**PROPERTY OWNER PARTIAL RELEASE OF MORTGAGE ACKNOWLEDGEMENT**

lpa1549 – Owner Acknowledgement 5/2021

This document outlines the description of clear title, WisDOT’s policy, and how this policy affects property owner(s) within the local program project limits when right of way is needed.

**Introduction**

Because this project has federal or state funding, all state and federal requirements and WisDOT policy must be followed. One such requirement is that the local public agency must acquire adequate real property interests. Federal regulations state that property acquired for the project must be adequate for construction, operation, and maintenance, as well as for the protection of the facility and the traveling public. Clear title is property title without any kind of lien or levy from creditors or other parties. It poses no question about legal ownership. All parties of interest should be cleared on the acquired part of the property. Securing a clear title benefits the property owner and protects the resulting highway facility and the traveling public.

A party of interest is any party who has a legal property right in the described property. To get clear title, all property rights must be conveyed to the Local Public Agency (LPA) in the acquisition area. The Dictionary of Real Estate Appraisal 6th Edition, published by the Appraisal Institute, defines property rights (interests) as: An enforceable, legal claim to the title of or interest in property.

To clear the mortgage/lien on a parcel where the acquisition is only a part of the subject property, WisDOT’s policy is to get a partial release of a mortgage (or lien release) on all acquisitions, except for temporary limited easements (TLE). This policy applies regardless of complexity or dollar amount.

**What is a partial release of mortgage?**

A partial release of a mortgage is a partial satisfaction of a mortgage. The lender satisfies the mortgage on that part of the acquired real property. Sometimes securing a partial release of mortgage is not practical because either the mortgage company (or other lien holder) will not cooperate; the fees to get a release are cost prohibitive; or the time to get the partial release of mortgage does not meet the project schedule. When obtaining a partial release is not practical, condemnation is an acceptable alternative.

**Notice to property owner(s) – when clear title is not obtained**

When the project acquisition is non-complex, $25,000 or less, and otherwise considered minor/insignificant, the LPA may acquire the property without clearing mortgages or liens on the property, if you agree. As a property owner, it is important to understand how this may affect you. In many mortgage agreements, it is a violation to sell any property under the mortgage without the consent of the lender. Before signing the acquisition document and this acknowledgement, you are encouraged to read the terms of your mortgage. For instance, the lender can:

*“…declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender’s prior written consent, of all or ANY PART of the Real Property, or any interest in the Real Property.” (Taken from a JPMorgan Chase Bank Mortgage Agreement)*

You are encouraged to read and evaluate the terms of your mortgage(s). For more questions or concerns you should contact the acquisition agent.

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Project Description in Brief

Project ID: XXXX-XX-XX

Highway Project: (Name of Rd)

Project Sponsor: (LPA)

County: XXXXXX

Parcel No: X

**Instructions:** check appropriate boxes, sign and date.

The undersigned property owner(s) acknowledges that the term **clear title** and the options below has been explained by the local public agency.

Property owner(s) acknowledges and agrees that the local public agency will not be contacting their mortgage company to inquire whether a partial release of mortgage is required.

* By checking this box the property owner(s) understands that their mortgage company will not be notified of this project and acquisition. (Note: Some mortgage companies may require part, or all proceeds go towards the mortgage payoff.)
* The property owner is encouraged to read the terms of their mortgage.

Property owner(s) requests that the LPA or its consultant contact the mortgage company and inquire if a partial release of mortgage is required for this project acquisition and to pursue acquiring one if necessary.

* If the LPA determines costs to obtain a partial release of mortgage is excessive, based upon the LPA’s established limit, or project timelines will not allow time to obtain a partial release of mortgage, a partial release may not be obtained. Instead, the property will be acquired via the condemnation process and all parties of interest will be named on the check or submitted to the clerk of courts for disbursement.

There are no parties of interest other than the property owner(s) involved in this transaction and a partial release of mortgage is not necessary. Checks will be delivered in the property owner’s name at closing.

**PROPERTY OWNER(S) ACKNOWLEDGEMENT**

*The undersigned certifies that they are authorized to acknowledge and agree to the risks explained above.*

Signature Date

Print Name

Print Name

Signature Date

Print Name

Print Name