreement should

also provide that it is understood the owner will remodel the building at his own expense without further claims for damages.

5. In a very few limited instances it may be necessary to conduct negotiations with the owner and provide in the real estate contract that the State will accomplish the demolition and will reconstruct the wall in accordance with the architect's plans.

Such a rare provision requires prior written concurrence of the Right-of-Way Director and of the Design Director and the agreement must further contain:

- a. a clause indicating that the State will perform the agreed modification of the building.
- b. a clause relating to the aforesaid permit to be issued by the Division of Maintenance and Equipment.
- c. a clause placing the maintenance of the modifications on the owner.
- d. a clause releasing the State from all claims for damages by the owner of the building, his heirs, devisees, successors and assigns from all claims whatsoever from anything or matter incident to the construction of the highway or the maintenance of the modified building.

6. It is the obligation of the Right-of-Way Division to notify the Design Division of such a provision by transmittal of a copy of the agreement and one "reproducible set" (sepia or tracing when applicable) of the architect's plans and specifications.

7. It is further recognized that a few acquisitions involving buildings with economical remainders must be acquired by condemnation. In such instances, upon the Commissioner authorizing condemnation, the Right-of-Way Division shall furnish the Design Division notice in writing of the circumstances, as well as one

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"reproducible set" (sepia or tracing when applicable) of the architect's plans, specifications and cost estimate covering partial demolition and temporary restoration to make the structure weathertight.

From this data, the Design Division shall include in the condemnation complaint map and description a temporary easement providing the State or its authorized agent the right to enter on the remainder to demolish to the line indicated by the architect's temporary weather protective plan. The Design Division shall also include the temporary protective work in the road or demolition construction being advertised.

Due to the problems related to condemnations involving partial demolitions, every effort possible should be made by the Right-of-Way Division to settle such matters by agreement.

Close liaison will be required between the Right-of-Way Division and the Design Division concerning condemnation involving partial demolitions; further when possible, demolition and restoration shall be planned to provide the maintenance area on the owner's remaining lands. In those few instances where a restoration maintenance area must be within the right of way, it shall be by permit in the manner heretofore defined.

{ Temp. restoration
Full restoration
rest. Specs. f.