

JOINT COMMITTEE ON GOVERNMENT AND FINANCE  
WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR

# POST AUDIT DIVISION

LEGISLATIVE AUDIT REPORT

## DIVISION OF HIGHWAYS - RIGHT OF WAY

REPORT SUMMARY

- FINDING 1: THE DIVISION OF HIGHWAYS DOES NOT HAVE A COMPLETE INVENTORY RECORD OF REAL PROPERTY
- FINDING 2: DOH INVESTED NEARLY \$700,000 IN PROPERTY THAT REMAINS VACANT AND UNUSED

Legislative Auditor: Aaron Allred  
Post Audit Director: Denny Rhodes



JOINT COMMITTEE ON  
GOVERNMENT & FINANCE

*Note: On Monday, February 6, 2017, the Legislative Manager/ Legislative Auditor's wife, Elizabeth Summit, began employment as the Governor's Deputy Chief Counsel. Most or all the actions discussed and work performed in this report occurred after this date. However, the Governor's Deputy Chief Counsel was not involved in the subject matter of this report, nor did the audit team have any communications with her regarding the report. As Deputy Chief Counsel, the Legislative Auditor's wife is not in a policy making position within the Executive Branch. Therefore, the Post Audit Division does not believe there are any threats to independence with regard to this report as defined in A3.06.a and A3.06.b of the Generally Accepted Government Auditing Standards. Furthermore, the Legislative Auditor has instructed the Director of the Post Audit Division to document and discuss any issues he believes are a threat to the division's independence with the President of the Senate and the Speaker of the House due to Ms. Summit's position.*

OFFICE OF THE  
LEGISLATIVE AUDITOR  
Legislative Manager & Legislative Auditor, Aaron Allred



GENERALLY ACCEPTED GOVERNMENT  
AUDITING STANDARDS STATEMENT

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

POST AUDIT DIVISION  
Director, Denny Rhodes

# POST AUDIT DIVISION

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OCTOBER 15, 2017  
LEGISLATIVE AUDIT REPORT

## DIVISION OF HIGHWAYS RIGHT OF WAY/BLACK BETSY PROPERTY

### POST AUDIT STAFF CONTRIBUTORS

Denny Rhodes ..... Director  
Stanley Lynch..... Deputy Director  
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### TABLE OF CONTENTS

Finding 1: The Division of Highways Does Not Have a Complete Inventory Record of Real Property.....	p.1
Finding 2: DOH Invested Nearly \$700,000 in Property that Remains Vacant and Unused.....	p.5
Appendix A: DOH District Map .....	p.7
Appendix B: DOH Excess Properties Sold Fiscal Years 2016 & 2017 .....	p.8
Appendix C: Summary of Responses from Other States .....	p.9





## **Finding 1: The Division of Highways Does Not Have a Complete Inventory Record of Real Property**

While conducting the audit of the Division of Highways (DOH), it was asserted by a DOH employee that the agency lacks a complete inventory record of properties it owns. This led the Post Audit Division to create an audit objective of assessing the comprehensiveness and accessibility of DOH real estate records for properties owned and administered by the DOH Right of Way Section. The Property Management Unit of the Right of Way Section is responsible for management of all properties acquired by the DOH including, but not limited to: those acquired for highway rights of way pending actual construction of a highway facility; protection and disposition of structures acquired by the State; leasing or renting of any real property not actually presently needed for highway purposes; and management and disposition of excess real property.<sup>1</sup>

Based on our inquiries, the Post Audit Division concluded that **the DOH Property Management Unit under the Right of Way Section does not have a complete centralized inventory record for real properties DOH owns.** This is a violation of the DOH's internal policies and procedures in its *Right-of-Way Manual* (revised 1/11). This manual states in Section 8.40 that a property inventory record for "...all real estate, except right of way<sup>2</sup>, owned in fee by the Division is maintained by the District and Central Office Property Managers...."

