

## Section 10.4

# ROADWAY RESERVATION RELEASE AND TRANSFER

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## Section 10.4

# ROADWAY RESERVATION RELEASE AND TRANSFER

### 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 18-2.018(2), Florida Administrative Code (F.A.C.)

### 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, Acts of 1937(Murphy Act of 1937)  
Right of Way Manual, Section 10.1, Inventory of Properties Acquired Through the Right of Way Process; Rodent Control Inspections; Maintenance  
Rule 18-2.108(2), F.A.C.

### TRAINING

The ***Right of Way Fundamentals Course*** will include training on the activities required by this procedure.

### FORMS

None

## **10.4.1 Murphy Act Reservations, Board Of Trustees of the Internal Improvement Trust Fund (TIITF)**

**10.4.1.1** Murphy Act reservations were mandated encumbrances imposed by the state on those escheated lands subsequently sold by the state. Often, property owners are unaware of these encumbrances until a title search is done.

**10.4.1.2** To obtain a release from TIITF 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 submit an application for release in accordance with existing Rule 18-2.018(2), 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 (TIITF).

**10.4.1.4** Upon receipt of the completed application, the District Office shall review the application to determine only the following:

- (A) whether a municipal clause in the deed and whether the road and the property were within the municipal boundaries on the date of the Murphy Act deed issuance; and
- (B) whether 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.

**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.

**10.4.1.5** If the provisions of **Section 10.4.1.4(A) or (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 was not within 100 feet of the centerline of a road on the State Highway System at the date of the Murphy Act deed issuance, 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 shall also be maintained by the District Office.

**10.4.1.7** If the property was 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 encumbered by the Everglades Drainage District reservation shall submit an application for release with the South Florida Water Management District (SFWMD). SFWMD will forward the request 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. A reservation is valid if it meets the following criteria:

- (A) The land is more than one (1) acre.
- (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 shall return the request to SFWMD with a recommendation to release the entire reservation.

**10.4.2.5** If the reservation is 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 within the right-of-way of 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.

### **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, and 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 in the official files of the District Office