

Road and Access Law: Researching and Resolving Common Disputes



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Creation And Use Of Public Roads

Submitted by Dale (Bubba) R. Samuels

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- What Influences The Scope Of The Road Right Of Way?

I. CREATION AND USE OF PUBLIC ROADS

The importance and affect of public roads on the ownership of land and the operation of local government cannot be overstated. Public roads may fix one or more boundaries of a tract of land, determine the legal right of access to a tract, and may constitute an easement in the title across the interior of the tract. See generally PINDAR'S GEORGIA REAL ESTATE LAW AND PROCEDURE WITH FORMS § 5-1 (hereinafter “PINDAR’S”); see also 64 C.J.S. Municipal Corporations § 1422. Further, public roads are also a major function of local governments which are generally obligated to maintain, repair, record, and enforce right of ways on public roads. See, e.g., O.C.G.A. §§ 9-6-21; 32-3-1 et seq.; Cherokee County v. McBride, 262 Ga. 460 (1992). The following article explores the legal means and special circumstances surrounding public road creation and the scope of a public road’s operation and affect on land ownership and the authority of local government.

A. Special Circumstances Surrounding Public Roads on Record

Generally, “public road” as defined in State law is “a highway, road, street, avenue, toll road, tollway, drive, detour, or other way open to the public and intended or used for its enjoyment and for the passage of vehicles in any county or municipality of Georgia” including those “public rights, structures, sidewalks, facilities, and appurtenances incidental to the construction, maintenance, and enjoyment of such rights of way.” O.C.G.A. § 32-1-3 (24); see also Chatham County v. Allen, 261 Ga. 177 (1991) (same); State Highway Board v. Baxter, 167 Ga. 124 (1928) (finding that the word “road” in its popular sense includes overland ways of every character, but has no fixed meaning in the law, depending on the context in which it appears). Public roads may be constructed by private developers, counties, municipalities, the state highway department, or by the federal government. PINDAR'S § 5-3. Public roads in

Georgia are “legally” created by dedication, by prescription, by the express grant of an easement, by deed, by special statutory proceeding, or by condemnation. See O.C.G.A. §§ 32-3-3; PINDAR’S § 5-3; see also 64 C.J.S. Municipal Corporations § 1422.

For each of these types of methods of creation, special circumstances arise which may influence whether a road has in fact become a public road and the legal affect of a created public road. These factors can be categorized as “on-record” and “off-record” public roads. On-record public roads are those roads that have been established by express grant, express dedication, or by a government’s special statutory authority such as through its condemnation or purchasing powers. See O.C.G.A. § 33-3-3. Off-record public roads can be characterized as those roads which have not been expressly granted to the public, but may be designated as public roads through a sequence of provable facts and events which mandate that the road enter the public domain. See, e.g., Jordan v. Way, 235 Ga. 496 (1975) (“Road may be public road notwithstanding fact that it is not recorded with Department of Transportation.”); Baker v. State, 92 Ga. App. 60 (1955) (“A highway may have its origin in a legislative act, or in order of court of competent jurisdiction, or may come into existence by dedication or by prescription.”).

Importantly, if a road is considered a dedicated public road or an otherwise valid public road on record, then a county may be compelled by mandamus to maintain the road “so that ordinary loads, with ordinary ease and facility, can be continuously hauled over [it].” O.C.G.A. § 9-6-21; see also O.C.G.A. § 32-4-41 (1) (“A county shall plan, designate, improve, manage, control, construct, and maintain an adequate county road system and shall have control of and responsibility for all construction, maintenance, or other work related to the county road system.”); Cherokee County v. McBride, 262 Ga. 460 (1992); 40 C.J.S. Highways § 179 (noting that construction, maintenance, and repair of public highways is a governmental function, and

insofar as repair and maintenance are concerned, a duty).

First, regarding public roads on record, local government authorities may expressly create public roads by statute by acquiring roads via purchase, dedication, condemnation, donations, and exchange of property. O.C.G.A. §§ 22-1-2; 32-3-3; 32-4-41; 32-4-90; 32-4-92; 36-34-3. For example, Code Section 32-3-3 provides local governments broad powers to: (1) “accept donations, transfers, or devises of land” from private and public entities “in fee or any lesser interest”; (2) enter into agreements with private persons “for the exchange of real property or interests therein for public road purposes”; (3) acquire roads by prescription; and (4) acquire roads by dedication. However, although a local government may acquire public roads through several means, a local government has an obligation to work with property owners to allow them the highest and best use of their property. Tilley Props., Inc. v. Bartow County, 261 Ga. 153 (1991). Further, a local government may not acquire property for future public purposes unless it brings a substantial monetary saving, enhances the integration of highways, or forestalls the physical or functional obsolescence of highways; but an entire lot, block, or tract may be acquired although only part is needed if it is in the public interest. See, e.g., Fulton County v. Davidson, 253 Ga. 734 (1985).

Second, a public road may come into existence through a dedication of a strip of land for road purposes by an owner, evidenced by some action on the owner’s part, showing consent to the abandonment of the owner’s dominion and control by the public. See O.C.G.A. § 32-1-3(8) (defining “dedication” as “the donation by the owner, either expressly or impliedly, and acceptance by the public of property for public road purposes, in accordance with statutory or common-law purposes”); PINDAR’S § 5-4. Generally, “[t]o prove a dedication of land to public use, there must be an offer, either express or implied, by the owner of the land,

and an acceptance, either express or implied, by the appropriate public authorities or the general public.” Smith v. State of Georgia, 248 Ga. 154, 158 (1981); Ross v. Hall County Commissioners, 235 Ga. 309 (1975); Carroll v. DeKalb County, 216 Ga. 663 (1961); Brown v. City of East Point, 148 Ga. 85 (1918); see also O.C.G.A. § 44-5-230. To prove an offer of dedication, “it must be shown that a property owner's acts clearly manifested an intention to dedicate the property for public use.” Chandler v. Robinson, 269 Ga. 881 (1998). Further, “acceptance of an express offer to dedicate property may be shown by public use of the property for a period of time sufficient to indicate that the public is acting on the basis of a claimed right resulting from the dedicatory acts by the owner.” Smith, 248 Ga. at 160.

A typical example of express dedication is by express contract and deed. Generally, where a dedication is made by deed, the grantor, the grantee, and the public are all parties to the transaction. See PINDAR'S § 5-6; see also 26 C.J.S. Dedication § 15 (“The intent to dedicate may be manifested by a deed. Such a deed may be from the dedicator to an individual, in which the dedicator declares that a part of the land is subject to a public use, or it may except some part of the land conveyed for a public use.”). Creation by contract includes deeds in which the fee-simple title is conveyed to the strip in question, or other instruments granting an easement for road purposes. PINDAR'S § 5-6. Further, although a road deed may be valid without a delineation of the area, it must contain language sufficient to designate with reasonable certainty the land over which the road extends and a reference to a plat will not suffice unless it can be determined from the plat exactly where the lines of the proposed road will run. See Ketchum v. Whitfield County, 270 Ga. 180 (1998) (finding that a deed dedicating a road does not need to contain a perfect legal description, and the deed and dedication will be valid so long as the description provides sufficient keys to determine the boundaries by

extrinsic evidence); DOT v. Howard, 245 Ga. 96 (1980) (finding that highway deed to DOT was invalid where true legal title was in the grantor's wife, and could not be color of title because of indefinite description); State Highway Dep't v. Blalock, 214 Ga. 29 (1958); PINDAR'S § 5-7.

Another common example of an offer of express dedication is the recordation of a subdivision plat by a developer showing designated streets. See Smith, 248 Ga. at 158 (“Where the owner of a tract of land subdivides it into lots and records a map or plat showing such lots, with designated streets, and sells lots with reference to such map or plat, the owner will be presumed to have expressly dedicated the streets designated on the map to the public.”); 26 C.J.S. Dedication § 17 (“[A] survey and plat alone are sufficient to establish an offer to dedicate if it is evident from the face of the plat that it was the intention of the proprietor to set apart certain ground for public use.”). Further, even where a proposed dedication plat is ambiguous, parol evidence, the surrounding circumstances and the subsequent conduct of the public can be used to show the boundaries and extent of a dedication. See Cobb County v. Crew, 267 Ga. 525 (1997). However, even though an owner may have expressly offered to dedicate a road via a recorded plat, dedication will not be complete until the public accepts the express offer. See Watson v. Clayton County, 214 Ga. App. 225 (1994) (finding that the recordation of a plat of subdivision containing offers to dedicate streets does not in itself constitute acceptance by the public authorities of the street because the street must be both dedicated by a private property owner and accepted by a public authority before it becomes a public street.); 26 C.J.S. Dedication § 17 (“The mere filing of plat or map . . . does not of itself work a dedication of the land indicated as reserved for the public use.”). Finally, acceptance of an offer of dedication will not be inferred if a local government fails to assess property taxes on

the road. See Hale v. City of Statham, 269 Ga. 817 (1998) (“Although exemption from taxation is one factor to consider in determining whether a government has exercised control over property, a tax map is insufficient as a matter of law to manifest acceptance.”).

In sum, a road may be dedicated by express grant or presumed by the recordation of a subdivision plat. However, although these facts may raise a presumption of dedication on the part of an owner, a local government must still evidence acceptance of the express offer of dedication. Accordingly, general contract law principles apply to determinations of offers and acceptances of dedications, with the preferred construction that which renders all the provisions of the instrument operative and effective, thus carrying out the intention of the parties. See 26 C.J.S. Dedication § 15.

B. Off Record: Is it Legitimately a Public Road?

If a public road has not been legally created by express grant, express dedication, or by statute, then a road may still be considered a public road if certain facts and circumstances arise. These include the manifestation of an implied easement, implied dedication, or a prescription.

First, it is well established that where title to a public road or highway is not shown to be in the public by express grant, there is a presumption that it exists merely as an easement, under which the base fee in the underlying ground remains in the adjacent owners. R.G. Foster & Co. v. Fountain, 216 Ga. 113 (1960); Thomas v. Douglas, 165 Ga. App. 128 (1983); PINDAR’S § 5-14; 26 C.J.S. Dedication § 68 (noting that where the owner of property makes a common law dedication, the ultimate fee remains unaffected, neither the government, the municipality, nor the public acquiring any interest other than that of a mere easement). If a public road exists by mere easement, then the public is not entitled to rights in timber, minerals, or other rights in the

roadway. Smith v. City of Rome, 19 Ga. 89 (1855). In the great majority of cases, however, an express grant or express dedication is by fee simple due to the substantial cost in constructing and maintaining public streets and highways. See PINDAR’S § 5-16.

Second, as noted above, a road may considered a public road via implied dedication if two criteria are established: (1) the owner intended to dedicate the land for public use; and (2) the public accepted the dedicated property. Chandler, 269 Ga. at 881. However, “[w]hen an implied dedication is claimed, the facts relied on must be such as to clearly indicate a purpose on the part of the owner to abandon his personal dominion over the property and to divert it to a definite public use.” Id.; Dunaway v. Windsor, 197 Ga. 705 (1944) (finding that to infer an intention to dedicate property to public use from owner's “acquiescence” in use of his property by the public “acquiescence” means a tacit consent to acts or conditions, and implies a knowledge of those things which are acquiesced). Thus, whether an implied dedication or acceptance has taken place is a question for the trier of fact. Jackson v. Stone, 210 Ga. App. 465, 466 (1993).

Generally, actions that have been found to constitute an implied dedication include the owner’s allowance of public use of the road and the acquiescence of the owner to local governing authorities to repair and maintain roads. Jergens v. Stanley, 247 Ga. 543 (1981) (finding seven-year use by the public as a road and working by county is sufficient to establish a dedication); Hood v. Spruill, 242 Ga. App. 44 (2000) (finding that whether roadway easement over private land is private or public is determined by use of roadway). Importantly, however, these facts are not conclusive to show that a road has been dedicated to public use. See, e.g., Forehand v. Carter, 270 Ga. 534 (1999) (finding that an owner who permits the county to occasionally grade a part of an alley does not manifest an intention to dedicate the alley to

public use); Chatham County v. Allen, 261 Ga. 177 (1991) (finding that unopened, undeveloped, proposed roads in subdivision do not become “public roads” which county is obligated to maintain, solely by virtue of process of implied dedication and acceptance, and county could not be required to develop such roads); Irwin County v. Owens, 256 Ga. App. 359 (2002) (“The mere use of one's property by a small portion of the public, even for an extended period of time, is not sufficient to authorize an inference that the property has been dedicated to a public use.”); see also Central of Georgia R.R. Co. v. DEC Associates, Inc., 231 Ga. App. 787 (1998) (finding that where 15 to 20 years have elapsed since the dedication of an easement without the government exercising any control, the presumption of law arises that the donation of the easement was declined by the governmental entity).

Moreover, simply because the disputed road is depicted on a Department of Transportation map, or a local government has a policy of delivering gravel and grading private roads upon request, does not by themselves establish dedication of a road as a public roadway. See Chandler, 269 Ga. at 881 (“[A] road's placement on an official highway map is ‘administrative . . . as between the state, counties and municipalities. Its purpose [is] not to ascertain and fix the status of the public right of use of every road in Georgia.’ Hence, this evidence also fails to support a claim of implied dedication.”); Jackson v. Stone, 210 Ga. App. 465 (1993) (finding that owner retained control over who used road by specifically granting or refusing easements to use road, that road was built at his own expense, and that county's policy of delivering gravel and grading private roads upon request was not indication of road's dedication to public); PINDAR’S 5-4; 26 C.J.S. Dedication § 40; 32 A.L.R.2d 953. Therefore, in sum, implied dedication will generally be found to have occurred if an owner allows continuous public use for an extended period of time and permits local authorities to

continuously maintain the road for many years. See, e.g., Chandler, 269 Ga. at 881-82 (finding no implied dedication because no maintenance performed on road in twenty-five years and only on an occasional basis before then); Childs v. Sammons, 272 Ga. 737, 738 (2000) (plaintiff did not prove that occasional grading of 40 foot strip of road traversing defendant's land dedicated road to public use).

Finally, similar to implied dedication, a roadway may also be transformed into a public road if acquired by prescription through continuous public use after seven years. See O.C.G.A. §§ 32-3-3(c) (“[A]ny state agency, county, or municipality is authorized to acquire by prescription and to incorporate into its system of public roads any road on private land which has come to be a public road by the exercise of unlimited public use for the preceding seven years or more.”); 44-5-164; Chandler, 269 Ga. at 882; A.C.L.R. Co. v. Sweatman, 81 Ga. App. 269 (1950). Thus, while a dedication implies a conveyance and an acceptance, a prescription requires an unbroken possession or user under a claim of right. Dunaway v. Windsor, 197 Ga. 705 (1944).

Generally,

[i]n order to obtain prescriptive rights over a roadway, the possession must not originate in fraud, must be public, continuous, exclusive, uninterrupted, peaceable, and accompanied by a claim of right. The use must also be adverse rather than permissive, and in the case of public roads acquired by prescription, public authorities must have either accepted the road or exercised dominion over it. Lastly, there must have been unlimited public use of the roadway for at least the seven years preceding the claim of prescriptive acquisition.

Harbor Co. v. Copelan, 256 Ga. App. 79 (2002) (quoting Chandler, 269 Ga. at 883). Similar to implied dedication, courts have accordingly held that only continuous public use and maintenance, as opposed to tenuous public use and infrequent public maintenance, is sufficient to put an owner on notice of adverse use for a prescription. See Chandler, 269 Ga. at 883

(finding that county did not acquire roadway by prescription where roadway was blocked and impassable for approximately ten years prior to the property owners' acquisition of property and clearance of the roadway and use of road by neighboring property owner was permissive); Jordan v. Way, 235 Ga. 496 (1975) (finding that evidence showing road across owner's property had been in existence for 74 years prior to its closing, that public used road in manner adverse to owner continuously throughout such period, and that county authorities had repaired road, was sufficient to support finding that public road had been established across owner's property by prescription); Dunaway, 197 Ga. at 705 (finding that evidence indicating that trucks passing over land owner's property from time to time and that the public authorities had performed some work on the roadway, was insufficient to establish a continuous, uninterrupted, and adverse use of the property by the public as a highway, as would be sufficient to establish a highway by prescription); Harbor Co., 256 Ga. App. at 79 (finding that county did not acquire title through prescription to a six-inch privately owned strip of land abutting county road and covered by portion of privately constructed curbs and gutters, even if county accepted or exercised dominion over curbs and gutters, where curbs and gutters were constructed with express permission from owner of strip, and there was no evidence that county ever gave owner of strip notice that it was asserting any claims adverse to his right of ownership); Bass v. Pearson, 219 Ga. App. 487 (1995) ("While there is evidence that numerous individuals used that road and that the county had at some point graded and graveled the road, there is nothing indicating when or for how long the county performed that work."). Accordingly, prescriptions, like implied dedications, require continuous adverse use by the public with a coterminous claim of dominion and control over the road by local government.

C. What Influences the Scope of the Road Right of Way?

Another crucial area involving the creation, use, and operation of public roads is the scope of a public road's right of way. Generally, "right of way" is defined by statute as "property or any interest therein, whether or not in the form of a strip, which is acquired for or devoted to a public road." O.C.G.A. § 32-1-3(25). The scope a public road right of way may be influenced by several statutory provisions and common law factors which include (1) whether the road is owned in fee simple by local government or the road is a mere easement for public use; (2) the established width and parameters of public roadways; (3) the existence and rights of abutting property owners; (4) utility line easements and urban servitudes; and (5) encroachments. See PINDAR'S §§ 5-13 through 5-25; 64 C.J.S. Municipal Corporations § 1462.

First, as noted above, a public road not dedicated to the public by express grant is presumed to exist only as an easement, under which the base fee remains in the adjacent land owners and the easement continues only as long as the public need for the road continues. See Thomas v. Douglas, 165 Ga. App. 128 (1983); City of Atlanta v. Jones, 135 Ga. 376 (1910) (holding that even a deed to a county or city may be subject to interpretation as to whether it conveys a fee or a mere easement). As noted above, because of the costs of road maintenance, most state and local governments acquire a fee simple title to the roadway, either by warranty deed or by indefeasible fee authorized by statute. O.C.G.A. §§ 32-3-3; 32-4-41; 32-4-90; 32-4-92; 36-34-3.

Second, the width of public roadways is generally determined by examination of the deeds and records under which title to the road was acquired. Waller v. State Highway Dep't, 218 Ga. 605 (1963). Therefore, where a parcel of land of definite width is expressly dedicated as a roadway, whether by deed, easement, subdivision plat, or otherwise, the width shown becomes

the official margin even though the actual part used and occupied for road purposes may be less. Dover v. Pritchett, 251 Ga. 842 (1984) (iron pins placed at corners of property said to prevail over measurements to determine width of county road); Thurston v. City of Forest Park, 211 Ga. 910 (1955). However, in cases where a public road has been established by implied dedication or prescription, there is no presumption that the owner of the land on which the road traverses intended to dedicate more than the public use requires. See, e.g., R.G. Foster & Co. v. Fountain, 216 Ga. 113 (1960) (finding that when dedication of a highway results from mere use and acquiescence, it shall not to be inferred that the donor parted with more than the use necessitates, therefore the evidence sustained verdict for landowner); Thrash v. Wood, 215 Ga. 609 (1960) (finding that parking area not included in dedication). Sidewalks are also considered part of a public road, but dedication of an area solely for sidewalk purposes does not permit a government from converting it into vehicular traffic without compensation to abutting property owners. R.G. Foster, 216 Ga.113; see also Atlanta Muffler Shop v. McSwain, 98 Ga. App. 722 (1958) (“Sidewalks are intended as public throughfares, and any person or corporation placing obstructions on or over them in such manner as to render them dangerous to persons using them in a normal manner is guilty of negligence.”). Finally, as noted in the statutory definition of “public road,” a public roadway includes all “structures, sidewalks, facilities, and appurtenances incidental to the construction, maintenance, and enjoyment of such rights of way.” O.C.G.A. § 32-1-3 (24). Accordingly, the width of a public right of way is determined by deed or the prior public use of the right of way by the public in the absence of an express deed.

Third, the owners of land abutting a public road may influence a right of way and occupy a special status as compared with members of the public generally. Generally, title to the underlying fee of a street or road is prima facie vested in the abutting owners, unless conveyed or

transmitted to the public authorities. Fambro v. Davis, 256 Ga. 326 (1986) (noting that the fee in all roads should be vested either exclusively in the owner of the adjacent land on one side of the road, or in him as to one half of the road, and as to the other half, in the proprietor of the land on the opposite side of the road). Further, subject to certain exceptions, and depending upon whether the road is owned in fee simple or by easement, abutting owners may have special rights of access, underground and overhead rights, and reversionary rights upon abandonment. PINDAR'S § 5-17; 64 C.J.S. Municipal Corporations § 1462 ("The owner of property abutting on a public street has an easement over the street of light, air, and view, and an interference with his right of privacy has been considered as an element going to make up his right to relief against an encroachment on the highway."). An abutting owner may also be subject to special obligations not to obstruct passage, and may be liable for improvements on the roadway in some cases. O.C.G.A. §§ 36-39-16; 36-39-20; PINDAR'S § 5-17.

Importantly, abutting owners may have a special easement of access to their land over the public right of way. See Barham v. Grant, 185 Ga. 601 (1937). The easement of access includes the to reach the traveled part of the public road, but an owner is not entitled to enter at all points along his boundary, provided the abutting owner is offered a convenient access to the premises. See, e.g., State Highway Board v. Baxter, 167 Ga. 124 (1928) (finding that an abutting owner "is not entitled, as against the public, to access to his land at all points in the boundary between it and the highway, if the entire access has not been cut off, and if he is offered a convenient access to his property and to improvements thereon, and his means of ingress and egress are not substantially interfered with by the public"). Therefore, courts have concluded that curbing and medians in the public right of way and regulation of traffic flow generally do not impair access to an abutting owner's property rights. See, e.g., Clark v. Clayton County, 133 Ga. App. 171

(1974) (finding that median change by closing front cross-over of owner's hotel and opening another 370 feet away did not interfere with owner's ingress and egress); Dougherty County v. Snelling, 132 Ga. App. 540 (1974) (finding that abutting owner has no rights to control traffic flow, which is regulated for public safety); Johnson v. Burke County, 101 Ga. App. 747 (1960) (“[I]t conclusively appears . . . that the curb in question is so constructed and situated as to not interfere with the right of the plaintiffs, their customers or others, in the matter of ingress and egress.”). Finally, the right of access of abutting owners can be taken away from the abutting owner by the exercise of the power of eminent domain and the establishment of limited-access highways. See O.C.G.A. §§ 22-1-2; 32-1-3(14) (defining limited access highway as “a public highway, road, or street for through traffic, over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a limited right or easement of access, light, view, or air by reason of the fact that their property abuts upon such limited-access highway, road, or street or for any other reason”).

Fourth, a public right of way may also be affected by the duty of local governments and abutting property owners to keep the right of way free of encroachments. See O.C.G.A. §§ 32-6-1(a) (“It shall be unlawful for any person to obstruct, encroach upon, solicit the sale of any merchandise on, or injure materially any part of any public road.”); 32-6-2 (authority to regulate parking and unattended vehicles on public roads); Crider v. Kelly, 232 Ga. 616 (1974) (finding that DOT can require removal of any obstruction placed without express permission on road within state's system and governing body of municipality can require removal of any such an obstruction placed on city street not on state's system).

Generally, encroachments on a right of way without the express permission of State or local government is considered a “purpresture” and may constitute an abatable nuisance subject

to an injunction. See S.E. Pipeline Co. v. Garrett, 192 Ga. 817 (1941) (“The rule both in reason and by authority is that, unless the public sustain or may sustain some degree of inconvenience or annoyance in the use of a public highway or street or other public property, there is no public nuisance.”); see also Stephens v. State Highway Dep’t, 223 Ga. 713 (1967) (finding that an inadvertent encroachment of less than one foot on the right of way would not require an injunction which would in effect force demolition of the building). Courts have accordingly found unauthorized encroachments as constituting an unlawful nuisance, including fuel tanks, Williamson v. Souter, 172 Ga. 364 (1931), pay telephones, City of Dalton v. Staten, 201 Ga. 754 (1947), newsstands, Magrill v. City of Atlanta, 32 Ga. App. 5 (1924), and piles of debris. Harbuck v. Richland Box Co., 204 Ga. 352 (1948). Thus, any unauthorized immobile structure on a public road may constitute a public nuisance. See, e.g., Smith v. Hiawassee Hardware Co., 167 Ga. App. 70 (1983) (“Structures on private property adjoining road rights-of-way only become unlawful . . . if they obstruct a clear view of roads in such a manner as to constitute a traffic hazard, and they are unauthorized.”) Williams v. Scruggs Co., 213 Ga. App. 470 (1994) (finding plaintiff was unable to show that the allegedly vision-obstructing debris and heavy equipment located on defendant’s property was “unauthorized”).