**Without a complete, centralized inventory record of land owned by the DOH, the DOH cannot determine if it owns excess properties that are unneeded. The lack of such an inventory record impedes the agency's ability to actively market and sell excess property, which could provide valuable revenue to the State.** Continued ownership of unused property adds to the DOH's maintenance and management responsibilities and consumes valuable resources. Additionally, such unneeded property prevents possible property development opportunities to enhance local economies and deprives communities of real property tax revenue (State government is exempted from paying property tax). Also, since no such centralized inventory record is maintained, the DOH's real estate holdings have not been subject to public accountability and transparency, as there is no practical method to audit for completeness and accuracy of real estate property assets.

In addition, Section 8.40.3 of the DOH *Right of Way Manual* requires a minimum of one annual inspection be made **"...at the District level of each property listed in the inventory to assure that no unauthorized use is being made of the property owned by the Division...."** Without a complete inventory record, the Central Office cannot ensure that a complete inspection of all such properties has been performed on an annual basis as required by the manual. Our survey of the various DOH districts indicated that most districts are not conducting the inspection in accordance with the *Right of Way Manual's* requirements.

Further, on September 1, 2017, the West Virginia Board of Risk and Insurance Management (BRIM) sent the *Annual State Renewal Questionnaire* to State agencies. Accompanying the BRIM questionnaire for the first time was a *Vacant Land Survey* form that instructed agencies to provide information on all vacant properties,<sup>3</sup> including, but not limited to, the following: name or lot number, county located, number of acres, and land value. Since the DOH does not have a

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<sup>1</sup> Section 1.07 the Department of Transportation, Division of Highways' *Right of Way Manual*.

<sup>2</sup> "Right of Way," as defined by the DOH Right of Way Section, includes all property "needed to construct, maintain, and manage the roadway, including the road surface, drainage, cuts and fills."

<sup>3</sup> The survey form instructions defined vacant properties as "...land without structures or fixtures...." These instructions further stated that land with unoccupied structures or fixtures are to be included in the *Annual State Renewal Questionnaire*. The due date for submission of the questionnaire and survey form was October 6, 2017.

comprehensive record of such properties, it seems improbable that the DOH will be able to accurately submit to BRIM the information requested by the due date.

Effective procedures and management of property should include a complete inventory of land, as well as a proactive marketing policy that systematically identifies parcels of land that may be excess to the State's transportation needs. However, since the DOH has no such record, a practical procedure to market these properties is not possible. Excess land owned by the DOH is only sold when a prospective buyer has identified through court records, county deeds, or by some other method that the land is in fact owned by DOH.

### **Revenues from Property Sales**

To better understand the potential revenue associated with the selling of excess property, we requested the DOH provide us a listing of properties sold by the division during the last two years. Per information obtained from the DOH, the Division sold 15 excess properties for a total of \$336,301 during Fiscal Year 2016, and 21 properties for a total of \$712,721 during Fiscal Year 2017. District 4, which includes the municipalities of Morgantown, Fairmont and Clarksburg, accounted for 58% of the sales in fiscal year 2016 and 75% of the sales in fiscal year 2017 (*See Appendices A & B*). The DOH sold these properties without them being actively marketed.

The DOH has what may be called a "reactionary system" for disposing of properties, as sales of excess land occur only when an inquiry from the public or another government entity is made of a property. The property's ownership is then researched to determine if it is indeed owned by the State. **Considering the significance of the revenue generated by these sales and the added benefit the counties receive in property tax revenue, it would seem to be in the best interest of all parties for the DOH to identify excess properties and proactively market these properties for sale to the public.**

### **Properties/Recordkeeping in Other States**

We conducted surveys of transportation departments/agencies of various U.S. states to gain an understanding of their processes for recording and marketing excess/surplus property, seven of which fully responded to our survey. All seven of the responding states indicated they maintain a separate record of excess/surplus properties, although a few of the states added the caveat that the record may not be inclusive of all such properties. Additionally, all seven states indicated they actively market such properties identified for sale (*See Appendix C - Summary of Responses*).

