

Section 7.7

PUBLIC DISCLOSURE

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Section 7.7

PUBLIC DISCLOSURE

PURPOSE

This section prescribes the process for notifying property owners of their responsibility to provide public disclosure.

AUTHORITY

Section 1.01(11), Florida Statutes
Section 20.23(3)(a), Florida Statutes
Section 334.048(3), Florida Statutes

SCOPE

The District and Central Offices of Right of Way will use this section.

REFERENCES

Chapter 517, Florida Statutes
Section 7.2, Negotiation Process

7.7.1 Public Disclosure

Section 286.23, Florida Statutes, requires persons or entities holding title to real property in the form of a partnership, limited partnership, corporation, trust or any other form of representative capacity to disclose his/her name and address and the names and addresses of every person having a beneficial interest in such real property prior to any conveyance to the state. The person providing disclosure must disclose in writing, under oath and subject to the penalties prescribed for perjury, at least 10 days prior to closing for negotiated transactions or within 48 hours after the Order of Taking deposit for parcels acquired by condemnation.

7.7.2 Notification

7.7.2.1 The Florida Department of Transportation (Department) shall notify owners of parcels who hold title in a representative capacity of their responsibility to provide public

disclosure. This notification shall occur via registered mail, per **Section 286.23(2), Florida Statutes**. Hand delivery may be utilized along with registered mail delivery, but it cannot serve as the sole method for delivering the notification. Only those owners holding property in this capacity shall be notified. The Department will notify owners using **Form No. 575-030-18, Public Disclosure Notice**, with enclosures.

NOTE: Pursuant to section 1.01(11), Florida Statutes, the term “registered mail” includes certified mail – return receipt requested. This provision ensures that the statutory requirement is fulfilled by the delivery of certified mail.

7.7.2.2 For parcels acquired by condemnation, where the disclosure affidavit has not been previously received, the District shall deliver to the property owner via certified mail **Form No. 575-030-18, Public Disclosure Notice**, with enclosures no later than 48 hours after entry of the Order of Taking. The **Public Disclosure Notice** must contain the date the District anticipates depositing the required monies into the court registry.

7.7.3 Failure to Disclose

7.7.3.1 The Department shall not close a real estate purchase with an entity that is required to disclose prior to receipt of a completed **Public Disclosure Affidavit** (see **Form No. 575-030-18, Public Disclosure Notice**). If the required affidavit cannot be obtained, affected parcels must be acquired by condemnation.

7.7.3.2 If condemnation is required due solely to the owner's failure to provide public disclosure, the District Suit Coordinator must inform the assigned eminent domain attorney of this fact.

7.7.4 Exceptions to Notification and Disclosure

7.7.4.1 Notification and disclosure is not required for the following:

- (A) Donated properties;
- (B) Subordinate interests, except where a tenant-owned improvement is being acquired pursuant to **Section 7.2, Negotiation Process**;
- (C) Not-for-profit organizations; and

- (D) The entity or person with less than 5 percent of the beneficial interest in a disclosing entity that is registered with the Federal Securities Exchange Commission or registered pursuant to **Chapter 517, F.S.**

7.7.5 Records

Copies of the **Public Disclosure Notice** and **Public Disclosure Affidavits** received from owners shall be permanently maintained with the appropriate conveyance documents.

TRAINING

None required.

FORMS

The following forms are available on the FDOT Infonet and Internet:

575-030-08, Statement of Offer
575-030-18, Public Disclosure Notice
575-030-31, Notice to Owner