Finally, the right of way is also influenced by a local government’s power to regulate and maintain utility lines. Generally, local governments are authorized by statute to license the use of city and county streets for the transmission of utilities and for street railways so long as the use of the public generally is not unreasonably interfered with. See, e.g., O.C.G.A. §§ 32-4-42 (“A county may grant permits and establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances of

any utility in, on, along, over, or under the public roads of the county”); 36-34-2 (regulation of utilities by municipalities). Thus, although “the owner of the soil retains the exclusive right in mines, quarries, springs of water, timber, and earth, . . . these rules must be taken with some limitation as to the streets of a city. Certain uses . . . which are called ‘urban servitudes’ are the necessary incidents of streets in large cities, and are paramount to the rights of the owner of the fee.” City of Albany v. Lippitt, 191 Ga. 756 (1941); PINDAR’S § 5-22.

Further, regulation of utilities and additional uses of the right of way for utilities may be expanded over time. Faulker v. Georgia Power Co., 243 Ga. 649 (1979) (“A definition of land to the public use as a street not only embraces all of the customary uses to which streets are devoted at the time of the dedication, but will expand to take in all new uses that become customary as civilization advances.”). Therefore, courts have found that the installation of additional telephone wires, Kerlin v. Southern Bell Tel. Co., 191 Ga. 663 (1941), and facilities to accommodate higher voltage electric lines, Humphries v. Georgia Power Co., 224 Ga. 128 (1968), amounted to a change in the degree of use rather than in the kind of use, so as not to violate the existing right of way. However, while a local government may mandate that a utility move utility lines to accommodate future road widening, it may not deny current permits based on future potential use. DeKalb County v. Georgia Power Co., 249 Ga. 704 (1982) (electric lines) (“The county may require the power company to move the power line to accommodate future widening of [roads], but may not deny the power company a permit to locate the power line within the right-of-way of that road because of speculation that [the road] may be widened at some unspecified and unknown time in the future.”); City of Atlanta v. DeKalb County, 196 Ga. 252 (1943) (water lines); PINDAR’S § 5-22. In sum, State and local government may reasonably regulate and license utility lines in the right of way subject to certain restrictions. See O.C.G.A.

§§ 32-4-42; 36-34-2; 32-6-173.

Private Roads In Georgia: Creation And Use

Submitted by James A. Langlais

- Introduction
- Creating Private Roads Through Easements
- Difference Between Easements And Fee Estates, Restrictive Covenants And Licenses
- Scope Of Easements
- Abandonment Or Forfeiture, Extinguishment And Estoppel Of Easements
- Maintenance And Repair Of Easements
- Creation Of Private Roads Through Condemnation

**NATIONAL BUSINESS INSTITUTE
ROAD AND ACCESS LAW: RESEARCHING AND RESOLVING
COMMON DISPUTES**

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PRIVATE ROADS IN GEORGIA: CREATION AND USE

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A. Introduction

In Georgia, private roads may be created in a number of ways: by express grants, by prescription, by necessity, and by private condemnation.¹ Procedures for creating private roads such as these are intended to provide for an economically affordable and efficient method to gain access to property.² In addition to providing landlocked property owners with mechanisms to gain access to property, these procedures also seek to protect the interests of the servient estate owner, i.e., the one burdened with the private road or easement.³ This paper examines the various types of mechanisms to create private roads in Georgia, as well as the legal issues related to their creation, scope, maintenance and extinguishment.

B. Creating Private Roads through Easements

An easement is “a right in the owner of one parcel of land (i.e., the dominant estate owner), by reason of such ownership, to use the land of another for a special purpose not inconsistent with the general property in the servient estate owner”.⁴ It is not a fee estate in land or merely a contract right, but rather it is an interest in land owned or possessed by another; a

¹ O.C.G.A. § 44-9-1; Jones v. Mauldin, 208 Ga. 14, 64 S.E.2d 452 (Ga., 1951) *overruled on other grounds*.

² Elk Horn Ranch, Inc. v. Board of County Com’rs, Crook County, 2002 W.Y. 167, 57 P.3d 1218 (Wyo. 2002).

³ Barge v. Sadler, 70 S.W.3d 683 (Tenn. 2002); Elk Horn Ranch, Inc. v. Board of County Com’rs, Crook County, 2002 W.Y. 167, 57 P.3d 1218 (Wyo. 2002).

⁴ Brown v. Tomlinson, 246 Ga. 513, 272 S.E.2d 258 (1980); 25 Am. Jur. 2d, Easements and Licenses § 1.

Hollomon v. Board of Education, 168 Ga. 359, 147 S.E. 882 (1929).

privilege to enjoy and use the land of another.⁵ Moreover, it may be created only by a person with title to or an estate in the servient estate.⁶ Easements can be created in a number of ways including easement by express grant, easement by prescription, and easement by implication of law or necessity.⁷

1. Easements by Express Grant

Express easements can be created by contract, deed or other written instrument.⁸ To create an express easement, the written instrument must describe with reasonable particularity the land to which the easement extends.⁹ It is not, however, necessary to delineate the exact path and boundaries of the easement, i.e., provide a legal description of the easement.¹⁰ The description of an easement is sufficient if it provides a key so that the land where the easement is located can be identified.¹¹ An easement description has been found sufficient in the following situations:

- easement was described as being situated “between Lot #77, Lake George and Pine Avenue, including causeway to the creek, near the railroad bridge, known as the headwaters of the Gress River” was held to be sufficient.¹²

⁵ 5 Rest. of Law, §§ 450, p. 2901, 540b, p. 2903; Sinnett v. Werelus, 83 Idaho 514, 365 P.2d 952 (1961); Young v. Thendara, Inc., 328 Mich. 42, 43 N.W.2d 58 (1950); Kazi v. State Farm Fire and Cas. Co., 24 Cal. 4th 871, 15 P.3d 223 (2001); Preseault v. U.S., 100 F.3d 1525 (Fed. Cir. 1996); Sun Valley Land and Minerals, Inc. v. Hawkes, 138 Idaho 543, 66 P.3d 798 (2003).

⁶ 25 Am. Jur. 2d, Easements and Licenses § 15.

⁷ O.C.G.A. § 44-9-1; Jones v. Mauldin, 208 Ga. 14, 64 S.E.2d 452 (Ga., 1951) *overruled on other grounds*.

⁸ Latham Homes Sanitation, Inc. v. CSX Transportation, Inc., 245 Ga.App. 573, 538 S.E.2d 107 (2000); Bibb County v. Georgia Power Co., 241 Ga.App. 131, 525 S.E.2d 136 (1999); Khamis Enterprises, Inc. v. Boone, 480 S.E.2d 364 (1997); Irvin v. Laxmi, 266 Ga. 204, 467 S.E.2d 510 (1996); City of Columbia, Mo. v. Baurichter, 729 S.W.2d 475 (Mo. Ct. App. 1987); Lewis v. DeKalb County, 251 Ga. 100, 303 S.E.2d 112 (1983); Georgia Power Co. v. Leonard, 187 Ga. 608, 1 S.E.2d 579 (1939); Seaboard Air Line Ry. Co. v. Greenfield, 128 S.E. 430 (1925); Chapman v. Gordon, 29 Ga. 250 (1859).

⁹ Lovell v. Anderson, 242 Ga.App. 537, 530 S.E.2d 233 (2000); Concerned Citizens v. State Ex. rel. Rhodes, 329 N.C. 37, 404 S.E.2d 677 (1991); Champion v. Neason, 220 Ga. 15, 136 S.E.2d 718 (1964); Lewis v. Bowen, 209 Ga. 717 (1), 75 S.E.2d 422 (1953); Rest. of Law, § 471(d), p. 2964.

¹⁰ Wynns v. White, 273 Ga.App. 209, 614 S.E.2d 830 (2005); Murdock v. Ward, 267 Ga. 303, 477 S.E.2d 835 (1996).

¹¹ O.C.G.A. § 44-9-1; Howard v. Rivers, 266 Ga. 185, 465 S.E.2d 666 (1996); Glass v. Carnes, 260 Ga. 627(4), 398 S.E.2d 7 (1990); Champion v. Neason, 220 Ga. 15, 136 S.E.2d 718 (1964).

¹² Wynns v. White, 273 Ga.App. 209, 614 S.E.2d 830 (2005); Adams v. City of Ila, 221 Ga.App. 372, 471 S.E.2d 310 (1996)(property description was sufficient in deed granting right-of-way; deed contained sufficient “keys” to clarify any indefiniteness in property description, making reference to militia district in which right-of-way was located, and defining right-of-way specifically by referring to and incorporating street’s preexisting roadway).

- easement was described by a specific reference to a diagram or plat showing the easement has been held sufficient.¹³
- easement represented by parallel lines on plat of subdivision.¹⁴

However, the grant of an easement with an indefinite description will be upheld where its location has been established by parties' consent.¹⁵ Moreover, in instances where the written instrument is ambiguous, parol evidence may be used to explain the extent of the description of an easement and identify its location.¹⁶ For example, in a situation where a plat is referenced in a written instrument purporting to grant an easement, but where no plat is actually attached to the written instrument, parol evidence identifying the plat may be introduced.¹⁷

2. Easements by Prescription

In Georgia, the elements of a prescriptive easement are essentially the same as adverse possession.¹⁸ Prescription, however, differs from adverse possession;¹⁹ adverse possession confers title to the property while prescription only confers *the right to use the property*.²⁰

The person seeking to establish prescriptive easement must prove that the use or the road or way was public, continuous, exclusive, uninterrupted (7 years for improved lands or 20 years through wild lands), peaceable, and accompanied by a claim of right.²¹ Moreover, the use must be adverse (i.e., without the consent of the owner) rather than permissive, the private way must not exceed 20 feet in width and be the same 20 feet as originally appropriated, and must be kept in repair during the period of use.²²

¹³ Howard v. Rivers, 266 Ga. 185, 465 S.E.2d 666 (1996); Chicago Title Insurance Co. v. Investguard, Ltd., 215 Ga.App. 121, 449 S.E.2d 681 (1994)(access easement may be described by reference to a plat showing a road lineated on the plat, which plat is attached to a deed and incorporated by reference into the deed); Turner v. City of Nashville, 177 Ga.App. 649, 340 S.E.2d 619 (1986); Norton Realty & Loan Co. v. Board of Education, 129 Ga.App. 668(4), 200 S.E.2d 461 (1973).

¹⁴ Chicago Title Insurance Co. v. Investguard, Ltd., 215 Ga.App. 121, 449 S.E.2d 681 (1994); Hardigree v. Hardigree, 244 Ga. 830, 262 S.E.2d 127 (1979).

¹⁵ Barton v. Gammell, 143 Ga.App. 291, 238 S.E.2d 445 (Ga.App. 1977)(The grant of an easement containing an indefinite description will be upheld where its location has been established by consent of the parties).

¹⁶ Irvin v. Laxmi, 266 Ga. 204, 467 S.E.2d 510 (1996).

¹⁷ Mayor & Council of Athens v. Gregory, 231 Ga. 710, 203 S.E.2d 507 (1974).

¹⁸ Moody v. Degges, 258 Ga.App. 135, 137, 573 S.E.2d 93, 95 (2002).

¹⁹ Thomson v. Dypvik 174 Cal App 3d 329, 220 Cal.Rptr. 46 (6th Dist., 1986); Wheeler v. Newman, 394 NW2d 620 (Minn App., 1986); Glenville v Strahl, 516 SW2d 781(Mo App., 1974).

²⁰ Id.

²¹ Moody v. Degges, 258 Ga.App. 135, 137, 573 S.E.2d 93 (2002); Jackson v. Norfolk Southern R.R., 2002, 255 Ga.App. 695, 566 S.E.2d 415 (2002); Childs v. Sammons, 272 Ga.App. 737, 739(2), 534 S.E.2d 409 (2000); O.C.G.A. § 44-9-1.

²² Id.

Merely using a roadway, however, is insufficient to acquire a prescriptive easement.²³ Moreover, since the imposition of prescriptive rights is a rather harsh remedy, Georgia courts will strictly construe the elements of OCGA § 44-9-1 against the party asserting the right to the easement.²⁴ If the party seeking the prescriptive easement fails to strictly comply with OCGA § 44-9-1 or fails to prove any of the necessary elements to establish prescriptive rights, he will not be entitled to acquire the easement.²⁵

Further, where a road has been used prescriptively as a private way for as much as one year, the owner of land over which it passes (i.e., the servient estate) may not close it up without first giving the users thereof thirty days' written notice so that they may have the way made permanent.²⁶

3. Easements by Necessity

Under O.C.G.A. § 44-9-40(b), “[w]hen any person or corporation of this state *owns real estate or any interest therein* to which the person or corporation has no means of access, ingress, and egress and when a means of ingress, egress, and access may be had over and across the lands of any private person or corporation, such person or corporation may file his or its petition in the superior court of the county having jurisdiction...”²⁷ Even where other means of access exist, condemnation of a private way or easement by necessity is warranted if the easement seeker can establish that the existing access options are not economically feasible.²⁸

To be entitled to condemn an easement or private road over the lands of another by necessity, the easement seeker must show that the way sought by him is *absolutely indispensable* as a means for reaching his property.²⁹ The way of necessity must be more than one of convenience.³⁰

A landowner seeking to establish an easement by necessity will not be entitled to a private way of necessity to obtain access if he voluntarily landlocked himself; i.e, he created the problem he now seeks redress for.³¹ The reasoning behind the rule is that a private way would only reward the property owner for his own negligence in failing to reserve an easement for

²³ BMH Real Estate Partnership v. Montgomery, 246 Ga.App. 301, 304(3), 540 S.E.2d 256 (2000).

²⁴ O.C.G.A. § 44-9-54; In re Popescu, 172 B.R. 691 (1994)(under Georgia law, establishment of private way by prescription is to be strictly construed); Farris Construction Co. v. 3032 Briarcliff Road Associates, 247 Ga. 578, 277 S.E. 2d 673 (1981).

²⁵ Id.

²⁶ Hall v. Browning, 195 Ga. 423, 24 S.E.2d 392 (1943); Kirkland v. Pitman, 122 Ga. 256, 50 S.E. 117 (1905).

²⁷ O.C.G.A. § 44-9-40(b); Hensley v. Henry, 246 Ga.App. 417, 541 S.E.2d 398 (2000).

²⁸ O.C.G.A. § 44-9-40; Atlanta-East, Inc. v. Tate Mountain Associates, Inc., 265 Ga. 742, 462 S.E.2d 613 (1995).

²⁹ Wyatt v. Hendrix, 146 Ga. 143, 90 S.E. 957 (1916).

³⁰ Moore v. Dooley, 240 Ga. 472, 241 S.E.2d 232 (1978); Hasty v. Wilson, 223 Ga. 739, 158 S.E.2d 915 (1967); Burton v. Atlanta & W.P.R. Co., 206 Ga. 698, 58 S.E.2d 424 (1950).

³¹ Bruno v. Evans, 200 Ga.App. 437, 408 S.E.2d 458 (1991), *certiorari denied*.

property he had previously sold.³² However, even where a party has voluntarily landlocked himself, under some circumstances, he may still be entitled to obtain access by condemnation under O.C.G.A. § 44-9-40(b) *if* he can show that construction of a road over the property sold would cost more than the value of the remaining property.³³

C. Difference between Easements and Fee Estates, Restrictive Covenants and Licenses

The difference between a fee simple estate and an easement is that the easement describes the right to the use of the land, while title to the fee simple estate is the grant of title to the land itself. This difference is not insignificant because a fee simple estate owner receives substantive and procedural rights that are not to easement holders. For example, the owner of a fee simple estate, unlike an easement, has the right to sell his land.³⁴ In determining whether the interest conveyed is easement or fee simple title to land, each case depends upon its own particular facts and circumstances.³⁵ As with many determinations involving real property, this determination turns on the intent of the parties.³⁶

Easements also differ from restrictive covenants. Unlike restrictive covenants, easements require only that the servient estate owner not to interfere with the dominant estate owner's rights.³⁷ Easements "run with the land", which means that subsequent owners or successors may either be able to enforce the easement or be burdened by it.³⁸ A restrictive covenant, on the other hand, may or may not run with the land and it generally sets limits upon the use of the subject property. A restrictive covenant relates to the burden or servitude upon land, an easement relates to the benefit conferred upon the dominant tenement.³⁹ Whether an instrument grants an easement or a restrictive covenant depends on the intent of the parties and an evaluation of the whole instrument in light of the facts and circumstances at the time of its execution.⁴⁰ For example, where a deed specifically states that the land was sold and conveyed subject to specified restrictions, a restrictive covenant rather than an easement will be found; the presence of the word "restrictions" was indicative of the intent of the grantor to restrict the use of the property rather than grant an easement.⁴¹

Easement are also distinguishable from licenses in that a licenses are mere permissive uses which confer a personal privilege to do some act on the land without possessing an actual estate in that land and they are generally revocable.⁴² An easement, on the other hand, implies

³² Mersac v. National Hills Condominium Association, 267 Ga. 493, 480 S.E.2d 16 (1997).

³³ Kellett v. Salter, 244 Ga. 601, 261 S.E.2d 597 (1979).

³⁴ Lanier v. Burnette, 245 Ga.App. 566, 538 S.E.2d 476 (2000).

³⁵ Barber v. Southern Ry. Co., 247 Ga. 84, 274 S.E.2d 336 (1981); Jackson v. Rogers, 205 Ga. 581, 54 S.E.2d 132 (1949); Georgia & F. Ry. v. Swain, 145 Ga. 817, 90 S.E. 44 (1916).

³⁶ City of Buford v. Gwinnett County, 262 Ga. 248, 585 S.E.2d 122 (Ga.App. , 2003).

³⁷ Brown v DOT, 195 Ga.App. 262, 393 S.E.2d 36 (1990).

³⁸ Barton v. Gammell, 143 Ga.App. 291, 238 S.E.2d 445 (Ga.App. 1977).

³⁹ Id.

⁴⁰ O.C.G.A. § 44-5-34.

⁴¹ Moreland v Henson, 256 Ga 685, 353 S.E.2d 181 (1987).

⁴² Barton v Gammell, 143 Ga.App. 291, 238 S.E.2d 445 (1977).

an interest in the land in and over which it is to be enjoyed, and are generally not revocable.⁴³

D. Scope of Easements

Where an easement is granted without limitations on its use, an easement owner is entitled to use an easement for all *reasonable purposes* that develop over time if such uses significantly relate to the purpose the easement was granted.⁴⁴ The first rule of construction in examining the scope and purpose of an easement is to look at the intent of the parties.⁴⁵

In Savannah Jaycees Foundation, Inc. v. Gottlieb, subdivision lot owners were authorized to park their automobiles on property designated as a park in the subdivision plat, as incident to their easement to use the park property for recreational purposes;⁴⁶ implicit in the easement grant was the authority to do things reasonably necessary for enjoyment of the easement, recreational users of property.⁴⁷ Notwithstanding, the owners of the servient estate did have the power to restrict which portions of property could be used for parking since unlimited parking rights were unnecessary for enjoyment of the easement.⁴⁸

In Reece v. Smith, owners of landlocked property who acquired an implied easement were authorized to install within path of easement, underground utilities since utilities were necessary to reasonable enjoyment of the landlocked land in question as place of residence, and there was no evidence that installation would unreasonably burden the servient landowners' rights.⁴⁹ However, in Lanier v. Burnette, where landowners had acquired an easement for the sole purpose of ingress to and egress from the property, they were not entitled to a utility easement because, under the particular circumstances, it was not a reasonable use that significantly related or was essential to the deed-granted easement.⁵⁰

E. Abandonment or Forfeiture, Extinguishment and Estoppel of Easements

An easement may be lost or extinguished in a number of ways including abandonment or forfeited by nonuse, and estoppel.⁵¹ An easement of necessity may also be extinguished where

⁴³ Barton v Gammell, 143 Ga.App. 291, 238 S.E.2d 445 (1977).

⁴⁴ Kiser v. Warner Robins Air Park Estates, Inc., 237 Ga. 385, 228 S.E.2d 795 (1976); Savannah Jaycees Foundation, Inc. v. Gottlieb, 615 S.E.2d 226 (2005).

⁴⁵ Kiser v. Warner Robins Air Park Estates, Inc., 237 Ga. 385, 228 S.E.2d 795 (1976).

⁴⁶ Savannah Jaycees Foundation, Inc. v. Gottlieb, 273 Ga.App. 374, 615 S.E.2d 226 (2005).

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Reece v. Smith, 265 Ga.App. 497, 594 S.E.2d 654 (2004).

⁵⁰ Lanier v. Burnette, 245 Ga.App. 566, 538 S.E.2d 476 (2000).

⁵¹ O.C.G.A. § 44-9-6; Owens Hardware Co. v. Walters, 210 Ga. 321, 80 S.E.2d 285 (1954); Tietjen v. Meldrim, 169 Ga. 678, 151 S.E. 349 (1930); Rolleston v. Sea Island Properties, Inc., 1985, 254 Ga. 183, 327 S.E.2d 489, *certiorari denied* 106 S.Ct. 77, 474 U.S. 823, 88 L.Ed.2d 63 (an easement can also be extinguished by estoppel if the easement owner shows an intent not to make use of the easement in the future, and the servient estate owner reasonable relies upon the conduct of the dominant owner).

the purpose for the easement ceases to exist.⁵²

The owner of an easement may abandon or forfeit an easement if he abandons or fails to use it for “a term sufficient to raise the presumption of release or abandonment”. There is, however, no presumption of abandonment from nonuse for a period of time less than 20 years.⁵³ Moreover, the mere non-use of an easement acquired by grant, even for a time period greater than 20 years, without further evidence of an intent to abandon it, will *not* be considered abandoned.⁵⁴ Intent to abandon an easement can *only* be established with clear, unequivocal and decisive evidence.⁵⁵ Intent can also, however, be inferred from acts of the parties.⁵⁶ For example, sufficient evidence existed to extinguish an easement where an easement was not used for approximately 30 years and a fence had been built barring access to the easement, and it had been shown that the easement owner had been present at the property and therefore could have used the easement or objected to the presence of the fence.⁵⁷

An easement can also be extinguished by estoppel if the easement owner shows an intent not to make use of the easement in the future, and the servient estate owner reasonably relies upon the dominant owner’s conduct.⁵⁸ To determine whether an easement is properly extinguished by estoppel, one must ascertain whether it was reasonably foreseeable that the servient owner would rely upon the easement owner’s actions, and whether reinstatement of the easement would unreasonably harm the servient owner.⁵⁹

It is, also, well-settled that an easement of necessity may be extinguished where the purpose for the easement ceases to exist.⁶⁰ For example, where credible evidence is presented that other access to the property is available, a way of necessity will cease to exist.⁶¹

F. Maintenance and Repair of Easements

The easement owner ordinarily has a duty to maintain or repair an easement, where the

⁵² O.C.G.A. § 44-9-5; Reece v. Smith, 265 Ga.App. 497, 594 S.E.2d 654 (2004), *reconsideration denied, certiorari denied*.

⁵³ Boling v. Golden Arch Realty Corp., 242 Ga. 3, 4, 247, S.E.2d 744 (1978).

⁵⁴ Smith v. Gwinnett County, 248 Ga. 882(2), 286 S.E.2d 739 (1982); Church of the Nativity, Inc. v. Whitener, 249 Ga.App. 45, 547 S.E.2d 587 (2001), *reconsideration denied*. (non-use of express easement over church’s property for 24 years did not constitute abandonment of easement, where current easement holders’ predecessors in title had no intent to abandon easement).