Of particular interest is the State of Georgia, which has employed the use of outside contractors to identify marketable properties across the State, vet them for possible sale approval, and take the parcels approved for sale through the entire sales disposal process with the goal of ultimately closing the property. The current contractor has investigated over 7,000 parcels, viewed on site over 1,200 parcels, and had 77 parcels worth over a combined \$10 million approved for sale.

Certainly, the current economics and demand for property development in Georgia differ greatly than that of West Virginia, and there is no implication intended that untapped potential sales revenue for DOH's excess properties remotely approach those of Georgia. Still, Georgia's success in identifying and marketing these properties should, at a minimum, underscore the possibilities in generating much needed additional revenue for the State.

## **Conclusion**

DOH does not have a complete, centralized inventory record of real estate properties owned by the Division. The lack of such an inventory record results in several adverse effects as follows:

- DOH cannot efficiently determine if it owns unneeded, saleable excess properties that could be actively marketed and sold to provide much needed revenue to the State.
- The inability to identify and market valuable property results in continued ownership, adding to DOH's maintenance and management responsibilities and the consumption of valuable resources.
- State ownership of unneeded property prevents possible property development opportunities to enhance local economies and deprives communities of real property tax revenue, as State government is exempted from property tax.
- Real estate holdings cannot be fully subjected to public accountability and transparency, as there is no practical method to audit for completeness and accuracy of real estate property assets.
- Since DOH cannot readily identify real estate holdings, DOH cannot ensure all owned properties are free from unauthorized use.
- DOH cannot provide BRIM the requested information regarding vacant lands it owns.

## **Recommendations:**

1.1 The Legislative Auditor recommends DOH comply with Section 8.40 of the West Virginia Department of Transportation, Division of Highways' *Right of Way Manual* by maintaining and actively managing an accurate and complete database record of all real estate, except rights of way, owned by the Division. This database should comprise uneconomic remnants as well as any additional land classified as excess by the agency, properties used in normal Division operations, and properties acquired for foreseeable uses. The record should specify the deed reference number, the general location or any other pertinent descriptive information of the properties, acreage, and estimated market value.

**NOTE:** Since our April 28, 2017 inquiry about inventory records of excess properties, the Director of DOH's Right of Way Section informed us that he requested the DOH "...Districts to search their records back to the year 2007, and to provide a report to [the Central] office regarding the acquisition of all uneconomic remnants...." The Director further stated that "...the Central Office is now compiling that information into a searchable database...."

1.2 The Legislative Auditor recommends DOH comply with Section 8.42 of the *Right of Way Manual* and perform a historical search of property records to identify additional excess properties acquired prior to 2007 that could be added to the property inventory record. In

accordance with this section of the *Right of Way Manual*, the following sources are to be used in compiling data for property inventory:

1. Project Plans and Maps
2. County Deed Records
3. Circuit Court Records
4. Division Records (District, Central Office, or Commissioner's Minutes).

The Legislative Auditor recognizes that performing historical research to compile a complete and accurate property inventory record, as recommended above, may impose a hardship on the DOH due to constraints of monetary resources and personnel. Therefore, it is recommended this task be completed within a timeframe that available resources and personnel will reasonably permit.

- 1.3 The Legislative Auditor recommends DOH actively market surplus/excess properties to the public in a cost-effective manner. One possibility to accomplish this is through the development of a webpage listing properties for sale that is linked to the DOH homepage. In addition, DOH could conceivably link a property sales webpage to other suitable State government websites, such as the homepage for the West Virginia Real Estate Division.
- 1.4 The Legislative Auditor recommends that the Legislature consider amending W.Va. Code to require the Department of Transportation to annually prepare, and submit to the Governor and the Joint Committee on Government and Finance, an inventory list of real estate properties, except rights of way, owned by the Division. The legislation should require the listing contain a general description of such properties, including acreage; general location; and whether properties are characterized as excess, currently used in normal Division operations, or held for foreseeable uses. In addition, the inventory list should indicate if properties are currently being leased and, if so, include the lessee and lease amount.