⁵⁵ Hardigree v. Hardigree, 244 Ga. 830(2), 262 S.E.2d 127 (1979).

⁵⁶ Tietjen v. Meldrim, 172 Ga. 814, 159 S.E. 231 (1931).

⁵⁷ O.C.G.A. § 44-9-6; Duffy Street S.R.O., Inc. v. Mobley, 266 Ga. 849, 471 S.E.2d 507 (1996).

⁵⁸ Rolleston v. Sea Island Properties, Inc., 254 Ga. 183, 327 S.E.2d 489 (1985), *certiorari denied* 106 S.Ct. 77, 474 U.S. 823, 88 L.Ed.2d 63

⁵⁹ Id.

⁶⁰ Reece v. Smith, 265 Ga.App. 497, 594 S.E.2d 654 (2004), *reconsideration denied, certiorari denied*.

⁶¹ Russell v. Napier, 82 Ga. 770, 9 S.E. 746 (1889).

easement is used for his benefit alone.⁶² This duty arises both statutorily⁶³ and by caselaw.⁶⁴ It is implicit with the grant of an easement that the easement holder will undertake those things reasonably necessary for and ancillary to the continued use and enjoyment of the easement.⁶⁵ With the requirement for the easement owner to maintain and keep the easement in repair also comes the power to restrict the unauthorized use of that easement;⁶⁶ this despite the fact that the easement owner does not actually own the property in fee.⁶⁷

An easement owner is responsible for repairs when use of easement is impaired due to lack of maintenance.⁶⁸ An easement may be forfeited if the easement owner fails to properly maintain or repair the easement.⁶⁹ It is, however, more likely that the easement owner would be assessed damages, as opposed to forfeiture, since equity seeks to avoid the drastic measure of forfeiture.⁷⁰

Moreover, one seeking a prescriptive easement must show that he made repairs and maintenance for the prescriptive period.⁷¹ The purpose of requiring a showing of repairs is to give notice to the landowner that the prescriber's use of the road is adverse rather than permissive.⁷²

G. Creation of Private Roads through Condemnation

In Georgia, private condemnation is authorized by statute, specifically O.C.G.A. § 44-9-40 *et seq.*⁷³ Under section 44-9-40, the county superior courts are vested with the authority and jurisdiction to grant private ways or easements to individuals to enter and exit their property or

⁶² Kiser v Warner Robins Air Park Estates, Inc., 237 Ga 385, 228 S.E.2d 795 (1976).

⁶³ O.C.G.A. § 44-9-40 (easements shall be kept "...in repair by the person on whose application they are established or his successor in title"); O.C.G.A. § 44-9-43 ("the condemnor or his successors in title have a duty to maintain the private way...and in a state of good repair").

⁶⁴ Lanier v. Burnette, 245 Ga.App. 566, 538 S.E.2d 476 (2000). The servient estate owner, on the other hand, is not legally obligated to maintain or repair an easement for the benefit of an easement owner. Harvey v. Lindsey, 251 Ga.App. 387 (2001).

⁶⁵ Lanier v. Burnette, 245 Ga.App. 566, 538 S.E.2d 476 (2000). The servient estate owner, on the other hand, is not legally obligated to maintain or repair an easement for the benefit of an easement owner. Harvey v. Lindsey, 251 Ga.App. 387 (2001).

⁶⁶ Sams v Young, 217 Ga 685, 124 S.E.2d 386 (1962).

⁶⁷ Id.

⁶⁸ Equitable Life Assur. Soc. of U. S. v. Tinsley Mill Village, 249 Ga. 769, 294 S.E.2d 495 (1982).

⁶⁹ Kiser v Warner Robins Air Park Estates, Inc., 237 Ga 385, 228 S.E.2d 795 (1976).

⁷⁰ Id.

⁷¹ Mersac, Inc. v. National Hills Condominium Ass'n, Inc., 267 Ga. 493, 480 S.E.2d 16 (1997), *reconsideration denied*, (Feb. 14, 1997).

⁷² O.C.G.A. § 44-9-54 Lopez v. Walker, 250 Ga.App. 706, 551 S.E.2d 745 (2001), *reconsideration denied*, (July 2, 2001) and *cert. denied*, (Jan. 9, 2002); Simmons v. Bearden, 234 Ga.App. 81, 506 S.E.2d 220 (1998)(the requirement that the plaintiff has kept the way in repair is not so much the repairs as the notice which is given by the repairs).

⁷³ O.C.G.A. § 44-9-40.

places of business under certain circumstances.⁷⁴ Such easements, however, must be 20 feet or less in width depending on the particular needs of the applicant.⁷⁵

Any person or corporation with landlocked property may file in the superior court in the county where the property sits a petition for ingress, egress, and access over and across the lands of any private person or corporation in order to access there property.⁷⁶ Each such petition is deemed a declaration of necessity by the applicant and must allege such facts and pray for a judgment condemning an easement of access, ingress, and egress not to exceed 20 feet in width over and across the property of the private person or corporation.⁷⁷ Additionally, each petition must describe the property over which the easement is sought with particularity and must include the following:

- the distance and direction of the easement;⁷⁸
- the nature of any improvements through which the private way will go;⁷⁹
- a plat showing the measurements and location of the easement;⁸⁰
- the names and addresses of all persons owning an interest in the property.⁸¹

The applicant must also ensure that a copy of the petition and any attachments is served upon all known persons with an ownership interest in the property and who reside in the county where the property is situated.⁸² Additionally, the petition must also name an assessor to act on behalf of the person or corporation seeking to condemn the easement.⁸³

After taking into consideration the requirements of service, the superior court judge will make and enter up a “show cause” order requiring the owner or owners of the property show cause as to why the easement for private way should not be condemned and requiring the said owner or owners to name an assessor to act on his or their behalf.⁸⁴ The owner of the property that has been condemned, however, may challenge necessity, location, and width of private way, and can, also, extinguish all claims to private way if party seeking way fails to timely pay adequate compensation.⁸⁵

⁷⁴ Id.

⁷⁵ Id.

⁷⁶ O.C.G.A. § 44-9-40(b).

⁷⁷ Id.

⁷⁸ O.C.G.A. § 44-9-41(1).

⁷⁹ Id.

⁸⁰ Id.

⁸¹ Id.

⁸² O.C.G.A. § 44-9-41.

⁸³ O.C.G.A. § 44-9-42.

⁸⁴ O.C.G.A. § 44-9-43.

⁸⁵ O.C.G.A. § 44-9-47; Cline v. McMullan, 263 Ga. 321, 431 S.E.2d 368 (1993).

Once the private easement is established, “it shall be entered on and fully described on the official minutes of the county commission and the road deed file”.⁸⁶ Moreover, once the condemnation of the private easement becomes final, the condemnor has a duty to maintain the private way and to keep it open and in a state of good repair.⁸⁷ Failure to maintain the private way and to keep it open and in a state of good repair for a period of one year will constitute an abandonment of the private way, and the title shall revert back to the owner of the property over which the private easement was condemned or his successors in title.⁸⁸ Those individuals whose property has been condemned for the creation of a private easement are entitled to fair and just compensation by the condemnor for the taking of their property, the amount of which is to be determined by a jury.⁸⁹

To prevail on summary judgment in a private way condemnation action, the landowner opposing the condemnation must present evidence that the one seeking condemnation has a reasonable means of access to its property other than over landowner’s property.⁹⁰

⁸⁶ O.C.G.A. § 44-9-50.

⁸⁷ O.C.G.A. § 44-9-41.

⁸⁸ O.C.G.A. § 44-9-41.

⁸⁹ O.C.G.A. § 44-9-46.

⁹⁰ O.C.G.A. §§ 9-11-56(c), 44-9-40; Atlanta-East, Inc. v. Tate Mountain Associates, Inc., 265 Ga. 742, 462 S.E.2d 613 (1995).

Abandonment And Vacation Considerations

Submitted by Dale (Bubba) R. Samuels

- Abandonment Of Public Roads
- Termination Of Private Easements

III. ABANDONMENT AND VACATION CONSIDERATIONS

A. Abandonment of Public Roads

Once duly created and made a part of a public road system pursuant to O.C.G.A. § 32-4-1 *et seq.*, a public road may be abandoned pursuant to the procedures set forth in O.C.G.A. § 32-7-1 *et seq.* The road abandonment statute essentially provides a two-step process for removing a public road from the public entity's road system as follows: first, the public road must be declared abandoned,¹ and once abandoned, the statute sets forth the methods of disposition of the abandoned roadway.²

1. When should statutory vacation be initiated?

O.C.G.A. § 32-7-1 provides the authority for the State, counties, and municipalities to substitute for, relocate, or abandon public roads, pursuant to the procedure for abandonment set forth in O.C.G.A. § 32-7-2. Thus, whenever the road to be abandoned constitutes a “public road,” the statutory abandonment procedure must be utilized. See, Forsyth County v. Martin, 279 Ga. 215, 610 S.E.2d 512 (2005).

a. Authority to vacate public roads

The road abandonment statute specifically provides as follows:

Whenever deemed in the public interest, the department or a county or a municipality may substitute for, relocate, or abandon any public road that is under its respective jurisdiction, provided that a county or municipality

¹ O.C.G.A. § 32-7-1 provides the authority of the State, counties, and municipalities to substitute for, relocate, or abandon public roads. O.C.G.A. § 32-7-2 sets forth the procedure to be followed in exercising that authority.

² O.C.G.A. § 32-7-3 provides the authority for the State, counties, and municipalities to dispose of property no longer needed for public road purposes. O.C.G.A. § 32-7-4 sets forth the procedure to be followed in disposing of such property. Finally, O.C.G.A. § 32-7-5 provides for the continued use, maintenance, and improvement of the abandoned road, as well as the authority to lease the abandoned road to third parties, for other purposes.

shall first obtain the approval of the department if any expenditure of federal or state funds is required.

Thus, the threshold inquiry involves a determination by the pertinent governing authority³ of the public interest to be served by the substitution, relocation,⁴ or abandonment of the public road. Additionally, if any expenditure of state or federal funds is involved in the substitution, relocation, or abandonment of the public road, the statute requires that a county or municipality must obtain the prior approval of the Department of Transportation for the proposed action.

b. Procedure for Abandonment

When it is determined by the pertinent agency that all or part of a public road has for any reason ceased to be used by the public to the extent that no substantial public purpose is served by it, the road may be abandoned pursuant to O.C.G.A. § 32-7-2. In consideration of the hierarchy of political entities involved in the provision of public road services to their respective constituencies, the statute contains provisions requiring the State to give notice of a proposed abandonment to affected counties and municipalities, and to allow the appropriate county or municipality the opportunity to accept the road to be abandoned into its own public road system. Similarly, the statute requires a county to provide notice to an affected municipality concerning a

³ For the purposes of exercising the State's authority to relocate or abandon public roads, the General Assembly has delegated that authority to the Department of Transportation. McIntosh County v. Fisher, 242 Ga. 66, 247 S.E.2d 863 (1978).

⁴ The relocation of a portion of a public road, where the remainder of the public road remains in use by the public and continues to serve a public purpose, does not trigger the requirements of the abandonment procedure processes set forth in O.C.G.A. § 32-7-2. Miller v. Lanier County, 243 Ga. 58, 252 S.E.2d 909 (1979). Thus, while O.C.G.A. § 32-7-1 signifies the delegation of authority by the General Assembly to the Department of Transportation, counties, and municipalities to "substitute for, relocate, or abandon" public roads, the vacation of public roads by abandonment is subject, by far, to the more comprehensive statutory requirements, i.e. the procedures set forth in § 32-7-2. Notwithstanding that distinction, all property that has been acquired for public road purposes is subject to the procedures for disposition set forth in § 32-7-4, as well as utilization for other purposes and leasing the former road to third parties, set forth in § 32-7-5.

proposed abandonment of a portion of the county road system, and allows a municipality to accept the road to be abandoned into its own municipal road system.

i. Abandonment by the State

In the case of an abandonment of a public road on the State highway system, the determination of no substantial public purpose must be certified by the Commissioner of the Department and accompanied by a plat or sketch of the affected roadway. Thereafter, the road is declared abandoned, and the rights of the public in and to the section abandoned shall cease.

Prior to any such abandonment by the State, O.C.G.A. § 32-7-2(a)(1) requires the Department to confer with the governing authority of any concerned county and/or municipality, and requires the Department to give “due consideration” to the wishes of those entities; however, any disagreement regarding the abandonment is resolved in favor of the judgment of the Department. The obligation of the Department to confer with concerned counties and municipalities is stated as a prerequisite to the declaration of a public road as having been abandoned by the State.

Additionally, O.C.G.A. § 32-7-2(a)(3) requires the Department to give notice of its intentions to the counties or municipalities through which such road passes. That notice triggers a thirty (30) day period within which an affected county or municipality may, by resolution, indicate its willingness and desire to take over the road that is proposed to be abandoned and to maintain such road pursuant to § 32-7-2(a)(4). If a county or municipality accepts the abandoned road into its public road system, the Department is required to convey the road to the county or municipality by quitclaim deed executed by the Commissioner of the Department.

If the county or municipality does not resolve to accept the abandoned road into its public road system, the State may dispose of the abandoned road pursuant to O.C.G.A. § 32-7-4, or may

use the property for other purposes pursuant to O.C.G.A. § 32-7-5. However, in the event of disposition of the abandoned road by the State pursuant to § 32-7-4, the Department is again required to give fifteen (15) days' notice to the county or municipality, during which time the county or municipality may reconsider its decision and accept the abandoned road into its public road system.

ii. Abandonment by a County

As with the abandonment of a portion of the State highway system, the abandonment of a section of a county road system requires a threshold determination that the section to be abandoned “has for any reason ceased to be used by the public to the extent that no substantial public purpose is served by it.” O.C.G.A. § 32-7-2(b)(1). The determination of no substantial public purpose must be included in a certification recorded in the minutes of the governing body of the county, accompanied by a plat or sketch of the proposed abandonment.

In addition to the required certification in the minutes, the statute includes two distinct notice requirements, and a public hearing component. First, the county must give notice of the proposed abandonment to “property owners located thereon” — i.e., to those property owners whose property abuts the road to be abandoned. Second, the county must publish notice of its determination of no substantial public purpose in the newspaper in which the sheriff's advertisements for the county are published “once a week for a period of two weeks.” Finally, a public hearing on the issue of the proposed abandonment must be held. Thereafter, the abandoned road shall no longer be part of the county road system, “and the rights of the public in and to the section of road as a public road shall cease.” O.C.G.A. § 32-7-2(b)(1).

As is the case for abandonment of roads by the State, prior to certifying the abandonment, the county is required to give thirty (30) days' notice to any municipality into which or through

which the road to be abandoned passes, affording the municipality the opportunity, by proper resolution, to accept the abandoned road into its municipal road system. In the event of such action by the municipality, the county, by quitclaim deed executed by the chairman or presiding officer, shall convey the road to the municipality. If the municipality does not take over the road within the thirty day period, the county is then free to dispose of the property pursuant to § 32-7-4, or to utilize the property for other purposes pursuant to § 32-7-5. If the county determines to dispose of the property pursuant to § 32-7-4, the county is required to give the municipality an additional fifteen (15) days' notice to reconsider its decision and take over the road.

iii. Abandonment by Municipality

Consistent with the abandonment process as pertains to the State and counties, the abandonment of a road from a municipal street system requires a determination that the section of road to be abandoned has for any reason ceased to be used by the public to the extent that no substantial public purpose is served by it. As with the county road abandonment process, the municipality is required to record the certification of the determination of no substantial public purpose in its minutes, accompanied by a plat or sketch. Likewise, the municipality is required to provide notice to property owners located on the street to be abandoned. Notably, however, there is no public hearing requirement, and no requirement that a notice be published in a newspaper. Additionally, municipalities are not required to provide notice to other jurisdictions for the purpose of allowing those other jurisdictions the opportunity to accept the street to be abandoned into their public road systems. Upon completion of the statutory abandonment process, the rights of the public in and to the abandoned section shall cease, and the property may be disposed of by the municipality in accordance with § 32-7-4.

2. Abandoned Road Bed: Who owns it? Who can use it?

As set forth above, upon completion of the road abandonment process by the applicable public entity, “the rights of the public in and to the section of road as a public road shall cease.” The ultimate effect of the abandonment vis-à-vis ownership and use of the former road depends in large measure on how title is vested in the property.

Specifically, where fee title is vested in the city, county, or state, title to the property remains vested in that entity until and unless the property is disposed of or put to some other use pursuant to the statute. Sadtler v. City of Atlanta, 236 Ga. 396, 223 S.E.2d 819 (1976). If, however, the city, county, or state holds only an easement in the road, the abandonment of the public road on the easement terminates all of the entity’s interest. See, Campbell v. City of Columbus, 224 Ga. 279, 161 S.E.2d 299 (1968).

Upon the termination of the easement by virtue of the abandonment, it is presumed that fee simple title in and to the former roadway reverts to the adjacent property owners, each to the centerline of the former road. Calvary Independent Baptist Church v. City of Rome, 208 Ga. 312, 66 S.E.2d 726 (1951).⁵ Note, however, that to the extent that an individual has acquired a private easement in the road coincident with the public use, the abandonment of the public road does not extinguish the private easement. Northpark Associates No. 2, Ltd. v. Homart Development Co., 262 Ga. 138, 414 S.E.2d 214 (1992).

a. Disposition of Abandoned Road Property

When, after the abandonment of a public road, the state, county, or municipality is left with ownership of fee title in and to the property, O.C.G.A. § 32-7-3 authorizes that entity to

⁵ The common law presumption in favor of the property rights of abutting property owners is reflected in the disposition procedures discussed below, which procedures set forth rights of acquisition of abandoned roads in abutting property owners.

dispose of the property in accordance with the procedure for disposition set forth in § 32-7-4. Section 32-7-4(a)(1) requires that notice be given regarding the disposition of the property as follows:

In disposing of property, as authorized under Code Section 32-7-3, the department, a county, or a municipality shall notify the owner of such property at the time of its acquisition or, if the tract from which the department, a county, or a municipality acquired its property has been subsequently sold, shall notify the owner of abutting land holding title through the owner from whom the department, a county, or a municipality acquired its property. The notice shall be in writing delivered to the appropriate owner or by publication if his address is unknown; and he shall have the right to acquire, as provided in this subsection, the property with respect to which the notice is given.

In the event that the person entitled to receive notice pursuant to § 32-7-4(a)(1) chooses to acquire the property, subparagraph 2 of that Code section provides that he may do so “at such price as may be agreed upon, but in no event less than the price paid for its acquisition.”⁶ The owner from whom the former road was acquired or his successor(s) in interest has a period of sixty (60) days within which he must exercise his right to acquire the parcel, and if the right is not exercised, subsection (b) of the Code section sets forth the procedure for disposition of the parcel.

O.C.G.A. § 32-7-4(b) sets forth three (3) alternative methods for the sale of the property in the event that the property is not acquired pursuant to subsection (a), as follows⁷:

- a. Sealed Bids. The sale may be made based upon the receipt of sealed bids received after public advertisement for such bids for two (2) weeks, provided that the Department or county or municipality shall

⁶ The statute also provides for the disposition of remnants or portions of the original acquisition, and provides that such parcels may be acquired for the market value thereof at the time the Department, county, or municipality decides the property is no longer needed.

⁷ Note that the state is only authorized to utilize the sealed bid method of disposition. The statute authorizes only counties and municipalities to utilize the real estate broker and public auction methods.

have the right to reject any and all bids, in its discretion, to readvertise, or to abandon the sale.

- b. Real Estate Broker Listing. In the alternative, a county or municipality may list the property through a real estate broker who's place of business is located in the county where the property is located, or outside the county if no such business is located in the county where the property is located. Under this alternative method, the property is required to be listed for a period of at least three (3) months. The property is required to be sold for not less than its fair market value. The county or municipality is required to provide for a notice to be inserted once a week for two (2) weeks in the county legal organ identifying the names of the real estate brokers listing the property for sale. All sales are required to be approved by the county or municipal governing authority at a regular, open public meeting, during which public comment shall be permitted concerning the sale. In its discretion, the county or municipality may choose to reject any and all offers, and may choose to revert to the sealed bid disposition procedure described above.
- c. Public Auction. In addition to sealed bids and broker listing, the sale of property may be made to the highest bidder at a public auction conducted by a licensed auctioneer. Under this method of sale, the county or municipality is required to publish a notice once a week for a period of two weeks immediately preceding the auction in the legal organ of the county, and the property may not be sold for less than fair market value. As with the real estate broker method of sale outlined above, the county or municipality shall have the right to reject any and all offers, in its discretion, and may choose to revert to the sealed bid method of disposition.

Subsection (c) of the statute provides that the conveyance procured through one of the above methods of disposition must be approved by the Department (by order of the Commissioner), and in the case of a county or municipality, by resolution, recorded in the minutes of a meeting of the governing authority thereof. Upon approval, the Commissioner, chairman, or presiding officer is authorized to execute a quitclaim deed conveying the subject property. Proceeds from the sale of property pursuant to the statute are paid to the seller.

b. Diversion of Property to Other Uses

O.C.G.A. § 32-7-5 provides that, in addition to the authority to dispose of former roads pursuant to § 32-7-3, the state, counties, and municipalities are authorized to “improve, use, maintain, or lease any interest in property acquired for public road or other transportation purposes that is not presently needed for such purposes.” Thus, the statute authorizes the use of the property for other than road or transportation purposes in lieu of a sale into private ownership.

In fact, the statute provides authorization for the applicable governmental entity to lease the property, provided, as with the disposition statute, that the owner at the time of its acquisition, his successor in interest, or a lessee of one of them, shall have the right to lease the property at an appraised fair market value as determined by the Department, county, or municipality, until such time as that entity determines that the property is needed for public road or other transportation purposes. If the owner, his successor in interest, or the tenant of the property does not lease the property, the Department, county, or municipality is authorized to solicit sealed public bids for the lease of the property until such time as it is determined that the property is needed for public road or other transportation purposes. In addition, the statute authorizes the Department, county, or municipality to negotiate satisfactory lease terms with other governmental entities without the requirement for procuring sealed bids or leasing to the former owner or his successors.

B. Termination of Private Easements

As noted above, individuals may acquire a private easement in a road that is often coterminous with the public use, and the abandonment of the public road does not extinguish the private easement. Similar to public roads, there is generally an implied grant to purchasers of a

private easement in subdivision streets that are depicted on a plat in reference to which a subdivider sells lots. Tietjen v. Meldrim, 169 Ga. 678, 151 S.E.2d 349 (1930). As with public roads, the means of creation of the easement, i.e. whether by express or implied grant, or by prescription, dictates whether such easement may be lost by abandonment.

1. The Test of a Common Law Abandonment

Typically, the private easement that arises by implication based upon the sale of lots in reference to a subdivision plat is not lost by mere nonuser, as is true with prescriptive easements. Tietjen, 151 S.E. at 357 (“Where an easement of way is acquired by mere user, the doctrine of extinction by mere nonuser may in reason apply; but where such easement is acquired by grant, the doctrine of extinction by nonuser should not apply. Where an easement has been acquired by grant, mere nonuser, without further evidence of an intent to abandon it, will not constitute an abandonment.”). In Tietjen, however, the Supreme Court of Georgia succinctly set forth the circumstances under which an express or implied easement may be abandoned at common law as follows:

In order to extinguish an easement created by grant, there must be some conduct on the part of the owner of the servient estate adverse to, and in defiance of, the easement, and the nonuse must be the result of it, and must continue for the statutory period of limitation; or, to produce this effect, the nonuse must originate in, or be accompanied by, some unequivocal acts of the owner, inconsistent with the continued existence of the easement, and showing an intention on his part to abandon it; and the owner of the servient estate must have relied or acted upon such manifest intention to abandon the right, so that a subsequent assertion of it would work him injury.

Tietjen, 151 S.E. at 359-360 (citations omitted).

Thus, the relevant inquiry regarding the abandonment of an easement involves the intention of the grantee of the easement based upon the facts and circumstances surrounding the creation and exercise of the easement rights and the conduct of the parties. The question of

abandonment of an easement is therefore a mixed question of fact and law, and the evidence to establish a forfeiture of an easement by abandonment or nonuser must be decisive and unequivocal. Gaston v. Gainesville & D. Electric Ry. Co., 120 Ga. 516, 48 S.E. 188 (1904).