## **Finding 2: DOH Invested Nearly \$700,000 in Property that Remains Vacant and Unused**

In July 2001, the Division paid \$511,000 for approximately 9.3 acres of land for a proposed District 1 maintenance site. The property is located approximately five miles from the I-64 Nitro exit just north of Poca, WV on Route 62. The land is commonly referred to as the “Black Betsy Property” due to its location within the unincorporated community of Black Betsy. The property lies between Route 62 and the Kanawha River. What follows is Google Maps aerial photo of the property:



In 2004, DOH received an estimate of \$182,500<sup>4</sup> to install a railroad crossing that originally consisted of signal lights and inserts (the material installed between the tracks that provide a flat surface for vehicle traffic). As can be seen from the picture that follows, the signal lights are still in place but the inserts have been removed to prevent vehicle usage:

<sup>4</sup> DOH provided an estimate from Pennsylvania Lines, LLC., and Norfolk Southern Railroad Company, a Virginia corporation, on the cost of the railroad crossing installation. Although requested, thus far DOH has been unable to locate any invoices or other documents that supported actual payment for the installation.



Sometime after the purchase of this property, the DOH decided not to locate the maintenance site on the Black Betsy property. It is the understanding of the DOH District 1 Realty Manager that the project was abandoned due to railroad tracks traversing the entire length of the property along the highway. Thus, the maintenance site remains where it was prior to DOH's purchase of the property. In response to our questions regarding the status of the property, the District I Realty Manager stated that "At the present, D-1 has no plans for development [of the Black Betsy site] ...."





According to the Bureau of Labor Statistics' Consumer Price Index, the \$511,000 paid in 2001 for the property has the same buying power as approximately \$707,000 would today, and the \$182,500 additional costs spent by the DOH for the installation of a railroad crossing in 2004 would equate to approximately \$235,000 in today's dollars. Therefore, after this adjustment for inflation, the DOH has an investment of approximately \$942,000 on property that has provided no benefit to the State. While we have made no attempt to establish a current market value of this property, it is likely that 9.3 acres of riverfront property located five miles from the I-64 Nitro exit could have considerable worth.

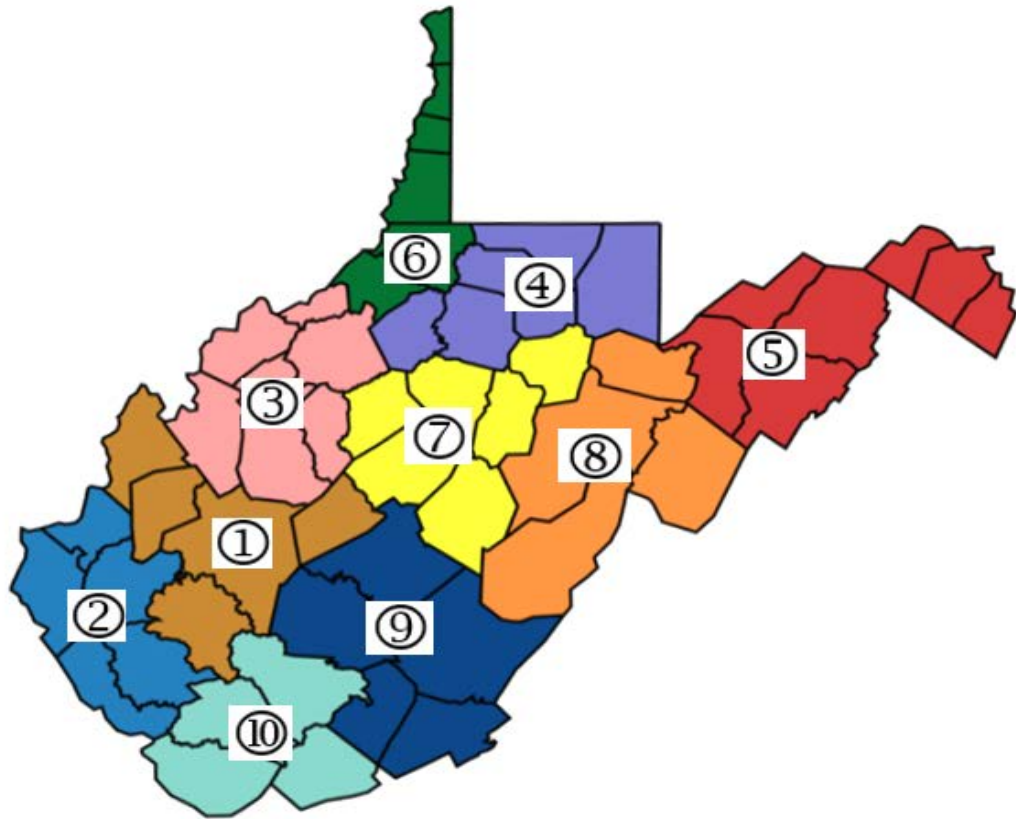
**Recommendations:**

- 2.1 As it is apparent that DOH does not intend to use the Black Betsy site, the Legislative Auditor recommends the agency immediately begin attempts to recover, to the extent possible, their investment in the property by actively marketing this land for sale.
- 2.2 Further, the Legislative Auditor recommends a DOH representative attend the upcoming November Post Audits Subcommittee meeting to provide an update on the progress made towards selling the Black Betsy site.

## Appendix A: DOH District Map

### DOH District Map

-  District 1
-  District 2
-  District 3
-  District 4
-  District 5
-  District 6
-  District 7
-  District 8
-  District 9
-  District 10



#### District 1 Counties

*Boone, Clay, Kanawha, Mason, and Putnam*

#### District 2 Counties

*Cabell, Lincoln, Logan, Mingo, and Wayne*

#### District 3 Counties

*Calhoun, Jackson, Pleasants, Ritchie, Roane,  
Wirt, and Wood*

#### District 4 Counties

*Doddridge, Harrison, Marion, Monongalia,  
Preston, and Taylor*

#### District 5 Counties

*Berkeley, Grant, Hampshire, Hardy,  
Jefferson, Mineral, and Morgan*

#### District 6 Counties

*Brooke, Hancock, Marshall, Ohio, Tyler, and  
Wetzel*

#### District 7 Counties

*Barbour, Braxton, Gilmer, Lewis, Upshur,  
and Webster*

#### District 8 Counties

*Pendleton, Pocahontas, Randolph, and  
Tucker*

#### District 9 Counties

*Fayette, Greenbrier, Monroe, Nicholas, and  
Summers*

#### District 10 Counties

*McDowell, Mercer, Raleigh, and Wyoming*



**Appendix B: DOH Excess Properties Sold Fiscal Years 2016 & 2017**

<b>Properties Sold FY 2016 (Provided by Agency - Unaudited)</b>		
<b>District</b>	<b>Deed Dated</b>	<b>Consideration</b>
1	2/17/2016	\$3,379
2	5/12/2016	\$1
4	7/14/2015	\$9,200
4	7/30/2015	\$166,200
4	8/1/2015	\$1
4	8/20/2015	\$1,830
4	12/7/2015	\$3,350
4	1/7/2016	\$4,262
4	5/18/2016	\$9,198
5	10/2/2015	\$9,200
5	10/2/2015	\$84,000
9	7/7/2015	\$9,325
9	7/7/2015	\$1,830
9	8/18/2015	\$25,200
9	3/21/2016	\$9,325
<b>TOTAL</b>		<b><u>\$336,301</u></b>