The test of common law abandonment of private easements remains applicable today. See, Duffy Street S.R.O., Inc. v. Mobley, 266 Ga. 849, 471 S.E.2d 507 (1996) (“No presumption of abandonment arises from mere nonuse for a time of less than 20 years, as a matter of law. Although where an easement has been acquired by grant, a mere nonuse, without further evidence of an intent to abandon it, will not constitute an abandonment, intent to abandon can be established with evidence of a clear, unequivocal and decisive character. The issue is one for the jury to decide.”)(citations omitted). Additionally, the test of common law abandonment has since been codified at O.C.G.A. § 44-9-6 (“An easement may be lost by abandonment or forfeited by nonuse if the abandonment or nonuse continues for a term sufficient to raise the presumption of release or abandonment.”

2. What must be in place for adverse possession and use to occur?

While the test of common law abandonment applies to express or implied grants of easements where there is evidence of an intent on the part of the grantee to abandon the easement, an easement acquired or arising from adverse use or prescription may be lost by abandonment or nonuser for a period of time sufficient to raise a presumption of release of the easement. Westbrook v. Comer, 197 Ga. 433, 29 S.E.2d 574 (1944)(An easement acquired by user or prescription may be lost by abandonment or nonuser). The length of term during which abandonment or nonuser of an easement must continue to result in loss of easement generally follows usual prescriptive periods. Calfee v. Jones, 54 Ga. App. 481, 188 S.E. 307 (1936).

Control, Supervision And Management Of Roads And Highways

Submitted by Dale (Bubba) R. Samuels

- Federal Highway Administration
- The State Role
- Local Governments

IV. CONTROL, SUPERVISION & MANAGEMENT OF ROADS AND HIGHWAYS

Georgia's highways cannot be operated, maintained, or developed without the acquisition and management of real estate. The relocation of individuals, families, businesses, and others is often a necessary part of sustaining Georgia's transportation system. As a result of this substantial impact on property owners, the practices of Federal and State instrumentalities in furtherance of State transportation systems are of practical importance.

A. Federal Highway Administration

Federal and State highway systems are managed through a partnership between the U.S. Department of Federal Highway Administration ("FHWA"), the State Department of Transportation, and local governments. See, U.S. Department of Transportation, Federal Highway Administration, From the Ground Up: Real Property Transportation Needs, <http://fhwa.dot.gov/realestate/groundup.htm>. These entities work closely together to carry out the process of "right-of-way"-related activities; i.e. the acquisition and management of real estate in order to build transportation systems. The FHWA allocates Federal-aid funds available to the State transportation departments. State transportation officials then work with local governments to determine which projects are ultimately funded. The States are responsible for acquisition of right-of-way, although often, that responsibility is delegated to local jurisdictions. The FHWA works with its partners during the acquisition process and, through them, assists other customers, such as nonprofit organizations, property owners and businesses, and individuals affected by transportation projects. The FHWA has a Georgia Division that

represents the agency and works closely with the Georgia Department of Transportation on Federal-aid projects.

The FHWA Right of Way Program derives its authority from three fundamental sources: (1) the Fifth Amendment to the United States Constitution, the due process/just compensation provision; (2) the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (the “Uniform Act”), as amended, which provides benefits and protections to those directly impacted by Federally-assisted projects; and (3) Title 23 of the United States Code—the law pertaining to the Federal-aid highway program.

The Office of Real Estate Services develops and implements policies to carry out the Constitutional mandates for just compensation and equitable treatment of the American public, as set forth in the Uniform Act as amended. In support of the goals of the strategic plan and mission of the FHWA, ORES develops, implements, and evaluates policies for acquisition, management, and disposal of real estate in connection with programs developed by the FHWA.

B. The State Role

The State agency with the dominant transportation role is obviously the Georgia Department of Transportation (“GDOT”). Through this agency, the State carries out its responsibility for the planning, development, construction, and maintenance of the State’s highway system. GDOT is governed by a 13-member State Transportation Board which exercises general control and supervision of the agency. The powers of the Board include, but are not limited to the following: naming the Commissioner, designating which public roads are encompassed within the State highway system, approving long-range transportation plans, overseeing the administration of construction contracts, and

authorizing lease agreements. Board members are elected by a majority of the General Assembly caucus from each of the respective thirteen congressional districts for a five-year term.

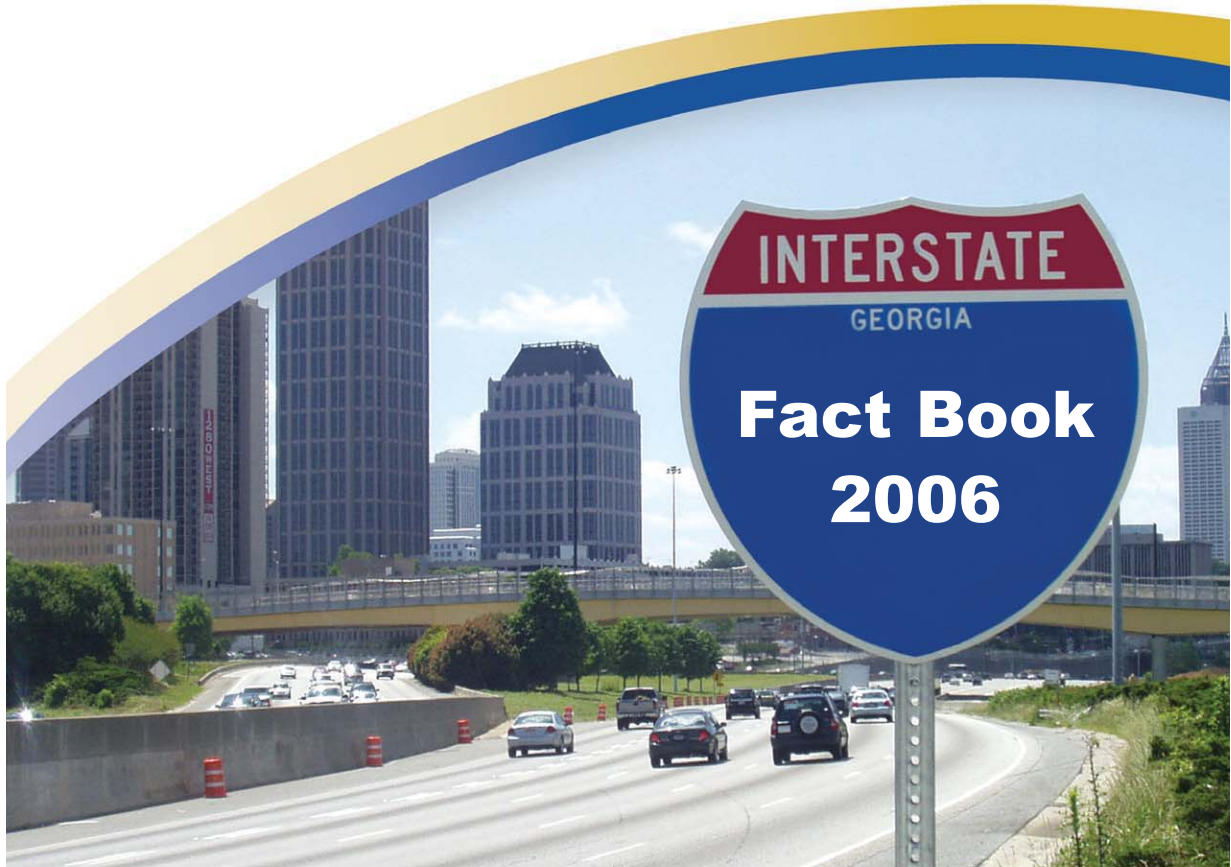
GDOT is divided into seven (7) districts that are responsible for operating and maintaining the State transportation system at the local level. Each district has a District Engineer, who is responsible for planning, organizing, and directing the activities of the district. Those districts are further subdivided into local area offices that are overseen by Area Engineers.

C. Local Governments

The methods employed by local jurisdictions to fulfill their duty to administer their respective transportation systems are as varied as the jurisdictions themselves. The interrelationships among State, County, and Municipal road systems are explored in other areas of these materials. For Federal-aid projects, however, each of the local entities can be characterized as a “local public agency,” responsible for conception, planning, environmental investigation, design of right-of-way (including the cost estimate), choice of consultants, right-of-way certification, construction, and maintenance. The local public agency is further obligated to ensure that its staff complies with all applicable State and Federal laws, regulations, and procedures in developing, implementing, and constructing projects. All right-of-way activities are subject to GDOT oversight.

GDOT annually produces a “Fact Book” outlining its programs and initiatives, as well as including contact information for its various personnel and departments. The 2006 Fact Book, available on the GDOT website, is reproduced on the following pages.

Georgia Department of Transportation



www.dot.state.ga.us



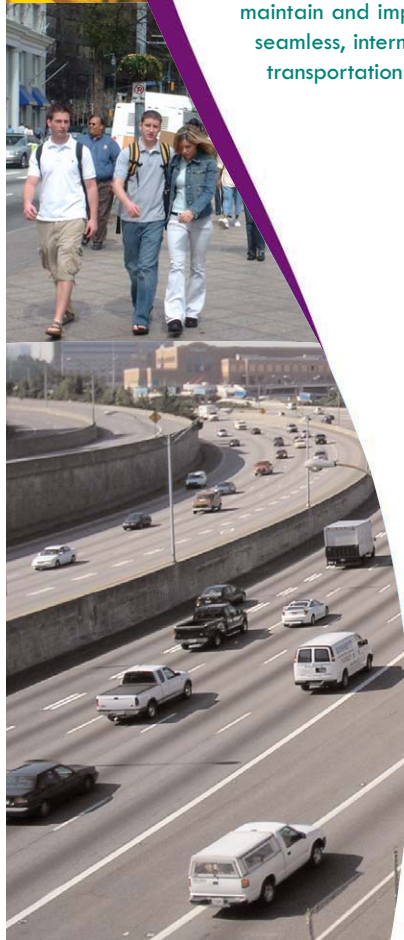
Core Values

Core Values are enduring beliefs which Georgia DOT Leadership and employees hold in common and put into action. Core values answer the question, "How do we act as we move toward achieving our mission and vision?" Georgia DOT's Leadership team identified the Department's core values to be: Committed, Accountable, Responsible and Ethical (C.A.R.E.).



Our Vision

Georgia's transportation system will always be a vital component of the state's future success and ability to compete in a global economy. Our team of motivated professionals and quality-driven management will maintain and improve mobility by providing a safe, seamless, intermodal, environmentally-sensitive transportation system.



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Assistant Administrator External Communications

Vacant

Assistant Administrator Internal Communications

Lillian Jackson

Publications Coordinator

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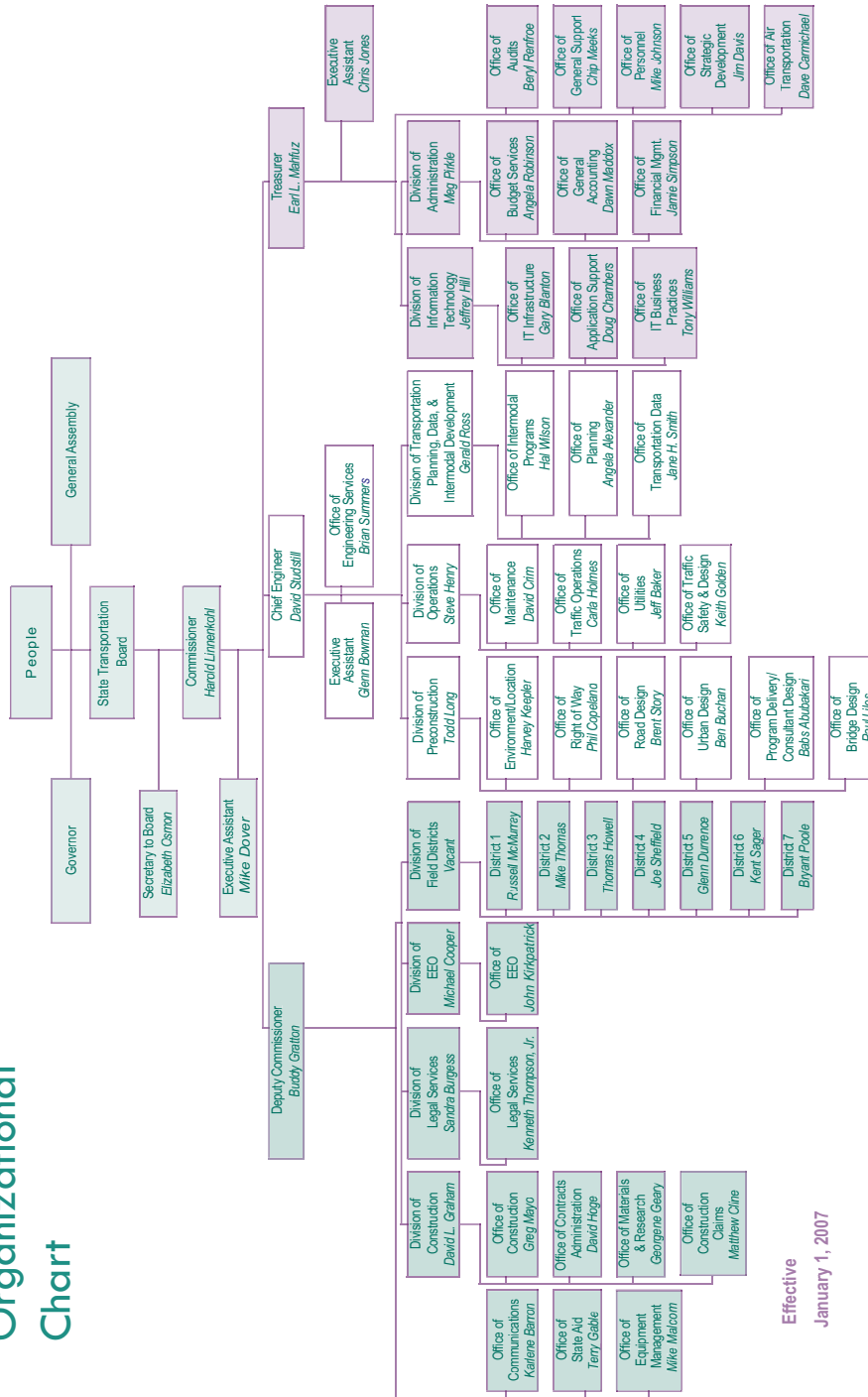
Editor/Design & Layout

Laurie Scott

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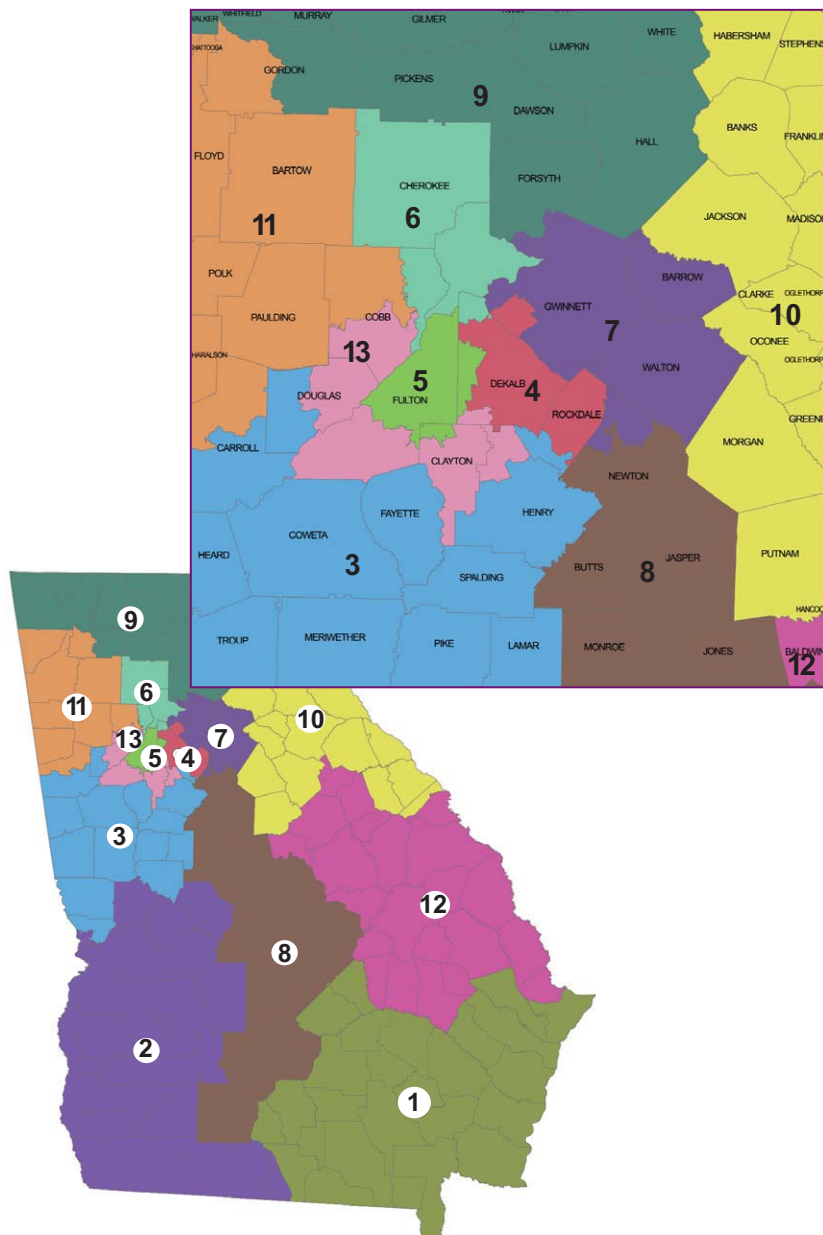
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Organizational Chart



Effective
January 1, 2007

Metro Area Detail Map



State Transportation Board

The Georgia DOT is governed by a 13-member State Transportation Board which exercises general control and supervision of the Department. The Board is entrusted with powers which include: naming the Commissioner; designating which public roads are encompassed within the state highway system; approving long-range transportation plans; overseeing the administration of construction contracts; and authorizing lease agreements. Board Members are elected by a majority of a General Assembly caucus from each of Georgia's thirteen congressional districts. Each board member serves a five-year term.



District 1

Roy Herrington

382 East Parker Street, P. O. Box 130
Baxley, GA 31515
(912) 367-7723 • Fax (912) 367-1009



District 2

W.P. Billy Langdale

P. O. Box 1088
Valdosta, GA 31603
(229) 242-7450 • Fax (229) 333-2534



District 3

Sam Wellborn

2110 Oak Avenue
Columbus, GA 31906
(706) 649-2233



District 4

Robert L. Brown, Jr.

250 E. Ponce de Leon Avenue, 8th floor
Decatur, GA 30030-0126
(404) 377-2460 • Fax (404) 377-5833



District 5

Emory McClinton

132 E. Lake Drive, SE
Atlanta, GA 30317
(404) 377-5101 • Fax (404) 373-3371



District 6

Garland Pinholster, Vice Chairman

1770 Flat Bottom Road
Ball Ground, GA 30107
(770) 735-3928 • Fax (770) 735-3928

District 7**Rudy Bowen**

6650 Sugarloaf Parkway, Suite 200
Duluth, GA 30097
(678) 325-4570 • Fax (678) 325-4540

**District 8****Larry Walker**

P. O. Box 1234
Perry, GA 31069
(478) 987-1415 • Fax (478) 987-1077

**District 9****Mike Evans, Chairman**

212 Dahlonega Street
Cumming, GA 30040
(678) 771-1000 • Fax (678) 771-1329

**District 10****Bill Kuhlke, Jr.**

3704 Benchmark Drive, P. O. Box 14549
Augusta, GA 30919
(706) 650-8722 • Fax (706) 860-7363

**District 11****David Doss**

P. O. Box 431
Rome, GA 30162
(770) 291-9191 • Fax (706) 291-1205

**District 12****Raybon Anderson**

P. O. Box 1447
Statesboro, GA 30458
(912) 764-9084 • Fax (912) 489-2783

**District 13****Dana L. Lemon**

7943 Thrailkill Road
Jonesboro, GA 30236
(770) 490-9125 • Fax (770) 957-6118



STATE TRANSPORTATION BOARD

Board Members are elected by a majority of a General Assembly caucus from each of Georgia's thirteen congressional districts. Each board member serves a five-year term. Terms alternate to ensure two members are elected each year.

Georgia DOT Board Secretary

Elizabeth Osmon

Suite 106 (404) 656-5211

Serves as the Board's liaison with legislators, local officials and the general public. Acts on behalf of the Board when requested and arranges and plans all Board meetings, workshops and conferences for the Board.

COMMISSIONER



Harold Linnenkohl

Suite 102 (404) 656-5206

Provides principle-centered leadership to effectively operate the Georgia Department of Transportation. Leads employees to provide a high standard of service to the citizens of Georgia so that multimodal transportation needs are met. Strives to fully utilize the talents of all employees and all other resources available to the Department.

Executive Assistant to the Commissioner

Mike Dover

Suite 102 (404) 656-5206

Coordinates and attends all of the Commissioner's meetings with state and local officials; coordinates with senior staff on behalf of the Commissioner; answers inquiries from state Transportation Board members, state and local officials and the public on various Department of Transportation matters; assists the Commissioner with administrative duties and serves as a point of contact for the Commissioner's office for meeting requests and project updates that may need addressing.

DEPUTY COMMISSIONER



Buddy Gratton

Suite 108 (404) 656-5212

Assists the Commissioner in maintaining and operating the activities of the Georgia DOT. Oversees the Special Staff offices, the Office of Equal Employment Opportunity, Field Districts, Legal Services and Construction Divisions.

SPECIAL STAFF

Office of Communications

Karlene Barron

Administrator

Suite 315 (404) 463-6464

Serves as the Department's external communications liaison to the public and the media. Prepares presentations and speeches for Board members, the Commissioner, Division Directors and office heads. Assists upper management in public affairs and public outreach decisions for the Department. Serves as the internal communications liaison within the Georgia DOT. Develops the Department's Annual Report, Fact Book, personnel newsletter, quarterly construction status map, magazine and Web page.

Office of State Aid

Terry Gable

State Aid Administrator

Suite 201 (404) 656-5185

Provides assistance to local governments through the County/City Contract Program (State Aid), the Local Assistance Road Program (LARP) and the off-system Bridge Program.

Office of Equipment Management

Mike Malcom

State Equipment Management Administrator

7565 Honey Creek Court, Lithonia, GA 30038

(770) 785-6947

This office is responsible for the administration and management of the Department's fleet, comprised of approximately 8,600 units. Directs and administers the program for statewide purchasing of vehicles and equipment. Determines vehicle and equipment replacement requirements, considering both budget and needs.

DIVISION OF CONSTRUCTION



David L. Graham

Director

Suite 134 (404) 656-5207

Responsible for advertising, letting and awarding projects; oversight of construction projects; transportation research; testing of materials; contract payments and contract claims.

Office of Construction

Greg Mayo
State Construction Engineer
Suite 237 (404) 656-5306

Investigates citizens' concerns on projects and assists in timely problem resolution. Reviews and approves contract modifications and communicates with construction industry.

Office of Contracts Administration

David Hoge
State Transportation Office Engineer
Suite 223 (404) 656-5325

Prepares and ensures proper execution of bid proposals, letting process and contracts. Audits contract payment process.

Office of Materials and Research

Georgene Geary
State Materials & Research Administrator
(404) 363-7512

Tests materials used in construction and maintenance activities, maintains qualified products lists and provides expertise in construction materials. Also specifies material requirements, provides geotechnical services and manages Department's research effort.

Office of Construction Claims

Matthew Cline
Transportation Engineer Administrator
Suite 209 (404) 656-2106

Responsible for reviewing, analyzing, negotiating, mediating and directing the Department's defense against construction claims and lawsuits filed by contractors.

DIVISION OF LEGAL SERVICES



Sandra Burgess
Director
Suite 329 (404) 656-5275

Responsible for advising the Commissioner and Deputy Commissioner as well as senior staff on legal issues at the federal and state level that might impact the Department.

Office of Legal Services

Kenneth Thompson, Jr.
Legal Services Administrator
Suite 321 (404) 657-5807

Provides legal research and other general legal assistance services concerning recurring issues of interest to the Department. Provides analysis of federal and state legislation. Reviews consultant, local government and personal services contracts for legal accuracy.

DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY



Michael Cooper
Director
Suite 142 (404) 656-5323

Responsible for ensuring internal and external compliance with federal and state laws/guidelines as they relate to fair and equitable employment and business practices.

Office of Equal Employment Opportunity

John Kirkpatrick
E.E.O. Assistant Administrator
Suite 142 (404) 656-5323

Patricia Flowers
D.B.E. Assistant Administrator
Suite 142 (404) 656-1710

Adheres to state and federal regulations as they pertain to civil rights issues concerning Title VI and Title VII of the U.S. Code of Federal Regulations. Monitors the Disadvantaged Business Enterprise (DBE) Program and the state's contractor review for compliance.

Georgia DOT Districts

District One-Gainesville	
Russell McMurry, District Engineer	(770) 532-5526
District Two-Tennille	
Mike Thomas, District Engineer	(478) 552-4601
District Three-Thomasville	
Thomas B. Howell, District Engineer	(706) 646-6500
District Four-Tifton	
Joe Sheffield, District Engineer	(229) 386-3280
District Five-Jesup	
Glenn Durrence, District Engineer	(912) 427-5711
District Six-Cartersville	
Kent Sager, District Engineer	(770) 387-3600
District Seven-Chamblee	
Bryant Poole, District Engineer	(770) 986-1001

DIVISION OF FIELD DISTRICTS

VACANT

Director

Suite 128 (404) 656-5214

Responsible for the operation and maintenance of the transportation system in each of Georgia DOT's seven districts to ensure proper utilization of resources and adherence to prevailing policies.

CHIEF ENGINEER



David E. Studstill, Jr.

Suite 122 (404) 656-5277

Supervises and directs all engineering-related activities within the Department to ensure the effective and efficient planning, design, construction, operation and maintenance of transportation systems statewide. The Division of Preconstruction, Division of Operations, Division of Transportation Planning, Data and Intermodal Development as well as the Office of Engineering Services report directly to the Chief Engineer.

Office of Engineering Services

Brian Summers

Project Review Engineer

Suite 266 (404) 656-6843

Provides oversight of federally-funded projects. Directs project review process, manages standard specifications and provides project cost estimates

DIVISION OF PRECONSTRUCTION



Todd Long

Director

Suite 129 (404) 656-5187

Develops environmental studies, right-of-way plans, construction plans and bid documents through a cooperative effort that results in project design and implementation.

Office of Environment/Location

Harvey Keepler

State Environmental/Location Engineer

**3993 Aviation Circle, Atlanta, GA 30336
(404) 699-4401**

Responsible for the environmental analysis and permitting of every project let to construction by the Department. This office also is responsible for

location and feasibility studies for new projects, traffic projections, performing and processing aerial photography, and providing the surveys, mapping and cross-sections needed for construction plans and earthwork payment of contractors.

Office of Right-of-Way

Phil Copeland

Administrator

Suite 409 (404) 656-5372

Responsible for the acquisition of properties necessary for transportation projects. This task includes plan design review and approval, appraisal, relocation assistance, condemnation, negotiation and property management. Both DOT acquisitions as well as local government acquisitions (if they include state or federal funds) are monitored by this office.

Office of Road Design

Brent Story

State Road and Airport Design Engineer

Suite 444 (404) 656-5386

Responsible for the conceptual development and design of roadways, including the preparation of preliminary construction plans, right-of-way plans and final construction plans. Develops and designs roadways outside of the urban area boundaries, including the Governor's Road Improvement Program (GRIP) and the rural interstate system.

Office of Urban Design

Ben Buchan

State Urban Design Engineer

Suite 356 (404) 656-5436

Develops and coordinates conceptual layouts, preliminary and final construction plans and right-of-way plans for projects within major urban areas. Responsibilities include extensive public involvement with federal and state agencies, local governments, neighborhoods, businesses and the general public.

Office of Program Delivery/Consultant Design

Babs Abubakari

State Consultant Design Engineer

Suite 432 (404) 463-6133

Enables the Department's compliance with federal and state guidelines as they relate to fair and equitable hiring and employee practices.

Office of Bridge Design

Paul Liles

State Bridge and Structural Design Engineer
Suite 258 (404) 656-5280

Responsible for structural design of highway bridges, culverts and retaining walls. Also oversees the hydraulic design of bridge structures.

DIVISION OF OPERATIONS



Steve Henry

Director

Transportation Management Center
935 E. Confederate Ave., Atlanta, GA 30316
(404) 635-8043

Ensures a safe and efficient transportation system by setting policies that control operational features, address maintenance needs and regulate the proper use of the state highway system.

Office of Maintenance

David Crim

State Maintenance Engineer
Transportation Management Center
(404) 635-8734

Coordinates all statewide maintenance activities such as bridge and sign maintenance, landscaping, the Wildflower Program, roadway striping, routine maintenance of state highway system, emergency response (both roadway and weather-induced) and the Adopt-a-Highway Program. Develops contract documents for letting maintenance projects.

Office of Traffic Operations

Vacant

State Traffic Operations Engineer
Transportation Management Center
(404) 635-8038

Responsible for traffic signal repair, timing and emergency installation program of the Department. Also responsible for the warehousing of electrical/signal materials, the timing of signal systems and the centralized repair support for approximately 1,650 signals statewide. Manages the Intelligent Transportation Systems (ITS) including operation of the Transportation Management Center (TMC) and the Highway Emergency

Response Operators (HEROs) providing service to the traveling public 24-hours a day, 365 days-a-year.

Office of Utilities

Jeff Baker

State Utilities Engineer

Transportation Management Center

(404) 635-8045

The State Utilities Office ensures the public's interest is served through our commitment to develop and administer reasonable utility and railroad policies, procedures, standards and regulations for the safe and efficient use of highway right-of-way. Provides expert technical assistance and functional guidance on utility and railroad encroachments, adjustments, relocations, agreements and billings to meet diverse needs of stakeholders.

Office of Traffic Safety and Design

Keith Golden

State Traffic Safety and Design Engineer

Transportation Management Center

(404) 635-8115

The Office of Traffic Safety and Design is responsible for traffic engineering and the traffic safety program statewide. The program includes vehicle crash analysis, traffic studies and projects for safety improvements to the state highway system. This Office designs the signs, pavement markings and traffic signals for Georgia DOT projects. It also is responsible for the Department's programs for railroad crossing safety and access as well as commercial driveways and freeway signage.

DIVISION OF PLANNING, DATA & INTERMODAL DEVELOPMENT



Gerald Ross

Director

Suite 127 (404) 656-0610

This Division manages the statewide transportation planning process and the collection and sharing of transportation data, including vehicle volumes and the state route network. The Division researches, develops and implements transit, port, freight and passenger rail opportunities.

Office of Intermodal Programs

Hal Wilson

Intermodal Programs Administrator

West Annex 2nd Floor

276 Memorial Drive, Atlanta, GA 30334

(404) 651-9201

Manages Georgia's planning and operations programs in support of the transit, rail, port, waterway and aviation systems. This Office manages the statewide transportation planning process and the collection and sharing of transportation data, including vehicle volumes and the state route network. In addition, this Office researches, develops and implements transit, port, freight and passenger rail opportunities across the state.

Office of Planning

Angela Alexander

State Transportation Planning Administrator

Suite 372

(404) 656-5411

Manages Georgia's transportation planning program, in addition to developing the Statewide Transportation Plan (SWTP) and the Statewide Transportation Improvement Program (STIP). Also manages the Department's Transportation Enhancement Program, designed to improve the quality of the transportation experience. Has responsibility for the Bicycle and Pedestrian Program, the Congestion and Mitigation/Air Quality (CMAQ) coordination and the Scenic Byways Program.

Office of Transportation Data

Jane H. Smith

Transportation Data Administrator

5025 New Peachtree Road, Chamblee, GA 30341

(770) 986-1360

The Office of Transportation Data is responsible for collecting, processing and disseminating data to support transportation planners, designers and key decision-makers. The types of data provided include: official state public road mileage; average annual daily traffic; volume and classification; truck weight information; vehicle miles traveled; road characteristics data; and visual road imagery (video log). The Office also oversees the administration of highway system and roadway functional classifications changes, and updates and distributes the official state of Georgia Highway and Transportation Regular and Large Print Maps and County Maps.

TREASURER



Earl Mahfuz
Suite 148 (404) 656-5224

Manages all financial matters for the Georgia DOT. Responsible for acquiring and accounting all funds the Department is entitled to receive. Develops policies for administering funds for the Department. Oversees the Division of Administration, Division of Information Technology, Office of Audits, Budget Services and the Office of Personnel.

DIVISION OF INFORMATION TECHNOLOGY



Jeffrey Hill
Director
Suite 180 (404) 656-6034

Manages Department's new and existing computer applications and computer network. Oversees Department's electronic processing budget, configuration and asset management. Also develops information technology policy, standards and strategic planning functions.

Office of Information Technology Infrastructure

Gary Blanton
Administrator
Suite 179 (404) 656-6034

Responsible for the operation and management of the Department's computer hardware and software and consists of Database Support, Server Support, Network Support, Client Support and the Solutions Center.

Office of Application Support

Doug Chambers
Administrator
West Annex
(404) 463-2860 Ext. 103

This Office is composed of an Applications Development Section and an Applications Support Section. The Development Section manages the development of new applications for the Department. It is also home to the Geographic Information System (GIS) coordination for the Department. The Support Section supports and maintains the Department's computer applications including Computer-Aided Design (CAD), Web, COTS (off-the-shelf) and enterprise-wide shared resources.

**Office of Information Technology
Business Practices**

Tony Williams
Administrator
Suite 183 (404) 656-6034

This office handles much of the administrative needs of the Information Technology Division. It is composed of three working groups: the Operations Group, the Configuration Management Group and the Policy and Standards Group. The Operations Group handles the day-to-day administrative duties, including personnel issues, payroll, leave records, budget and purchasing needs. The Configuration Management Group maintains records of all IT resources and also plays a major role in maintaining the Department's Asset Management for IT equipment. The Policy and Standards Group maintains and updates IT-related policies and standards in the Department.

DIVISION OF ADMINISTRATION



Meg Pirkle
Director
Suite 143 (404) 656-5239

Manages and oversees statewide administrative activities for the Georgia DOT. Handles the payroll for all employees and provides payment to contractors, consultants and all vendors doing business with the Department. Maintains all accounting records, tracks project expenditures and prepares financial statements for the Department. Develops and manages the budget of the Department of Transportation.

Office of Budget Services

Angela Robinson
Budget Administrator
Suite 150 (404) 656-5237

Develops and manages the nearly \$2 billion budget of the Department. Serves as an advisor to the Treasurer and upper management in funding matters. Also serves as liaison to the Office of Planning & Budget and the Legislative Budget Office.

Office of General Accounting

Dawn Maddox

Transportation Accounts Administrator

Suite 169 (404) 656-5193

Manages the payout and receipt of the Department's funds, which includes issuing checks to vendors, contractors, cities/counties, consultants and commodity/service vendors. Also handles payroll and travel reimbursement for nearly 6,000 employees. Other tasks include keeping the Department's books of accounts and assuring all accounting records are accurate and are prepared in a timely manner. The Units housed within the General Accounting Office include Administration, Payroll, Cash Disbursement, Accounts Payable, Contracts Payable, Central Cashier and Revenue.

Office of Financial Management

Jamie Simpson

Financial Management Administrator

Suite 170 (404) 463-2799

Prepares and manages the Department's six-year Construction Work Program (CWP) and project information system (Tpro). Requests and prepares documents for authorization and billing for federal aid, bond and state funds. Develops, submits and tracks project expenditures in the Department's project accounting system (PeopleSoft).

Office of Air Transportation

Dave Carmichael

Air Transportation Administrator

**175 South Airport Road, Atlanta, GA 30336
(404) 699-4483**

Operates and maintains a fleet of six aircraft, based at Fulton County Airport. Also provides air transportation for state officials and conducts aerial photography flights to acquire precision mapping for the complete design and construction of highways.

Office of Audits

Beryl Renfroe

Transportation Accounts Administrator

Suite 301 (404) 656-5598

Audits Division offices as well as contractors and consultants who do work for the Department.

Office of General Support

Chip Meeks

Transportation Accounts Administrator

Suite 170 (404) 656-5239

Provides all offices with office equipment and supplies. The Office is comprised of Asset Management/Telecommunication, Cost Accounting and Inventory Control, Procurement, Facility Management, Fuel and Purchasing Card Program Administration, Records Management, General Office Motor Pool and Warehouse and Safety/Risk Management.

Office of Personnel

Mike Johnson

Director

Suite 270 (404) 656-5260

Responsible for developing, implementing and administering all personnel-related functions and programs for the Department. These include benefits, recruiting, training, job evaluation and compensation, employee relations, employee assistance, performance management and personnel transaction processing and drug/alcohol testing program for commercial driver's license holders.

Office of Strategic Development

Jim Davis

Director

276 Memorial Drive, Atlanta, GA 30303

(404) 656-5181

Responsible for employee training and development, organizational development, strategic planning and strategic management.

PRIMARY CONTACTS

Commissioner/Special Staff	Email Address/Phone #
Harold Linnenkohl Commissioner	Harold.Linnenkohl@dot.state.ga.us (404) 656-5206
Buddy Gratton Deputy Commissioner	Buddy.Gratton@dot.state.ga.us (404) 656-5212
David E. Studstill, Jr. Chief Engineer	David.Studstill@dot.state.ga.us (404) 656-5277
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Glenn Bowman Executive Assistant to Chief Engineer	Glenn.Bowman@dot.state.ga.us (404) 651-8355
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Mike Malcom Statewide Equipment Mgt. Adm.	Mike.Malcom@dot.state.ga.us (770) 785-6947
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Matthew Cline Trans. Eng. Admin.-Const. Claims	Matthew.Cline@dot.state.ga.us (404) 656-2106
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Vacant Director of Field Districts	(404) 656-5214
Russell McMurry District One - Gainesville	Russell.McMurry@dot.state.ga.us (770) 532-5526
Mike Thomas District Two - Tennille	Mike.Thomas@dot.state.ga.us (478) 552-4601
Thomas Howell District Three - Thomaston	Thomas.Howell@dot.state.ga.us (706) 646-6500
Joe Sheffield District Four - Tifton	Joe.Sheffield@dot.state.ga.us (229) 386-3280

PRIMARY CONTACTS

Division of Field Districts	Email Address/Phone #
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Kent Sager District Six - Cartersville	Kent.Sager@dot.state.ga.us (770) 387-3602
Bryant Poole District Seven - Metro Atlanta	Bryant.Poole@dot.state.ga.us (770) 986-1011
Division of Legal Services	Email Address/Phone #
Sandra Burgess Director of Legal Services	Sandra.Burgess@dot.state.ga.us (404) 657-5808
Kenneth Thompson Legal Services Administrator	Ken.Thompson@dot.state.ga.us (404) 657-5806
Division of Operations	Email Address/Phone #
Steve Henry Director of Operations	Steve.Henry@dot.state.ga.us (404) 656-5214
David Crim State Maintenance Engineer	David.Crim@dot.state.ga.us (404) 635-8734
Jeff Baker State Utilities Engineer	Jeff.Baker@dot.state.ga.us (404) 635-8045
Vacant Transp. Engineer Admin.-Traffic Ops	(404) 635-8038
Mark Demidovich Asst. State Traffic Operations Engineer	Mark.Demidovich@dot.state.ga.us (404) 635-8014
Keith Golden Safety Traffic & Design Engineer	Keith.Golden@dot.state.ga.us (404) 635-8115
Kathleen Gibson Oversize Permit Unit Admin.	Kathleen.Gibson@dot.state.ga.us (404) 635-8176
Division of Preconstruction	Email Address/Phone #
Todd Long Director of Preconstruction	Todd.Long@dot.state.ga.us (404) 656-5187
Genetha Singleton Assistant Dir. of Preconstruction	Genetha.Singleton@dot.state.ga.us (404) 651-7455
Brent Story State Road & Airport Design Engineer	Brent.Story@dot.state.ga.us (404) 656-5386
Ben Buchan State Urban Design Engineer	Ben.Buchan@dot.state.ga.us (404) 656-5436
Paul Liles State Bridge/Structural Design Engineer	Paul.Liles@dot.state.ga.us (404) 656-5280
Harvey Keepler State Environmental/Location Engineer	Harvey.Keepler@dot.state.ga.us (404) 699-4401
Phil Copeland State Right-of-Way Administrator	Phil.Copeland@dot.state.ga.us (404) 656-5372
Babs Abubakari State Consultant Design Engineer	Babs.Abubakari@dot.state.ga.us (404) 463-6133

PRIMARY CONTACTS

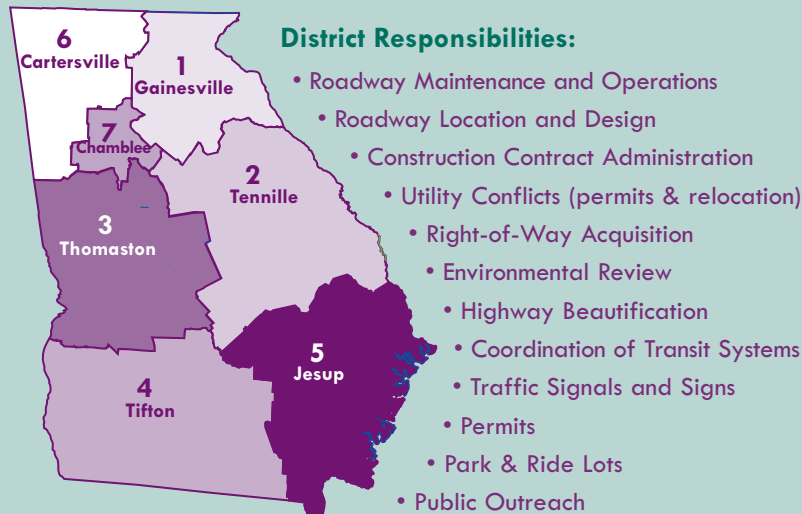
Division of Planning, Data & Intermodal Development	Email Address/Phone #
Gerald Ross Dir. of Planning, Data, & Intermodal	Gerald.Ross@dot.state.ga.us (404) 656-0610
Hal Wilson Intermodal Programs Admin.	Hal.Wilson@dot.state.ga.us (404) 651-9200
Angela Alexander State Trans. Planning Admin.	Angela.Alexander@dot.state.ga.us (404) 656-5411
Jane H. Smith State Trans. Data Admin.	Jane.H.Smith@dot.state.ga.us (770) 986-1360
Office of the Treasurer/ Division of Administration	Email Address/Phone #
Earl Mahfuz Treasurer	Earl.Mahfuz@dot.state.ga.us (404) 656-5224
Mike Johnson Personnel Director	Mike.Johnson@dot.state.ga.us (404) 656-5260
Meg Pirkle Administration Director	Meg.Pirkle@dot.state.ga.us (404) 656-5239
Beryl Renfroe Trans. Accts. Admin.-Gen Acct.	Beryl.Renfroe@dot.state.ga.us (404) 656-5247
Angela Robinson Budget Administrator	Angela.Robinson@dot.state.ga.us (404) 656-5237
Chip Meeks General Support Trans Accounts Admin.	Chip.Meeks@dot.state.ga.us (404) 463-6029
Dawn Maddox Trans. Accts. Admin.-Gen. Acct.	Dawn.Maddox@dot.state.ga.us (404) 656-5193
Jamie Simpson Financial Management Admin.	Jamie.Simpson@dot.state.ga.us (404) 463-2799
Dave Carmichael Air Trans. Administrator	Dave.Carmichael@dot.state.ga.us (404) 699-4483
Jim Davis Strategic Development Admin.	Jim.Davis@dot.state.ga.us (404) 656-5181
Division of Information Technology	Email Address/Phone #
Jeffrey Hill Director of Information Technology	Jeffrey.Hill@dot.state.ga.us (404) 656-6034
Gary Blanton Office of Infrastructure Admin.	Gary.Blanton@dot.state.ga.us (404) 651-7136
Doug Chambers Office of I.T. Applications Admin	Doug.Chambers@dot.state.ga.us (404) 463-2860 Ext. 103
Tony Williams Office of I.T. Business Practices	Tony.Williams@dot.state.ga.us (404) 656-6034

FREQUENTLY CALLED NUMBERS

INFORMATION	CONTACT	PHONE #
Accident Location Sites	Traffic Safety & Design	(404) 635-8131
Adopt-A-Highway	Maintenance Office	(404) 635-8194
Bicycle Paths	State Bicycle & Pedestrian Coordinator	(404) 657-6692
Auto Tags & Title		(404) 362-6500
Commercial Vehicle Enforcement	Georgia Department of Driver Services	(678) 413-8825
Drivers License Information	www.dds.ga.gov	(404) 657-9300 (678) 413-8400
Handicap Parking Permits		(404) 657-9300
Motor Vehicle Reports		(678) 413-8400
Driveway Permits	Traffic Safety & Design	(404) 635-8042
GA 400 Cruise Cards/Violations	State Road & Tollway Authority	(404) 365-7780
Natural Disasters	1. Contact local law enforcement agency 24-Hour Line 2. Contact GEMA	(404) 635-7000 (404) 635-7200
Outdoor Advertising	Maintenance Activities Unit	404) 363-7625
Overweight Truck Permits	Oversize Permit Unit	1-800-570-5428 Cust. Service- 1-888-262-8306
Rest Areas	Office of Maintenance	(404) 635-8174
Road Work	Office of Construction	(404) 656-3606
State Maps	Map Sales Unit	(770) 986-1436
Traffic Counts	Traffic Count Customer Srv.	(770) 986-1436
Traffic Incident Mgt. Enhancement	TIME Task Force General Info	(404) 635-8463
Traffic Signals	Traffic Safety & Design	(404) 635-8115
Transp. Enhancement Program	Statewide Planning Bureau	(404) 656-5411
Transp. Mgt Center Info		(404) 624-1300
Transp. Statistical Data	Office of Transportation Data	(770) 986-1364 (770) 986-1360
Up-to-date Traffic Information	Transportation Mgt. Center AT&T Cingular, Verizon and Sprint *DOT (*368)	(404) 635-6800 1-888-635-8287
Wildflower Program	Office of Maintenance	(404) 635-8174

Georgia DOT Districts

The Georgia Department of Transportation is divided into seven districts which are responsible for operating and maintaining the transportation system at the local level. Each district has a District Engineer, who is responsible for planning, organizing and directing the activities of the district. The districts are subdivided by area offices which are overseen by Area Engineers.