<b>Properties Sold FY 2017 (Provided by Agency - Unaudited)</b>		
<b>District</b>	<b>Deed Dated</b>	<b>Consideration</b>
1	1/18/2017	\$14,600
1	4/18/2017	\$3,350
2	9/9/2016	\$1
2	1/26/2017	\$55,000
4	7/11/2016	\$15,873
4	8/23/2016	\$4,861
4	9/7/2016	\$14,660
4	10/6/2016	\$88,950
4	10/6/2016	\$83,950
4	11/15/2016	\$8,185
4	3/7/2017	\$152,200
4	6/8/2017	\$929
4	6/8/2017	\$99,401
4	6/12/2017	\$146,000
5	11/22/2016	\$5,000
6	9/22/2016	\$2,033
8	8/29/2016	\$1
9	8/12/2016	\$1,425
9	9/1/2016	1,925
10	3/8/2017	\$9,838
10	3/17/2017	\$1,739
10	4/4/2017	\$2,800
<b>TOTAL</b>		<b><u>\$712,721</u></b>

## Appendix C: Summary of Responses from Other States

<i>State</i>	<b>Separate record of excess/surplus property?</b>	<b>How are these excess/surplus properties marketed for sale?</b>	<b>Benefits derived from marketing surplus/excess properties.</b>
<i>Georgia</i>	Yes	Place the property for public bid, advertised in the paper local to the county and sold to the highest bidder for no less than 15% below the appraised value	Reduction in the inventory of land owned by GDOT, a return to the county tax rolls to generate tax income for the communities, revenue brought back into the GDOT programs, a return of surplus land to private ownership use and maintenance.
<i>Louisiana</i>	Yes	Public journal (newspaper usually), email distribution, and signs on the property	Some benefits have been realized but are expected to increase when certain antiquated state statutes are possibly revised in future legislative sessions.
<i>Maryland</i>	Yes	Public Auction	Properties are often quite valuable and Maryland can make substantial money of sales of surplus property.
<i>Michigan</i>	Yes	Agency website, email notifications	Better information sharing that allows for better notification to potential buyers.
<i>Nebraska</i>	Yes	Sealed bids with advertising in the local newspapers, direct mail, and agency website.	Allows more potential buyers to be aware of available real estate and could possibly increase competition for the larger parcels.
<i>New York</i>	Yes	The agency's website, advertisements in newspapers/business journals, and signs on the property.	Promotes economic development, reduces the state's liability, returns property to private ownership and to local tax rolls.
<i>Virginia</i>	Yes	The agency's website and local newspapers	Returns property to the local tax rolls, less maintenance/responsibility, reduces liability exposure.





**WEST VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
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**Jim Justice  
Governor**

**Thomas J. Smith, P. E.  
Cabinet Secretary**

**October 13, 2017**

**Isid Committee  
OCT 13 2017  
Post Audit Committee**

**Denny Rhodes, Director  
Legislative Post Audit Division  
Building 1, Room W-329  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0610**

**Dear Mr. Rhodes:**

**Thank you for your letter of October 6, 2017 and the draft audit report regarding a centralized inventory of real estate owned by the Division of Highways. In response to the Post Audit Division’s inquiry, the Division of Highways has reviewed the draft report and the information previously made available to the auditor. I will respond to each audit recommendation below.**

**In addition, the Division of Highways was asked in an email what account are the proceeds from the sale of excess property deposited. All proceeds are deposited into the State Road Fund and used for state road purposes. In the OASIS System the appropriation code is 28100 for FY2017 and 23701 for FY2018. The funds received from the sale of property are shone in OASIS as off sets to expenders. The OASIS fund accounting numbers are 9017-000-2017(or 2018)-0803- 0058-6202-0000.**

**RECOMMENDATION:**

- 1.1 The Legislative Auditor recommends DOH comply with Section 8.40 of the West Virginia Department of Transportation, Division of Highways’ *Right of Way Manual* by maintaining and actively managing an accurate and complete database record of all real estate, except rights of way, owned by the Division. This database should comprise uneconomic remnants as well as any additional land classified as excess by the agency, properties used in normal Division operations, and properties acquired for foreseeable uses. The record should specify the deed reference number, the general location or any other pertinent descriptive information of the properties, acreage, and estimated market value.**

Denny Rhodes, Director  
October 13, 2017  
Page Two

**NOTE:** Since our April 28, 2017 inquiry about inventory records of excess properties, the Director of DOH's Right of Way Section informed us that he requested the DOH "...Districts to search their records back to the year 2007, and to provide a report to [the Central] office regarding the acquisition of all uneconomic remnants...." The Director further stated that "...the Central Office is now compiling that information into a searchable database...."

**RESPONSE:**

The Division of Highways has compiled a searchable database of all uneconomic remnants acquired back to the year 2007. In addition, the Division of Highways has available a list of all properties upon which a structure is located. Going forward, the Division of Highways will comply with the provisions of § 8.40 of its Right of Way Manual.

**FINDING:**

1.2 The Legislative Auditor recommends DOH comply with Section 8.42 of the *Right of Way Manual* and perform a historical search of property records to identify additional excess properties acquired prior to 2007 that could be added to the property inventory record. In accordance with this section of the *Right of Way Manual*, the following sources are to be used in compiling data for property inventory:

1. Project Plans and Maps
2. County Deed Records
3. Circuit Court Records
4. Division Records (District, Central Office, or Commissioner's Minutes).

The Legislative Auditor recognizes that performing historical research to compile a complete and accurate property inventory record, as recommended above, may impose a hardship on the DOH due to constraints of monetary resources and personnel. Therefore, it is recommended this task be completed within a timeframe that available resources and personnel will reasonably permit.

**RESPONSE:**

Section 8.40.2 of the Division of Highways' Right of Way Manual, lists the types of data that are referred to when compiling data for property inventory. The recommendation is for the Division of Highways to perform historical research to complete a complete and accurate property inventory record. This issue, though seemingly simple, is rather, very complex.

There are essentially four classifications of roads by period of acquisition in the WVDOH inventory. These are identified as follows: Ancient Turnpikes, Roads Prior to 1933, Roads



Denny Rhodes, Director  
October 13, 2017  
Page Three

Between 1933-1963, and Roads After 1963. As demonstrated below, each classification was created differently, the methods of acquisition of each classification is substantially different, and the records available relating to each classification differ greatly. It is important to understand that the WVDOH is responsible for the maintenance of a road system that spans over 33,000 miles, and the ownership of roads, because of these different methods and times of acquisition, has long been a bone of contention.

As you have stated, it would require a large expenditure of time and resources to compile this information.

**RECOMMENDATION:**

1.3 The Legislative Auditor recommends DOH actively market surplus/excess properties to the public in a cost-effective manner. One possibility to accomplish this is through the development of a webpage listing properties for sale that is linked to the DOH homepage. In addition, DOH could conceivably link a property sales webpage to other suitable State government websites, such as the homepage for the West Virginia Real Estate Division.

**RESPONSE:**

To accomplish this would require the amending of the various statutes under which the Division of Highways operates.

The primary methods of disposition of WVDOH property are found in W. Va. Code § 17-2A-19. These methods are summarized as follows

1. **Public Sale.** *See, W. Va. Code § 17-2A-19(b).* All sales of WVDOH property “shall be at public auction.” Sale to Principal Abutter. *See, W. Va. Code § 17-2A-19(c)(1).*
2. The first exception is the sale to a principal abutter, of property “acquired for use, or used, as a highway.” W. Va. Code § 17-2A-19(c)(1). A principal abutter is, as the term states, a person that owns property abutting WVDOH property. Sale to Principal Abutter of Land Acquired After 1973. *See, W. Va. Code § 17-2A-19(c)(3)(A).* All sales of property acquired after 1973 require the WVDOH give preferential treatment to a principal abutting landowner if two conditions are met:
  - a. The principal abutter is the “individual from whom the real estate was acquired or his or her surviving spouse or descendant.” W. Va. Code § 17-2A-19(c)(3)(A)(i).
  - b. “The primary use of the abutting property has not substantially changed since the time of acquisition.” W. Va. Code § 17-2A-19(c)(3)(A)(ii).