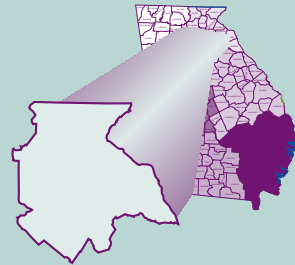


District One

District Engineer: Russell McMurry
 (770) 532-5526
 2505 Athens Highway, SE
 P.O. Box 1057
 Gainesville, GA 30503

Communications Officer: Teri Pope
 (770) 718-3924

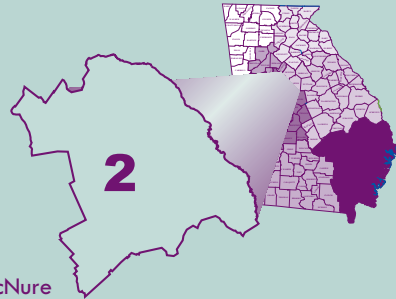
Website: www.dot.state.ga.us/dot/fielddistricts/d1/Index.shtml



Area Offices	Counties Served	Phone
Gainesville	Dawson, Forsyth, Hall	(770) 535-5759
Clarksville	Banks, Habersham, Rabun, Stephens	(706) 754-9559
Carnesville	Elbert, Franklin, Hart, Madison	(706) 384-7269
Cleveland	Lumpkin, Union, Towns, White	(706) 348-4848
Lawrenceville	Barrow, Gwinnett	(770) 339-2308
Athens	Clarke, Jackson, Oconee, Walton	(706) 369-5627

District Two

District Engineer: Mike Thomas
(478) 552-4601
801 Highway 15 South
P.O. Box 8
Tennille, GA 31089-0008



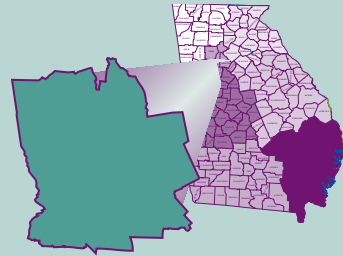
Communications Officer: Cissy McNure
(478) 552-4656

Website: www.dot.state.ga.us/dot/fielddistricts/d2/Index.shtml

Area Offices	Counties Served	Phone
Sandersville	Glascocock, Hancock, Washington, Johnson	(478) 552-2464
Swainsboro	Emanuel, Jenkins, Screven	(478) 289-2614
Louisville	Burke, Jefferson, McDuffe, Warren	(478) 625-3681
Augusta	Columbia, Lincoln, Richmond, Wilkes	(706) 855-3466
Madison	Greene, Morgan, Newton, Oglethorpe, Taliaferro	(706) 343-5836
Milledgeville	Baldwin, Jasper, Putnam, Wilkinson	(478) 445-5130
Dublin	Bleckley, Dodge, Laurens, Treutlen	(478) 275-6596

District Three

District Engineer: Thomas B. Howell
(706) 646-6500
715 Andrews Drive
Thomaston, GA 30286-4524



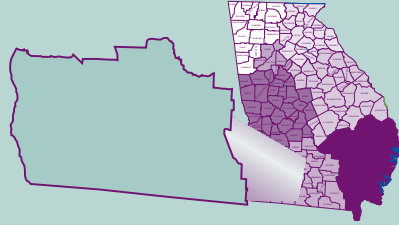
Communications Officer: Barry Hancock
(706) 646-6257

Website: www.dot.state.ga.us/dot/fielddistricts/d3/Index.shtml

Area Offices	Counties Served	Phone
Thomaston	Crawford, Upson, Taylor, Pike, Lamar	(706) 646-6630
Americus	Marion, Schley, Stewart, Sumter, Webster	(229) 931-2434
Perry	Dooley, Houston, Macon, Peach, Pulaski	(478) 988-7151
Macon	Bibb, Jones, Monroe, Twiggs	(478) 757-2601
Griffin	Butts, Fayette, Henry, Spalding	(770) 228-7205
LaGrange	Coweta, Heard, Meriwether, Troup	(706) 845-4115
Columbus	Chattahoochee, Harris, Muscogee, Talbot	(706) 568-2165

District Four

District Engineer: Joe Sheffield
(229) 386-3280
710 West 2nd Street
P.O. Box 7510
Tifton, GA 31793-7510



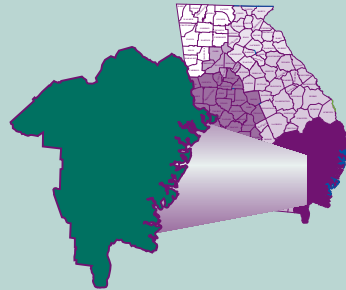
Communications Officer: Craig Solomon
(229) 391-6852

Website: www.dot.state.ga.us/dot/fielddistricts/d4/Index.shtml

Area Offices	Counties Served	Phone
Valdosta	Clinch, Echols, Lanier, Lowndes	(229) 333-5287
Douglas	Atkinson, Coffee, Berrien, Irwin	(912) 389-4201
Fitzgerald	Ben Hill, Crisp, Turner, Wilcox, Worth	(229) 426-5244
Moultrie	Brooks, Colquitt, Tift, Thomas, Cook	(229) 891-7130
Albany	Baker, Dougherty, Lee, Mitchell	(229) 430-4198
Cuthbert	Calhoun, Clay, Early, Quitman, Randolph, Terrell	(229) 732-3066
Donalsonville	Decatur, Grady, Miller, Seminole	(229) 524-5760
I-75 Reconstr.	Crisp, Turner, Tift, Cook, Lowndes	(229) 556-9433

District Five

District Engineer: Glenn Durrence
(912) 427-5700
204 North Highway 301
P.O. Box 610
Jesup, GA 31598



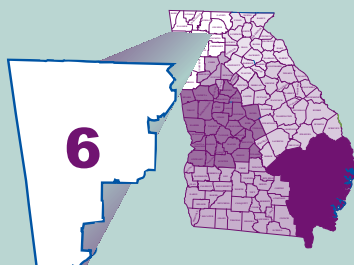
Communications Officer: Sherry Beal
(912) 530-4075

Website: www.dot.state.ga.us/dot/fielddistricts/d5/Index.shtml

Area Offices	Counties Served	Phone
Baxley	Appling, Jeff Davis, Telfair, Wheeler, Montgomery	(912) 366-1090
Waycross	Charlton, Brantley, Pierce, Ware, Bacon	(912) 285-6009
Brunswick	Camden, Glynn, McIntosh	(912) 264-7247
Glennville	Long, Tattnall, Toombs, Wayne, Liberty	(912) 654-2940
Savannah	Chatham, Bryan	(912) 651-2144
Statesboro	Bulloch, Candler, Effingham, Evans	(912) 871-1103

District Six

District Engineer: Kent Sager
(770) 387-3602
500 Joe Frank Harris Parkway
P.O. Box 10
Cartersville, GA 30120-0010



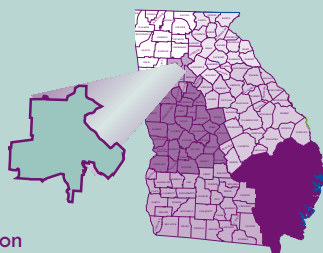
Communications Officer: Mohamed Arafa
(770) 387-4081

Website: www.dot.state.ga.us/dot/fielddistricts/d6/Index.shtml

Area Offices	Counties Served	Phone
Cartersville	Bartow, Cherokee, Gordon	(770) 387-3680
Ellijay	Fannin, Gilmer, Pickens	(706) 635-5551
Dalton	Catoosa, Dade, Murray, Walker, Whitfield	(706) 272-2211
Rome	Chattooga, Floyd, Polk	(706) 295-6025
Buchanan	Haralson, Paulding, Carroll	(770) 646-5522

District Seven

District Engineer: Bryant Poole
(770) 986-1011
5025 New Peachtree Road
Chamblee, GA 30341



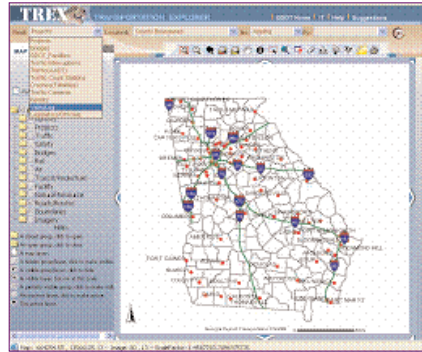
Communications Officer: Mark McKinnon
(770) 986-2801

Website: www.dot.state.ga.us/dot/fielddistricts/d7/Index.shtml

Area Offices	Counties Served	Phone
Decatur	DeKalb, Rockdale	(404) 299-4386
Marietta	Cobb, North Fulton	(770) 528-3238
Hapeville	Clayton, South Fulton, Douglas	(404) 559-6699
Atlanta	City of Atlanta	(404) 624-2444

Geographic Information System (GIS)

The Geographic Information System (GIS) links data that contains a place or a location to mapping or geospatial data. It is composed of a collection of computer hardware, software, data, and people who use the system. Software applications are used or developed to facilitate geospatial data collection, analysis, or visualization. Commonly, geospatial data is arranged as 'layers' of information, one on top of the other. Users ask questions through the "layers" of data concerning a specific location or area of interest. This allows the Department to better understand spatial relationships or where things are in relation to each other. For example, what bridges would be affected by a new road widening project or what is the traffic volume within a mile of the interstate? These results can then be presented as maps, graphs and tables.



GIS within Georgia DOT

Through a variety of business functions, the Georgia DOT collects a significant amount of data that references a location, such as a GPS (Global Positioning System) coordinate of a truck weigh station. Locations can also be collected as a street address, a zip code, or more commonly in the Georgia DOT as a route number and mile marker. This data is then loaded or published to a centralized database repository that contains additional geospatial data. The database is organized to bring together all of these different types of location referencing methods. This allows multiple software applications across the Department to all work with the same mapping information.

The Georgia DOT is implementing an Enterprise GIS (EGIS) Program to better leverage this technology to support the mission of the Department. Seven key service initiatives will be developed under this program:

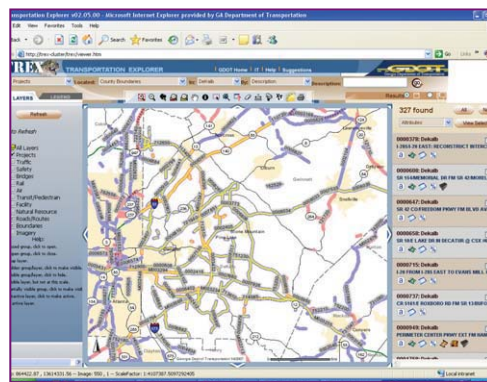
- **Mapping on Demand** - Provide non-GIS users with the ability to create, modify, and print multiple types of maps in multiple formats online.
- **Computer Aided Design (CAD) Integration** - Provide interoperability between CAD and GIS environments to facilitate access to CAD data sets within GIS and vice versa.

- **Asset Location** - Provide centralized GIS data to allow identification and location of Georgia DOT transportation structures, facilities and equipment.
- **Data Analysis** - Provide applications to support analysis of environmental, safety, traffic, inter-modal connectivity, project planning/location and economic data.
- **Work Activity Tracking** - Provide real-time tracking applications to monitor the status and retain the history of work being performed by mobile field workers.
- **Open Data Exchange** - Provide data transformation, metadata and data delivery services to facilitate free and open exchange of spatial data within Georgia DOT and with its federal and local government partners in transportation.
- **Building the GDOT GIS** - Provide a framework to support the collection, maintenance, security, accessibility, performance, replication, and versioning of the Georgia DOT GIS. This framework includes the development of enterprise GIS architecture, infrastructure and services.

Overall, the Georgia DOT GIS is used and developed to improve transportation decision-making and operational efficiency.

Georgia DOT GIS Data for the Public

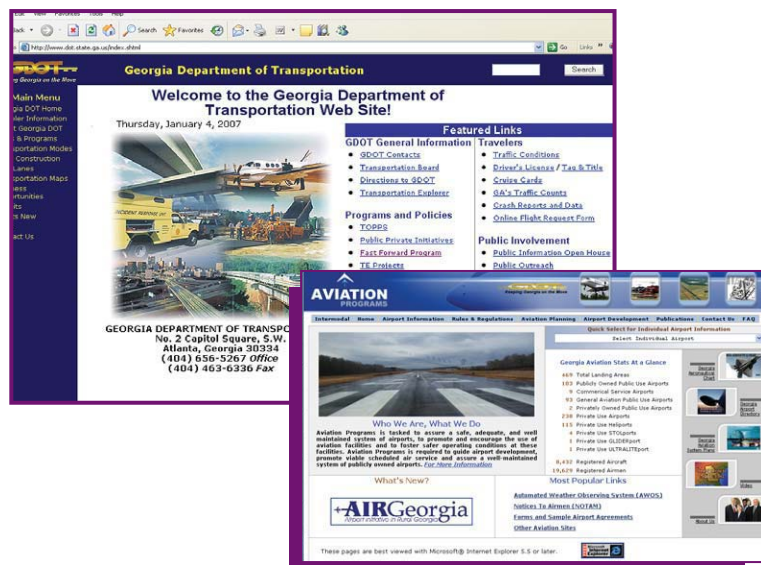
The Georgia DOT GIS is also being used in a variety of Web applications on the Internet to serve the information and business needs of the general public. For example, the Transportation Explorer (<http://trex.dot.state.ga.us>) application provides the public with the locations of active and planned



transportation projects in their neighborhoods. Utility companies use the **Georgia Utilities Permitting System (GUPS)** to request permits for constructing or moving utilities. Property developers might use the **Access Management Permitting System (AMPS)** to request permission to connect the traffic from a new subdivision to a state route.

The Georgia DOT, along with other state agencies, also provides the GIS data to the public through the Georgia GIS Data Clearinghouse (<http://gis.state.ga.us>).

Georgia DOT Web Site



What the Web site has to offer:

- Georgia DOT general information
- Frequently asked questions
- List of primary contacts
- Responsibilities and breakdown of Georgia DOT divisions and offices
- Traveler information
- MY NaviGator information
- Up-to-date traffic conditions
- Current construction projects
- Transportation maps
- HOV system and facts
- General permit information

Strategic Development

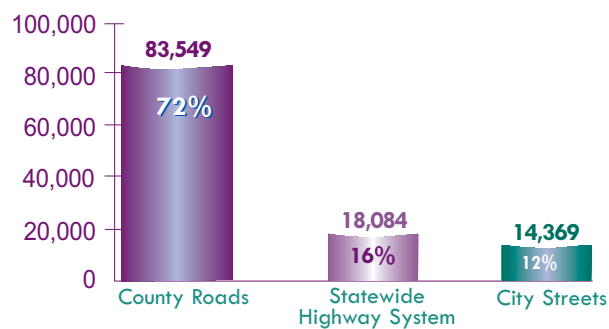
Creation of the Office of Strategic Development (OSD) was announced by Commissioner Harold Linnenkohl on May 1, 2004. OSD's mission is to contribute to the success of the Department by promoting strategic management, professional development and organizational effectiveness. OSD supports the integration of organizational performance through its programs and processes using performance standards, performance measures and quality improvements to maintain and improve the organization's health. One of OSD's key principles is to incorporate the concepts of Principle-Centered Leadership with strategic management. This infuses the values of integrity and service in the Department's execution of daily business actions and decision-making processes.

Georgia Highway Systems Roadway Miles 2005

Rural Areas	Mileage	Daily Vehicle Miles Traveled
Statewide Highway System*	14,066	73,801,309
Interstates	715	27,577,932
County Roads	62,131	35,435,302
City Streets	3,453	2,050,025
Small Urban Areas		
Statewide Highway System*	1,084	13,150,652
Interstates	69	3,556,086
County Roads	2,695	3,838,745
City Streets	3,360	4,130,360
Urban Areas		
Statewide Highway System*	2,934	103,394,503
Interstates	460	52,255,173
County Roads	18,723	50,169,272
City Streets	7,556	17,328,527
* State Highway System includes Interstates		

The Georgia Department of Transportation provides a safe and efficient highway system designed to network Georgia's interstates, county roads, city streets and state highway system together to provide mobility and efficiently connect travelers to their destinations.

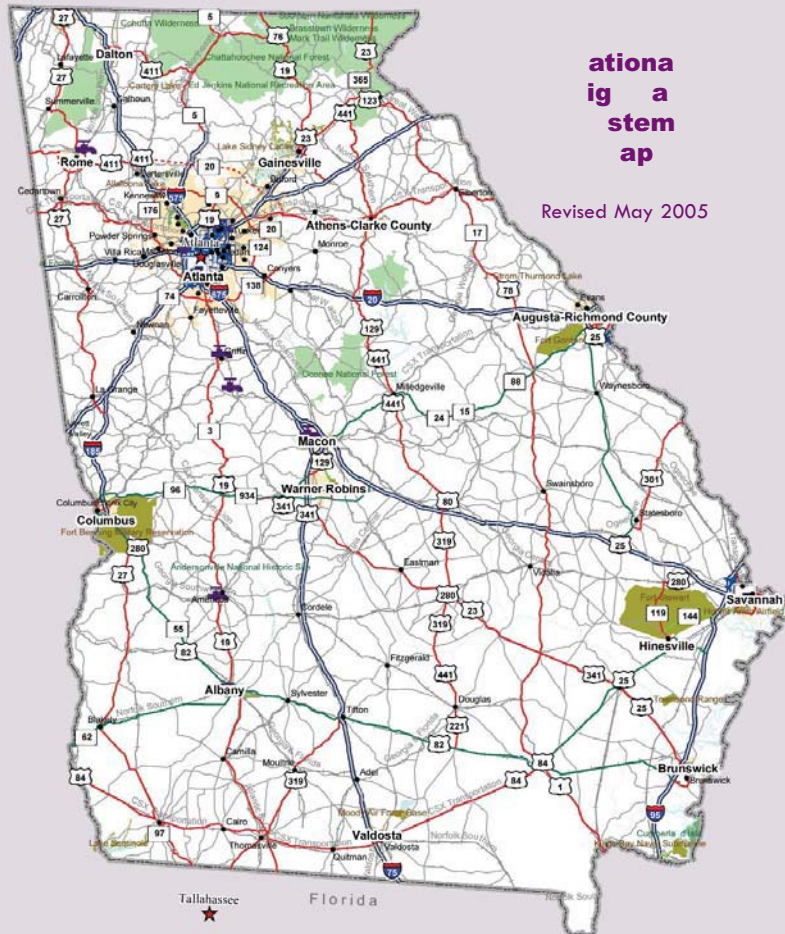
Miles of Georgia Road 2005



**Total Miles of Public Roads in Georgia:
116,002**

Georgia's transportation system consists of the following major highway programs:

- National Highway System (NHS)
- Fast Forward
- Local Assistance Road Program (LARP)
- Governor's Road Improvement Program (GRIP)
- Surface Transportation Program (STP)



**Federal Highway Administration
U.S. Department of Transportation**

- Eisenhower Interstate System
- Other NHS Routes
- Non-Interstate STRAHNET Route
- Major STRAHNET Connector
- Intermodal Connector
- Unbuilt NHS Routes
- Other Roads (not on NHS)
- Railroad
- Census Urbanized Areas
- Indian Reservation
- Department of Defense
- National Forest
- National Park Service
- Water



National Highway System

The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 established the National Highway System (NHS) to serve as a network of highways linking together different modes of transportation such as: public transportation, airports, intermodal facilities and major shipping ports. Economic vitality nationwide is increased by the linking of these transportation systems.

NHS FACTS

Total GA NHS Mileage
5,385

Total GA Interstate Mileage
1,245

**NHS Major Intermodal
Connector Routes**
54

Other NHS Routes
4,086

Fast Forward Transportation Program

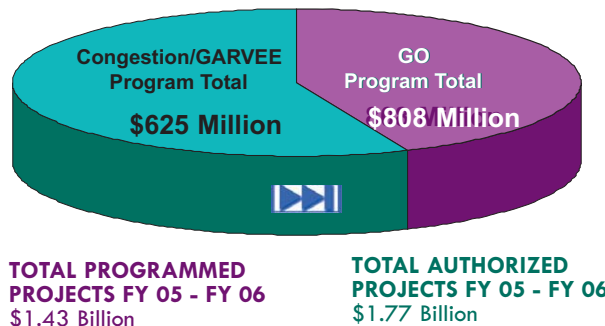
In Spring 2004, Governor Perdue approved the sale of \$4.5 billion worth of bonds over six years to accelerate much-needed transportation projects. These projects were in addition to the Georgia DOT's regular program of projects of \$11 billion.

Fast Forward Program is working to provide:

- **Short-Term Congestion Relief:** Intelligent Transportation System, Highway Emergency Response Operators (HERO) Expansion, Ramp Metering Expansion, Signal Timing and Synchronization Upgrades
- **Long-Term Congestion Relief:** High Occupancy Vehicle (HOV) Lane Expansion, Arterial Roadway Improvements and New Transit Corridors Implementation

The Fast Forward Program has been funded using a blend of Grant Anticipation Revenue Vehicle (GARVEE) bonds, Guaranteed Revenue Bonds (GRB) and General Obligation (GO) bonds.

Fast Forward FY 05 - FY 06 Congestion/GARVEE and GO Program Summary



Total Program Highlights since Fast Forward Began:

- Over \$2.25 billion in contract awards in FY 06, marking the largest award amount for one year in Georgia DOT's history.
- Over \$1.27 billion in contractor payments, 'cash out the door' between December 2005 and November 2006, the largest 12- payout in Georgia DOT history.
- Over \$241 million in the month of June 2006 marked the largest monthly payment in Georgia DOT's history.

The Local Assistance Road Program

Initiated in 1978, the Local Assistance Road Program (LARP) is a resurfacing program designed to help local governments preserve the integrity of their paved road systems.

How It Works

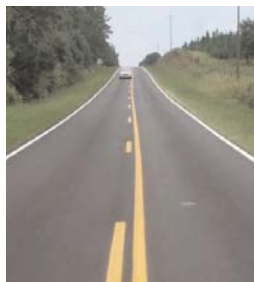
Each year, during late summer or early fall, every city and county in the state of Georgia is asked to submit a LARP priority list to the Georgia DOT. The LARP priority list identifies roads or streets in each city or county jurisdiction which need to be resurfaced. Georgia DOT reviews each road and street submitted and develops a needs assessment and cost estimate.



Before LARP

LARP Funding

Funding for LARP projects comes from the Motor Vehicle Fuel Tax. Each year Georgia DOT reviews the lists of projects received from each local government and makes selections based on need and availability of funds once the level of funding is established.



After LARP

LARP Facts

- There are currently 69,088 miles of paved roads on the county and city systems.
- The Local Governments submitted over \$188 million of paving needs for FY 06.
- The Department resurfaced 1,107 miles of roads under LARP contracts in 2006.

Governor's Road Improvement Program

Initiated in 1989 by a resolution of the state legislature and the Governor, the Governor's Road Improvement Program (GRIP) will connect 95 percent of the cities in Georgia with a population of 2,500 or more to the interstate system. The GRIP system will also ensure that 98 percent of all areas of Georgia will be within 20 miles of a four-lane road.

GRIP is currently made up of nineteen corridors (economic development highways), three truck access routes and 3,314 miles of roadway. Project development activities are underway for 2,651 miles of GRIP.

For up-to-date GRIP fact sheets, visit: <http://www.dot.state.ga.us/DOT/plan-prog/planning/programs/grip/Index.shtml>

2006 GRIP FACTS

- 72 percent or 1,914 miles of GRIP Corridors with project development activities underway are open or under construction.
- 58 percent of the total GRIP system is open or under construction.
- 8 projects were opened to traffic in calendar year 2005.
- The projects opened to traffic added 40 miles of multi-lane roadway to the GRIP system.
- The projects opened to traffic were constructed at a cost of \$109.3 million.
- The estimated cost to complete the GRIP Corridors with project development activities underway is \$2.618 billion.
- The estimated cost to complete the total GRIP system is \$3.967 billion.

**Governor's
Road Improvement
Program (GRIP)
October 2006 Map**



GRIP Corridors

Appalachian Developmental Highway	US 27
South Georgia Parkway	US 441
US 319	US 84
Golden Isles Parkway	Sunbelt Parkway
Fall Line Freeway	Power Alley/US 280
SR 72	SR 32
Savannah River Parkway	SR 40
US 19	East-West Highway
US 1/SR 17	SR 15
	SR 125

Surface Transportation Program

The Surface Transportation Program (STP) provides flexible funding that may be used by the Department for projects on any Federal-aid highway, including the National Highway System (NHS), Interstate system, bridge projects on any public road, transit capital projects, and public bus terminals and facilities. Funds are distributed to states based on lane miles of federal-aid highways; total vehicle miles traveled on federal-aid highways and estimated



contributions to the Highway Account of the Highway Trust Fund. Each state must set aside a portion of their STP funds (10 percent or the amount set aside in 2005, whichever is greater) for transportation enhancement activities. 62.5 percent of the remaining STP funding (after the 10 percent transportation enhancement set-aside) must be divided among the state's urbanized areas; the remaining 37.5 percent of the STP funding may be distributed at the discretion of the State.