**Denny Rhodes, Director**  
**October 13, 2017**  
**Page Four**

Finally, the WVDOH can sell property to other “public bod[ies] . . . upon such terms and conditions as may be agreed upon.” W. Va. Code § 1-5-3. Such sales must be approved by the Board of Public Works. Id. Typically, these sales are for nominal consideration, so long as the property sold is used for public purposes. If the property would ever cease to be used for public purposes, it reverts to the WVDOH.

Under the current statutory scheme relating to the disposition of excess property, the Division would first have to identify excess properties (which is an entire process unto itself) and then determine what interest the Division owns in those properties. If acquired “for use, or used, as a highway,” then the Division would have to identify any and all principal abutters, and make inquiry of them if they wish to purchase the excess property. If that principal abutter would wish to purchase the property, it would then have to be appraised. Then, finally, sold to the principal abutter. If, after all that time, the principal abutter chose to not purchase the property, then the property, then it could be sold at a public sale.

The sale of property is far more complex than is stated in the report, is a very time consuming and labor intensive process, and is not as simple as hiring brokers to sell property. To move to that type of system, there would have to be a fundamental change in the way that property “acquired for use, or used as a highway” is to be sold. However, the process established above was established to allow the State to obtain the highest value possible, and to allow for the repurchase of right of way that was no longer needed for a road. The best example of that situation is the right of way owned by the Division east of Elkins, that was determined to no longer be used for construction of Corridor H, when that road was rerouted a different direction.

#### **RECOMMENDATION:**

- 1.4 The Legislative Auditor recommends that the Legislature consider amending W.Va. Code to require the Department of Transportation to annually prepare, and submit to the Governor and the Joint Committee on Government and Finance, an inventory list of real estate properties, except rights of way, owned by the Division. The legislation should require the listing contain a general description of such properties, including acreage; general location; and whether properties are characterized as excess, currently used in normal Division operations, or held for foreseeable uses. In addition, the inventory list should indicate if properties are currently being leased and, if so, include the lessee and lease amount.**



**Denny Rhodes, Director**  
**October 13, 2017**  
**Page Five**

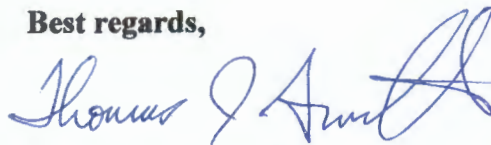
**RESPONSE:**

**The Division of Highways has no objection to reporting to the Legislature.**

**There appears to be some confusion the terminology used when discussing the types of property the Division is required maintain in its inventory as discussed above. The Division is moving forward to maintain an inventory of all uneconomic remnants in addition to the listing of property provided to BRIM in its annual survey, currently 1,111 properties. The Division is willing to meet with you or your staff to discuss any of the issues raised by the audit.**

**Again, thank you for sharing your concerns. Should you have any questions please do not hesitate to contact me.**

**Best regards,**

A handwritten signature in blue ink, appearing to read "Thomas J. Smith". The signature is fluid and cursive, with a large, stylized initial "T" and "S".

**Thomas J. Smith, P.E.**  
**Secretary of Transportation/  
Commission of Highways**

**TJS:Pd**

**Cc: Mike Hall, Chief of Staff**





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JOINT COMMITTEE ON GOVERNMENT AND FINANCE  
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- POST AUDIT DIVISION -

*Legislative Auditor:* Aaron Allred  
*Post Audit Director:* Denny Rhodes

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