TRANSPORTATION PROGRAMS

To meet its responsibilities in the most-responsive and cost-efficient manner, the Georgia DOT has participated in the following transportation-related programs and initiatives:

- **State Transportation Improvement Program (STIP)**
- **Statewide Transportation Plan (SWTP)**
- **Air Quality Improvement**
- **Public Private Initiatives (PPI)**

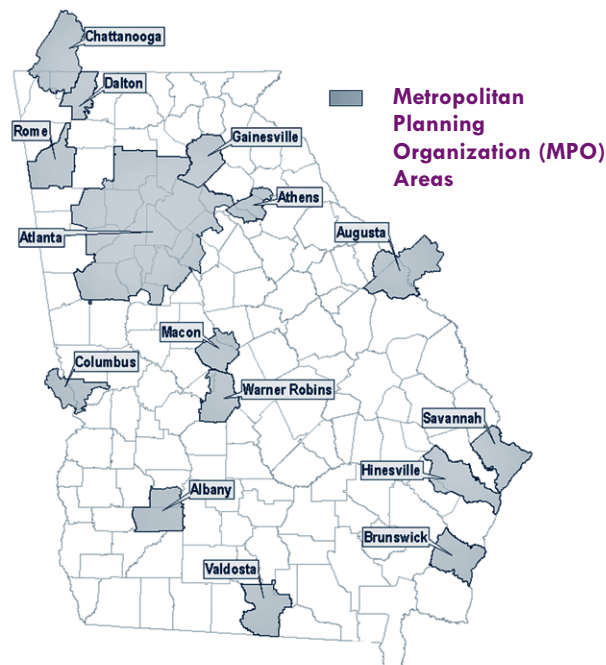
State Transportation Improvement Program (STIP)

This is a three-year multimodal program that contains federally-funded projects identified through the planning process. Every year, proposed projects for the STIP are presented to local officials in non-metropolitan areas of the state for their comment and review as per Georgia DOT's **"Consultation Process With Local Officials in Non-Metropolitan Areas of the State"** policy. Within metropolitan areas, public involvement for federally-funded transportation projects are handled by the Metropolitan Planning Organizations (MPOs).

The STIP is presented for public review and comment at meetings throughout the state and is available at libraries throughout the state. The STIP is also available on Georgia DOT's Web site at: <http://www.dot.state.ga.us/DOT/plan-prog/planning/programs/index.shtml>.

Types of projects in the STIP include:

Roads and Bridges	To operate, maintain and improve the safety of the existing state highway system
Intermodal Programs	To meet transportation needs of citizens and businesses in Georgia by providing various modes of travel, including public transportation, rail, airports and deep-water ports
Transportation Enhancements	To enrich the traveling experience of the highway user through enhancements to the transportation system



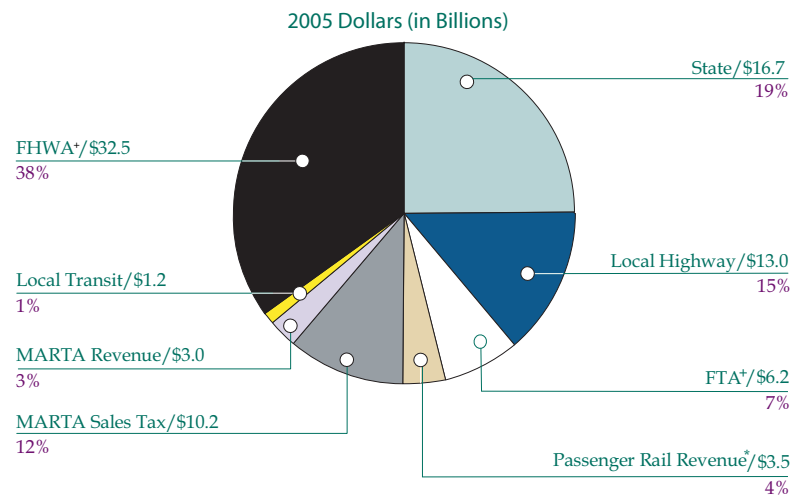
Statewide Transportation Plan (SWTP)

Federal and state laws require that the state's transportation program align with a long-range strategy in the Statewide Transportation Plan (SWTP). This plan is updated every five years and maintains a minimum 20-year horizon. The current update of the SWTP was initiated in 2005 and it developed a plan for transportation improvements extending to the 2035 horizon year. The 2005 to 2035 SWTP was completed in the fall of 2005, when the State Transportation Board adopted the plan in January 2006.

The Department worked with nationally-recognized experts in the development of the SWTP. This allowed us to incorporate planning experience, state-of-the-art information management and analytical tools to develop alternative program scenarios, investigate future funding levels (revenue and project costs), evaluate impacts and produce the plan update.

The current 2005 to 2035 Statewide Transportation Plan can be found online at: <http://www.dot.state.ga.us/dot/plan-prog/planning/swtp/index.shtml>

Total Available Transportation Revenue by Source (\$86.1 Billion) 2006-2035



* Assumes complete system is built.

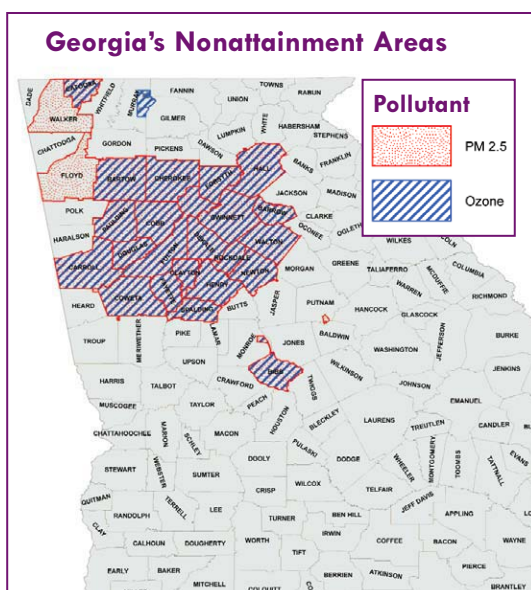
+ Assumes SAFETEA-LU authorization levels.

Air Quality Improvement

The Department participates in the effort for clean air in Georgia and maintains a strong commitment to improve air quality in the state through the **Congestion Mitigation and Air Quality Improvement (CMAQ) Program**. Although the effects of transportation on air pollution are continuing to diminish, a new standard for air quality has been set by the Environmental Protection Agency (EPA) in addition to the 8-hour ozone standard.



EPA recently added a new pollutant to Georgia's nonattainment area classifications. Particulate Matter (PM) is a complex mixture of extremely small particles and liquid matter. Increased exposure to PM has been linked to a range of respiratory and cardiovascular health problems. Two types of PM are currently regulated by EPA: PM 10 and PM 2.5. Georgia has areas in nonattainment for PM 2.5. Unlike ozone, PM 2.5 is a problem throughout the year. Georgia's major source of PM 2.5 are coal burning power plants, outdoor burning and diesel engines.



Counties designated in nonattainment of PM 2.5 include the 20-county metro Atlanta area, as well as parts of Putnam and Heard counties. Counties outside the metro Atlanta area include: Floyd, Walker, Catoosa, Bibb and a portion of Monroe.

CMAQ funds are used to implement a variety of projects aimed at reducing emissions by relieving traffic congestion. One effective initiative is a regional

transportation demand management (TDM) program across metro Atlanta. Since the development of the program in 1999, changes in transportation behavior have been accomplished in the Atlanta region through programs to educate, encourage and facilitate the use of alternatives to driving alone.

The Department is directing a new broad-based regional program expected to have a significant effect on congestion and air quality. The program includes a project of signal synchronization across city limits and county lines within the metro Atlanta region. The program includes retiming of about 2,500 traffic signals to form interconnected systems. This program involves coordina-



tion among many state and local agencies, local governments and others; the improvement will be felt both locally and regionally.

The Department is assisting areas across the state that are now confronting air quality problems. The Department facilitates a collaborative approach at the state level to address air quality in partnership with the Environmental Protection Division of the Department of Natural Resources, the

Georgia Regional Transportation Authority and the Georgia Environmental Facilities Authority. A goal of these state partners is to use available resources to implement the most effective projects and programs to reduce congestion and to improve air quality.

For more information, please visit the Air Quality Branch's Web site <http://www.dot.state.ga.us/DOT/plan-prog/planning/aq/>.

Public-Private Transportation Initiatives (PPI)

Georgia is challenged by a fast-growing population and expanding commerce, which impact our transportation infrastructure needs. Traffic congestion is the number one transportation issue in Georgia's metropolitan areas, whereas in other parts of the state, improving access to education and jobs drive transportation priorities. With current funding and delivery methods, there are not enough resources to meet all of our state's transportation needs in a timely manner. PPI allows the Department to partner with private/corporate businesses to help finance, design, construct, operate and/or maintain transportation projects.

In 2003, the Georgia legislature lawfully created the process that allows the Georgia DOT to consider unsolicited proposals from private companies to build transportation improvement projects. In 2005, the Georgia General

Assembly amended the PPI law to give Georgia DOT the ability to solicit proposals for much-needed transportation projects, to extend the time for receiving competing proposals from 90 to 135 days, and most importantly, provide more opportunities for public review and input.

PPI gives us a faster and more efficient way to solve our transportation challenges without compromising quality. Private partners bring innovation, new technology, finance and private resources to a project, which frees up state resources and dollars for other transportation needs. Whether or not the PPI proposal develops into a final contract for construction, Georgia DOT may continue to use the design and engineering documents produced by the private partner to continue working on the project.

What are the benefits of PPI?

Georgia is one of the fastest-growing states in the nation; PPI gives us a faster and more efficient way to solve our transportation problems without compromising quality.

PPI allows the Georgia DOT to accept and evaluate solicited and unsolicited proposals from private/corporate businesses for transportation projects.

For the latest news and information about PPI and current proposals visit: www.dot.state.ga.us/ppi

PPI Proposal Criteria

Proposals are evaluated on:

1. Unique and innovative methods and technical merits
2. Potential contribution to the Department's mission
3. The proposing entity's qualifications and experience
4. Whether proposal is consistent with Board's Network Vision, including free existing general purpose lanes

Environment and Location

Georgia DOT Receives GPTQ Award for Public Involvement and Context-Sensitive Design

The Georgia Department of Transportation partnered with the Federal Highway Administration (FHWA) Georgia Division and Fulton County to streamline the environmental process of two proposed projects in Fulton County: the **widening of Johnson Ferry and Abernathy roads** and the **Abernathy Road Greenspace Project** sponsored by Fulton County. The goal of including both the road-widening project and greenspace project in the same environmental document was to streamline the environmental process since both projects would be capturing federal funds for their implementation and both were located along Abernathy Road. The Johnson Ferry Road project consisted of widening the road approximately 1.24 miles, including widening the bridge spanning the Chattahoochee River. The Abernathy Road project consisted of widening the existing two-lane facility to four-lanes from Johnson Ferry Road to Roswell Road. This project was also discussed in the environmental document and proposal to construct a greenspace linear park utilizing approximately 40 residential properties.



Illustration of Abernathy Parkway in Sandy Springs, Georgia

The environmental process began for both projects in September of 2003. The public involvement process was begun at a very early stage of project planning in order for interested residents, neighborhood groups, businesses, government officials, and the general public to become involved in the environmental decision-making process. A Citizens Advisory Committee (CAC), consisting of approximately 25 representatives of local neighborhoods, businesses, civic associations, and government agencies, has been meeting since the spring of 2002. The CAC acted as a steering committee to give information and opinions to Georgia DOT, FHWA and Fulton County and to evaluate and recommend design features and design alternatives for both the proposed widening and greenspace projects. Through a series of four meetings and two workshops, the CAC provided the project team with a wealth of information about the public's needs and desires concerning both transportation and greenspace

projects. The CAC has been very adamant throughout the planning process that both the road widening project and greenspace project remain and progress together through the planning and environmental phase. Their support of the road- widening project was contingent upon the successful design and progress of the greenspace plan.

Coordination with other federal and state agencies was needed to progress the projects through the NEPA process. Coordination with the National Park Service (NPS) was required to coordinate the purchase of land from the Chattahoochee River National Recreation Area along Johnson Ferry Road, resulting in a Section 4(f) impact.

Because of the extensive public involvement activities and coordination of both projects with state and federal agencies at the onset of project planning, the Draft Environmental Assessment (EA) with Section 4(f) was approved within 18 months from the initiation of the environmental process. An Environmental Assessment/Finding of No Significant Impact (EA/FONSI) with Section 4(f) was approved June 13, 2005.

Public Outreach Project

Georgia DOT has proposed a project to construct pedestrian safety improvements along the Buford Highway corridor from the DeKalb/ Fulton County line to Shallowford Terrace, a distance of approximately 4.8 miles. This would include the construction of a raised median from the county line north to Clairmont Road; the construction of pedestrian refuge islands in nine locations throughout the project corridors; the construction of sidewalks; and the installation of new traffic signals at five locations. These improvements were designed as a result of a 10-month long public involvement process which engaged both residents and business owners located in the corridor.



Public outreach within the community consisted of several events. The first was a face-to-face survey of five Hispanic-owned businesses. The purpose of the survey was to conduct a needs assessment based on input from those who lived and worked in the corridor.

Outreach to the Asian business community was addressed in a different manner. The Center for Pan Asian Community Services was retained to identify four Vietnamese, four Chinese, and four Korean business owners and to conduct interviews with these business owners to determine their perceptions of the impact of a raised median. Before-and-after visualizations were used to show possible design scenarios for Buford Highway.

Transportation Enhancement Program

Georgia DOT is responsible for more than just building roads and highways. Created by ISTEA legislation in 1991 and extended by SAFETEA-LU, the Transportation Enhancement (TE) program focuses on the cultural, natural and scenic elements of the statewide transportation network. Through the TE program, governmental agencies (state and local), public universities, and authorities created via the General Assembly may apply for federal funds to implement projects that fall within the eligible criteria.

TE projects may fit into one or more of the following categories:

- multi-use facilities, such as biking/pedestrian trails or paths
- safety and educational activities for pedestrians and cyclists
- historic preservation, such as railroad depots and abandoned rail corridors
- transportation aesthetics, such as streetscape, landscaping and scenic beautification projects
- acquiring scenic easements
- control and removal of outdoor advertising
- archaeological planning and research
- environmental mitigation
- transportation museums



Douglas Streetscape

The TE program implemented its first ever Web-based application process for the fiscal year '06 - '07 TE call for projects. Through the innovative partnership of Georgia DOT's IT Department and the Office of Planning, Georgians in all 13 Congressional districts were able to electronically submit their applications for consideration of TE funding. The call for TE projects extended from July to September 23, 2005 and 275 applications were received statewide. Of these, 152 were selected for funding.



Brunswick TE Projects: the images above show the Waterfront Farmers Market, Waterfront longview and Waterfront sidewalk

Georgia Scenic Byways Program

The Georgia Scenic Byways Program is a grassroots effort to preserve, promote, protect and interpret treasured corridors throughout the state. A Georgia Scenic Byway is defined as any designated highway, street, road or route which features certain intrinsic qualities that should be protected or enhanced. Scenic, natural, recreational, historical, cultural, or archeological qualities give each byway its character and appeal. There are currently nine scenic byways in Georgia that give travelers extraordinary views of their surroundings.



Designation

To obtain designation, a local sponsor must complete a multi-stage process of identifying a route, submitting an application, developing a Corridor Management Plan and receiving approval by the Georgia DOT. The application defines the route, acknowledges local support of the byway and assesses the intrinsic qualities and potential issues of the route.



Red Oak Creek Bridge in Meriwether County

The Corridor Management Plan (CMP), with significant public involvement, documents the vision for the byway and future steps to be taken to achieve the goals of promotion, preservation and enhancement.

Ninth Scenic Byway

The State Transportation Board designated the **Ocmulgee-Piedmont Scenic Byway** in Jones County as Georgia's ninth Scenic Byway at its December 2006 Board meeting. Visitors to this byway will observe vestiges of 200 years of Jones County history as well as pre-historic and historic sites of the Creek Indians who lived there in the 17th and 18th centuries. Civil War battle sites, the Piedmont National Wildlife Refuge, and the setting for the 1991 film *Fried Green Tomatoes* are some of the many attractions featured on this corridor.



For more information about Scenic Byways, please visit the Web site:
http://www.dot.state.ga.us/DOT/plan-prog/planning/projects/scenic_byways/index.shtml

Scenic Byways

Altamaha: 17 miles
Cohutta-Chattahoochee: 54 miles
Historic Piedmont: 82 miles
Meriwether-Pike: 55 miles
Monticello Crossroads: 29 miles
Ocmulgee-Piedmont: 21 miles
Ridge and Valley: 51 miles
Russell-Brasstown: 41 miles
South Fulton: 29 miles
The total mileage for the 9 scenic byways is 379



Wildflower Program

This year, Georgia DOT's Office of Maintenance planted approximately 400 acres of wildflowers. Of total wildflowers planted, 350 acres were planted using funds from the Wildflower Auto Tag, which is the only guaranteed source of revenue for the Wildflower Program.



Purple Coneflower

The Maintenance office performs ongoing research of Georgia native species and updates conservation techniques to keep our wildflowers blooming on the roadsides each year.

The wildflower mixture includes:

- Indian Blanket (*Gaillardia pulchella*)
- Lemon Mint (*Monarda citriodora*)
- Black-eyed Susan (*Rudbeckia hirta*)
- Claspig Coneflower (*Rudbeckia amplexicaulis*)
- Purple Coneflower (*Echinacea purpurea*)
- Golden-Wave (*Coreopsis basalis*)

Program Maintenance

The Wildflower Program experienced phenomenal growth as public awareness efforts had a direct influence on increased Wildflower tag sales.

Helpful information about the Wild-flower Program is included on the Georgia Department of Transportation Website. The site even provides growing tips that encourage Georgians to cultivate their own wildflower gardens!



Lanceleaf Coreopsis planted along I-285 in District 7

Program Promotion

Georgia DOT employees also expanded the Program's reach as a proud participant in the 2005 Southeastern Flower Show. The Department's participation in the Flower Show provided a platform to share information about cultivating wild-flowers and to further increase the public's education of the Wildflower Program. The Flower Show also featured a "roadside garden" developed by Department employees for patrons to view in the event's Discovery Zone.



Black-eyed Susan

Ongoing Stewardship

For a one-time fee of \$25, Georgians may purchase the Wildflower Auto Tag and provide critical funding to sustain the Program. The auto tag can be purchased any time at local county tag offices. For more information, visit www.dot.state.ga.us or <http://www.etax.dor.ga.gov>





NaviGator, Georgia's Intelligent Transportation System (ITS), is a joint venture between the Georgia Department of Transportation, Federal Highway Administration (FHWA), Metropolitan Atlanta Rapid Transit Authority (MARTA) and Atlanta Regional Commission.



Transportation Management Center

Launched in 1996 in time for the Summer Olympic Games, NaviGator integrates state-of-the-art technology, information processing and communication to make Georgia's roadways safer and easier to travel. Housed at the Transportation Management Center (TMC) in Atlanta, NaviGator's operators monitor traffic cameras, answer calls from 911 Centers for assistance, and dispatch emergency responders. Customer Service Representatives respond to calls from the general public, who report incidents and road hazards. Together, the team works to confirm incidents, verify construction projects, and communicate this information to the public in real time.

NaviGator Technology

- 367 full-color, pan-tilt-zoom, closed-circuit (CCTV) cameras confirm and monitor traffic incidents on state routes and interstates. They are spaced every one mile.
- 207 arterial CCTV cameras are operated by area Traffic Control Centers (TCCs).
- 1,361 Video Detection System (VDS), fixed-position, black and white, cameras, provide continuous speed and volume data to the TMC and generate travel times for Changeable Message Signs (CMS). They are spaced every one-third mile.
- 101 Changeable Message Signs (CMS) display trip times, incident information, air quality, child abduction and highway safety messages.



CCTV and VDS Cameras

- 48 Weather Stations statewide provide current weather conditions to the TMC and the public. They are used to aid in dispatch of emergency crews during severe weather.
- Ramp Meters are placed at key access points on metro-area interstates. Similar to a traffic signal, they allow one motorist at a time to merge onto an interstate. Ramp Meters reduce interstate congestion by 22 percent.
- Remote Traffic Microwave Sensors (RTMS), also known as Radar Vehicle Detectors, use real-time video to detect and verify road congestion and traffic incidents. RTMS are found on SR 141 and SR 166.



Weather Monitoring Station

Web Site

The NaviGAtor Web site, www.georgia-navigator.com, features live traffic cameras, trip times, weather, news and travel alerts, and color-coded metro, regional, and statewide maps displaying congestion levels, traffic incidents, and active construction. It also features MyNaviGAtor, a free service that provides subscribers with customized traffic information for their own routes. Users can log onto www.myganav.com, create personalized travel profiles, and get real-time information sent directly to their cell phones, computers, or PDAs.



TICKERAlert: Community Alert Networks

TICKERAlert is a community alert network of LCD billboards that supports the national emergency response initiatives as an early warning alert network. Its innovative news and marketing system provides timely, custom broadcasts to the public. While offering effective news services, TICKERAlert gives immediate notification in the event of a child abduction, homeland security alert or similar emergency.

NaviGAtor's TICKERAlert network is located throughout the state in the rest areas and welcome centers in Atlanta, Macon, Savannah, Augusta, Columbus, Valdosta, West Point, Tallapoosa, Ringgold, Lavonia and Kingsland. For more information, go to www.tickeralert.com.

EMnet

EMnet is a secure, satellite-based messaging system designed for the emergency management community. Messages are transmitted to our EMnet server via an Internet connection, and then are delivered to the intended stations by satellite broadcast. User-friendly EMnet provides a platform for composing, sending, receiving and broadcasting Emergency Alert System (EAS) messages in order to:

- Issue and monitor Amber Alerts and weather alerts.
- Monitor EAS messages issued by National Weather Service and others.
- Provide a single, efficient interface for inbound hazard notices and outbound warning systems.

The TMC currently utilizes EMnet computer software, designed to give information about major emergency events throughout the state of Georgia. For more information about EMnet, go to <http://www.comlabs.com/products.php>

Coastal Evacuation System

This is a traffic management, data collection and traveler information system installed on evacuation routes along Georgia's Coastal Region for the purpose of improving traffic flow and providing real-time information during an evacuation due to such events as a hurricane. The Coastal Evacuation System consists of data collection devices, changeable message signs and surveillance cameras.

Accident Investigation Sites (AIS)

Accident Investigation Sites (AIS) are 100-foot long shoulder extensions that provide a safe area for motorists involved in accidents to exchange information away from the danger of on-coming traffic. Approximately 51 AISs have been constructed along I-20, I-75, I-85 and I-285.

Get real-time traffic information or report a road hazard 24 hours a day, 7 days a week

- *DOT (368) is available for Cingular, T-Mobile, Sprint and Verizon wireless customers who see or are involved in an accident or traffic congestion.
- 404-635-6800 - landline and other wireless carriers
- 1-888-635-8287 - toll-free



Highway Emergency Response Operators (HERO)

- Assist in reducing traffic congestion and delays
- Provide support to law enforcement, first responders, and other emergency management agencies
- Patrol 21 routes on 220 miles of metro Atlanta interstates 7 days a week
- Operate on three shifts from 5 a.m. Monday until 5:30 a.m. Saturday
- One shift of HEROs patrol routes Saturday and Sunday from 9:30 a.m. - 9:30 p.m.
- Shift supervisors and managers are on call 24 hours a day, 7 days a week
- Trained as first responders
 - 360 hours in class and 200 hours on the road



When not responding to traffic incidents, HEROs assist stranded motorists by providing such services as: changing flat tires, jump-starting weak batteries, providing fuel or coolant, transporting motorists to safe areas away from traffic, providing road and travel information, offering use of a courtesy cellular phone, administering first aid, and performing minor mechanical repairs.



HERO Unit Facts (2005)

Total HERO Unit Personnel: 78

Total Vehicles in Fleet: 62

- 59 Ford F-450 Incident Response vehicles
- 1 supply truck
- 2 Blazers (Management vehicles)

Total Assists/Accidents Worked: 63,457 for 2005

Average Response Time: 8 minutes

TIME Task Force

The Traffic Incident Management Enhancement (TIME) Task Force was formed in 2002 to address the critical issues related to incident management in the Metro Atlanta region. Its members represent incident response teams from transportation agencies, fire and rescue, police, towing and recovery, emergency medical services and medical examiners/coroners.

Mission: *Develop and sustain a region-wide incident management program to facilitate the safest and fastest roadway clearance, lessening the impact on emergency responders and the motoring public.*

TIME holds general meetings on a quarterly basis to distribute information on training and workshops, present updates on incident management initiatives and provide its members opportunities to network and share resources. Each autumn, TIME facilitates an annual two-day conference for first responder organizations to exchange ideas on incident management and discuss opportunities for improvement. Nationally-recognized experts share their "best practices" from jurisdictions all over the country.



The TIME Task Force is led by a Board of Directors and four committees:

Operations Committee: focus is on how to address the standardization of response and clearance as well as the institutional and jurisdictional barriers that reduce the efficiency of incident management.

Communications Committee: focus is to coordinate timely and open communication, internally between transportation and public safety agencies and externally with the public and media.

Program and Institutional Issues: focus is on issues that can be addressed by policy changes and institutional coordination.

After-Incident-Review (AIR) Subcommittee: AIR is responsible for debriefing incidents in the Metro Atlanta region by meeting with primary responders to obtain incident overviews, determine expectations, note strengths and weaknesses, and share information.

Annual Conference Planning: responsible for the planning and oversight of the annual TIME Conference.

The TIME Purpose

1. To continue the dialogue on ways to improve inter-agency coordination and cooperation.
2. To create an opportunity for multi-agency training which promotes teamwork.
3. To serve as a platform for participants to develop common operational strategies.

For more information about the TIME Task Force, see our Web site at www.timetaskforce.com or call 404-635-8035.

Bicycle and Pedestrian Program

The Department of Transportation is committed to improving bicycle and pedestrian access and safety. Through its Bicycle and Pedestrian Program, Georgia DOT is implementing the recommendations from the 1997 Georgia Bicycle and Pedestrian Plan, and will be updating this plan in the coming year. The Department also sponsored and facilitated the development of 15 regional bicycle and pedestrian plans in conjunction with the Regional Development Centers. For more information, visit www.dot.state.ga.us/bikeped/.



Examples of Georgia DOT's bicycle and pedestrian initiatives:

Georgia Guidebook for Pedestrian Planning

Completed in June 2006, the Guide assists local governments, regional agencies, and other public and private entities in developing and implementing pedestrian plans. The book details strategies for evaluating, prioritizing, and funding pedestrian facilities.



Georgia Bike Sense: A Guide for Cyclists and Motorists

Published in March 2005, the Guide teaches cyclists and motorists how to safely and legally share the road. It provides tips on safety and techniques, rules of the road and also contains a listing of local, state and national bicycle resources. So far, 200,000 copies of this popular Guide have been distributed to schools and colleges, welcome centers, Department of Driver Services locations and many more sites throughout Georgia.

Pedestrian and Streetscape Guide

This manual provides direction to design professionals, planners, developers, municipalities and others on the design, construction, and maintenance of pedestrian facilities. The Guide is also used by Georgia DOT's design engineers when designing pedestrian facilities on state highways.



Georgia Bicycle & Pedestrian Conference

Georgia DOT hosted its first statewide bicycle and pedestrian conference in October 2006 in Decatur, Georgia. The conference provided a valuable opportunity to bring together professionals from diverse disciplines working toward a common goal: improving bicycle and pedestrian access and safety throughout the state and making Georgia a healthier, more sustainable place to live. The conference was attended by 160 planning, engineering and public health professionals, law enforcement officers, local government officials, students and non-profit organizations from all over the state, including a few from neighboring states.



Metro Atlanta Safe Routes to School Demonstration Project

The Atlanta Bicycle Campaign, under contract with Georgia DOT, is conducting a Safe Routes to School (SRTS) program in four metro-Atlanta schools. This

four-year pilot program (currently in its last year) will produce a final report on the effectiveness of SRTS programs, as well as a statewide "how to" manual on developing SRTS programs. The "how to" guide will be instrumental in preparing schools for the new federally-funded Georgia Safe Routes to School program.



Safe Routes to School Program

Safe Routes to School (SRTS) is a new program created by the federal transportation bill, SAFETEA-LU. The Program's goal is to increase the number of children in grades K-8 who bicycle and walk to school. The Program's enabling legislation guides how this will be implemented: 1) by increasing awareness; 2) developing locally-driven and supported programs; 3) improving bicycling and walking conditions near the qualifying schools; and 4) evaluating at the project and Program levels. Benefits of the Program include: reduced congestion and increased safety near participating schools; reduced air pollution in route to and near participating schools; and increased physical activity of children.



Safe Routes to School is a comprehensive program that includes the 5 E's:

The 5 E's include:

- 1) **Evaluation** - Monitoring and researching outcomes and trends through the collection of data, including the collection of mode share before and after the program intervention(s).
- 2) **Encouragement** - Using events and activities to promote walking and bicycling.
- 3) **Education** - Teaching the school community about the broad range of transportation choices, instructing them in important life-long safety skills and offering school-bound and school area driver safety campaigns.
- 4) **Engineering** - Creating operational and physical improvements to the infrastructure surrounding schools that reduce speeds and establishing safer crosswalks, walkways, trails and bikeways.
- 5) **Enforcement** - Partnering with local law enforcement to ensure drivers obey traffic laws, initiating community enforcement such as crossing guard programs and ensuring that policies are enforced.



Summary of Georgia SRTS Program:

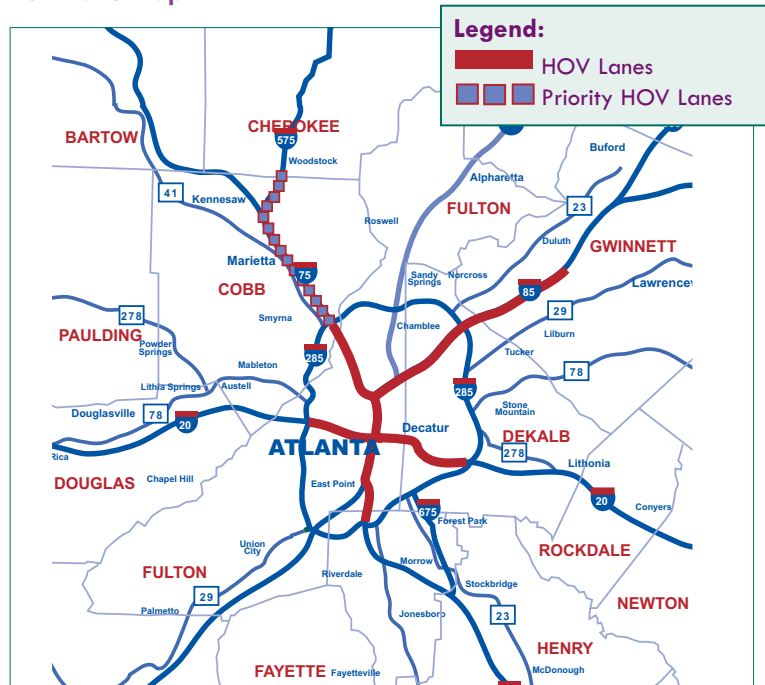
- Georgia \$1.00 Million (FY05), \$2.7 Million (FY06), \$3.0 Million (FY07), \$4.5 Million (FY08), \$5.6 Million (FY09)
- SRTS projects will be federally-funded at 100 percent, based on the approved application
- Eligible applicants: state, local, and regional agencies, including nonprofits and public schools
- Primary beneficiaries must be K-8 grade students
- Infrastructure projects must be within two miles of a school and on public property or private land with legal public-access
- Competitive application process administered by Georgia DOT.
- Award recipient must comply with stringent federal and state funding requirements

High Occupancy Vehicle (HOV)

HOV lanes decrease driving times, reduce stress and improve the region's air quality. How? The system is designated for carpools, vanpools, and transit buses — all ways of travel that reduce single-occupant vehicles on our busy roads.



HOV Lane Map



HOV Occupancy Requirements

- Two or more occupants per vehicle
- Certified Alternative Fuel Vehicles (AFV), such as electrically-powered cars and compressed natural gas (CNG) vehicles
- Motorcycles
- Emergency vehicles
- Buses

Hours of Operation

HOV lanes on I-75, I-85 and I-20 are all operated 24 hours a day, seven days a week.

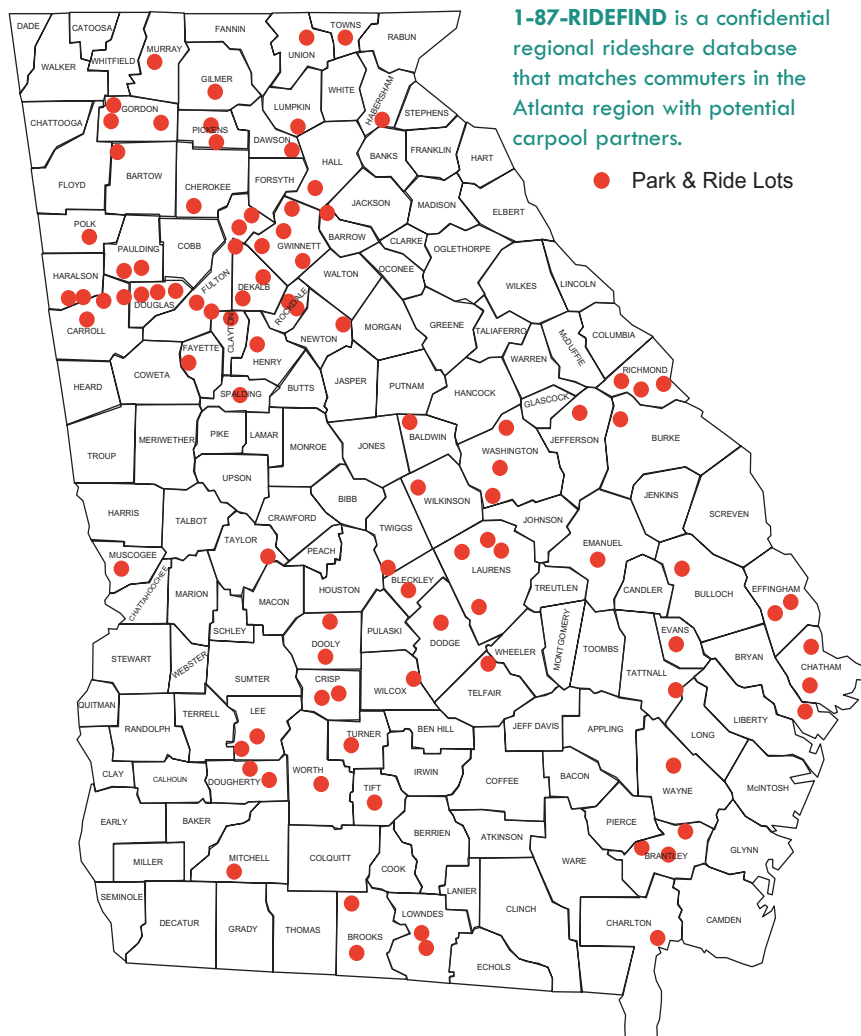
For more information on HOV lanes, visit the Georgia DOT Web site at: www.dot.state.ga.us/specialsubjects/hov/index.shtml

Rideshare Program

The Georgia Rideshare Program offers residents a safe and convenient way to commute through the operation of carpools, vanpools and Park & Ride lots.

2005 Park & Ride Facts

Active Park & Ride Lots	96
Available Spaces	8,454
Percent Statewide Usage	28 percent
Avg. Daily Number of Spaces Used	2,326



Public Transit

2005 Rural Transit Facts

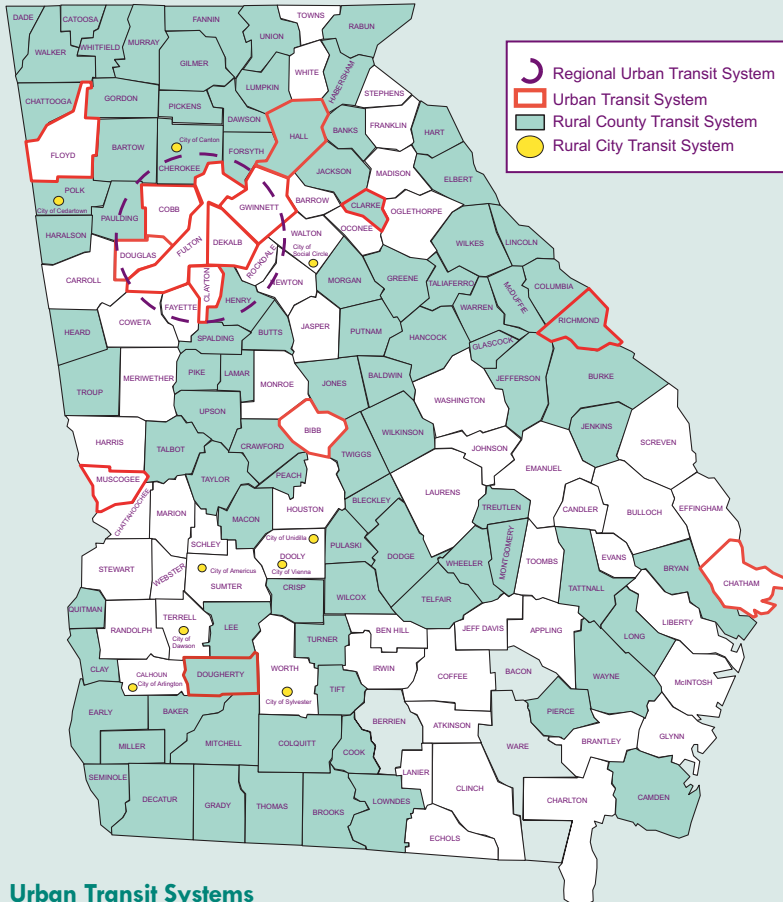
Number of Rural Transit Programs:	99
Total Revenue Vehicles:	355
ADA Compliant	181
Revenue Vehicle Miles:	9,526,913
Number of Passenger Trips:	1,612,520



2005 Urban Transit Facts

Urban Transit Systems (statewide):	14
Total Revenue Vehicles:	1037 buses & 338 rail cars
Revenue Vehicle Miles:	62,354,992
Number of Passenger Trips:	158,638,939

Urban and Rural Transit Map



Urban Transit Systems

1. Albany Transit System (ATS)
2. Athens Transit System (ATS)
3. Augusta Public Transit (APT)
4. Chatham Area Transit Authority (CAT)
5. Clayton County Transit (C-TRAN)
6. Cobb Community Transit (CCT)
7. Columbus Transit System (METRA)
8. County Rideshare*
9. Gwinnett County Transit (GCT)
10. Georgia Regional
11. Transportation Authority (GRTA)**
12. Hall Area Transit
13. Macon-Bibb County Transit Authority (MBTA)
14. Metropolitan Atlanta Rapid Transit Authority (MARTA)
15. Rome Transit Department (RTD)

* Vanpool services provided
 ** Express Bus Service Only

Rural City Transit Systems

1. Cedartown
2. Social Circle
3. Unadilla
4. Vienna
5. Americus
6. Canton

Georgia Rail System

The Georgia Railroad System consists of over 5,000 route miles.

Freight Rail

The leading rail freight commodities originating and terminating in Georgia are: coal, wood products, and non-metallic minerals.

Two major freight railroad companies, CSX Transportation and the Norfolk Southern Corp., own and operate 71 percent of the total state system.

- CSX operates 1,626 miles of railroad in Georgia.
- Norfolk Southern operates 1,930 miles of railroad in Georgia.



Railroad Facts

Light Density lines

- 29 percent (1,455 miles) of the state's railroad system is operated by 23 independent or short line operators.
- Norfolk Southern has approximately 851 miles of light density lines and CSX has another 242 miles.
- Georgia's light density lines carry less than five million gross tons of freight per year and function as local-service operators, primarily in rural agricultural areas.

Corridor Preservation

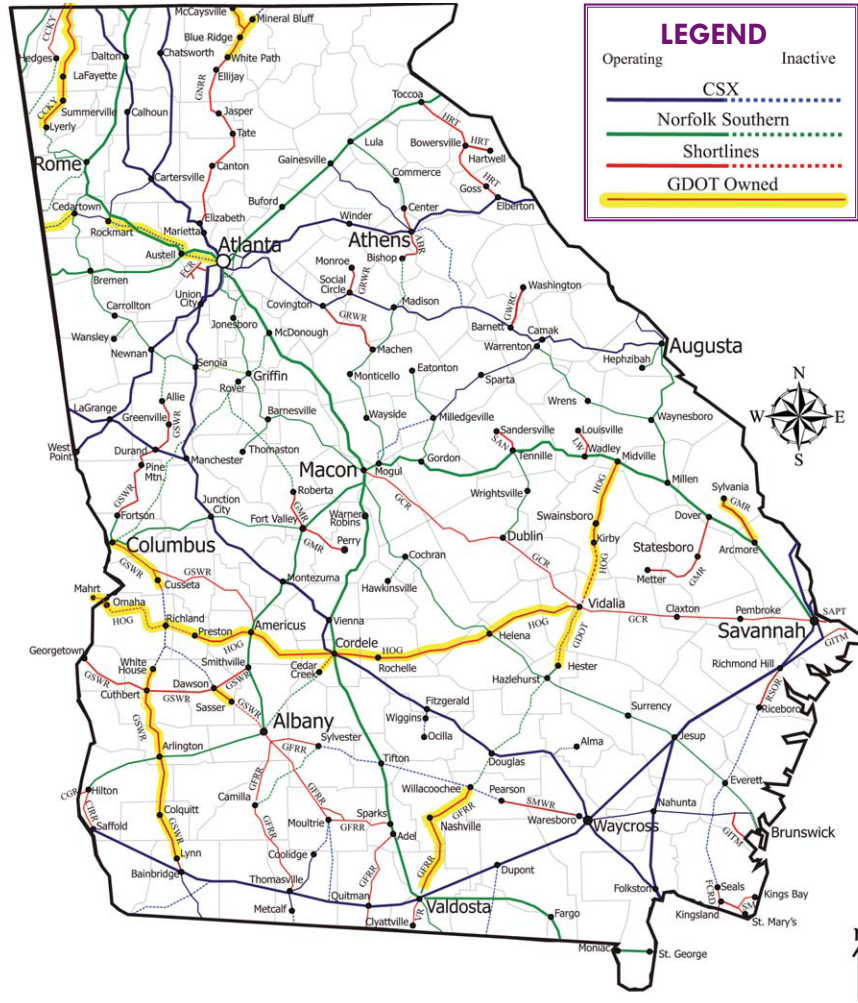
- Georgia DOT seeks to preserve and enhance rail freight access for the state's shippers through the strategic acquisition and rehabilitation of shortline trackage in danger of abandonment.
- Georgia DOT owns nearly 540 miles of light density line. Approximately 90 percent of this mileage is leased to a short-line operator. The remaining 10 percent is either leased to the Department of Natural Resources and used as a bicycle and pedestrian trail or is not leased and the rail line is inactive.



Mainlines

- 2,436 miles of the rail system are classified as "mainline track."
- Some Georgia main-lines transport more than 80 million gross tons per year, ranking them among the most heavily used in the country.

Georgia Rail Map



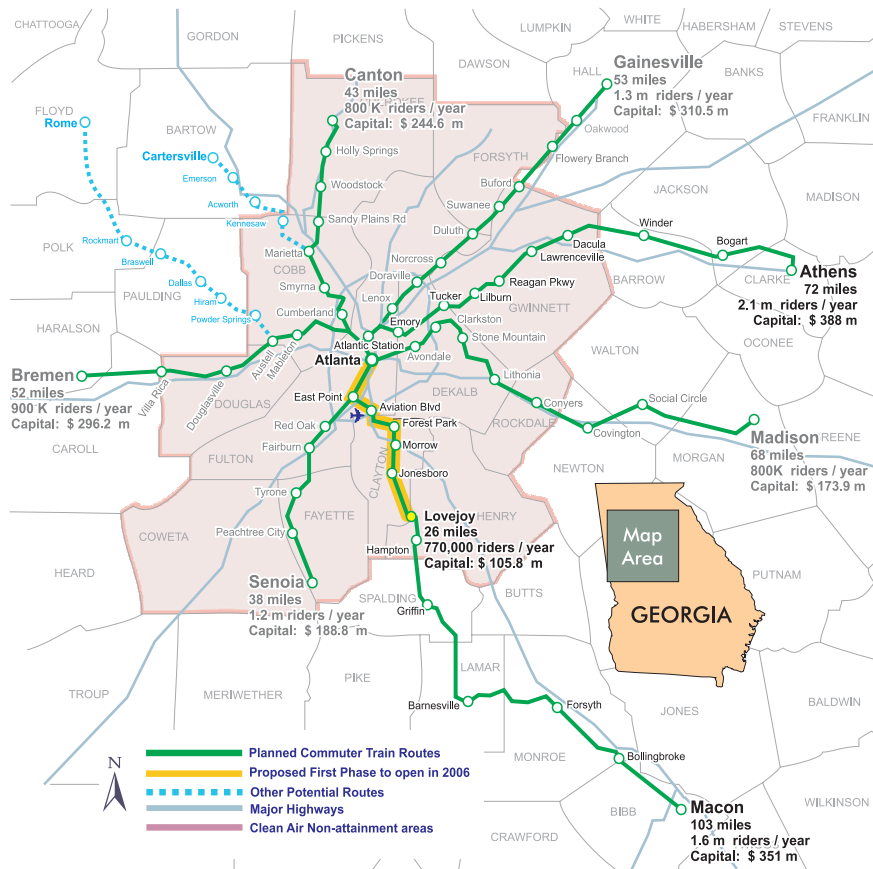
Shortline Railroad Name

ABR	The Athens Branch	GSWR	Georgia Southwestern
CBR	Chattahoochee Bay	GWRC	Georgia Woodlands
CIRR	Chattahoochee Industrial	GRWR	Great Walton Railroad
CCKY	Chattooga & Chickamauga	GITM	Golden Isles Terminal
FCRD	First Coast Railroad	HOG	Heart of Georgia
FCR	Fulton County Railway	HRT	Hartwell
GCR	Georgia Central	LW	Louisville & Wadley
GDOT	Georgia Dept. of Transportation	RSOR	Riceboro Southern
GFRR	Georgia & Florida Railway	SAN	Sandersville
GMR	Georgia Midlands	SAPT	Savannah Port Terminal
GNRR	Georgia Northeastern	SMWR	Saint Mary's West Railroad
		VR	Valdosta Railway

Commuter Rail

The Georgia Rail Passenger Program (GRPP) contains seven commuter rail lines, seven lines of intercity rail service as well as the Multi-Modal Passenger Terminal (MMPT). The state's seven commuter lines serve 55 communities. The intercity lines link nine of Georgia's largest cities and towns with the metro Atlanta/Macon area, as well as link two of the largest travel markets in adjoining states. Once the 425-mile system is complete, commuter trains will transport over 40,000 people to and from work every day. Intercity trains will run on over a thousand miles of Georgia's railroads, connecting communities all over the state.

Commuter Rail Service Map



Rail Passenger Program

This program involves two distinct kinds of rail transportation: **Commuter trains**, which will serve inbound commuters to work in the Atlanta area in the mornings and then home in the evenings, and **Intercity trains**, which will connect communities throughout Georgia and the Southeast.



AMTRAK at Buford, Georgia

Intercity Rail Passenger Service in Georgia is provided by the National Railroad Passenger Corporation, known commonly as "AMTRAK."

AMTRAK operates the following routes in Georgia:

- The **Crescent** operates daily between New York and New Orleans with stops in Atlanta, Gainesville, and Toccoa. This train offers coach and sleeping car accommodations, as well as full dining car and lounge car service.
- The **Silver Meteor** and the **Silver Star** operate daily between New York and points in Florida with stops in Savannah and Jesup. These trains offer coach and sleeping car accommodations, as well as full dining car and lounge car service.
- The **Palmetto** operates daily between New York and Savannah via Charleston, S.C. The train offers coach and business class accommodations along with lounge car service.



Silver Star in Folkston, Georgia

Proposed High-Speed Passenger Rail Service

Studies are continuing on developing High-Speed Passenger Rail Service on two corridors:

- Macon to Atlanta to Greenville, SC to Charlotte, NC
- Atlanta to Chattanooga

2005 Georgia Rail Passenger Ridership	
Station	Passengers
Atlanta	87,811
Gainesville	4,721
Toccoa	3,994
Savannah	39,332
Jesup	6,190
Totals	142,048

Proposed Intercity Passenger Rail Service

A two-tiered intercity passenger rail network has been proposed for the state of Georgia. Recommendations for implementation are as follow:

First Priority Corridors

- Atlanta to Macon via Griffin
- Savannah to Jacksonville via Jesup
- Macon or Savannah via either Vidalia or Eastman and Jesup
- Macon to Albany via Americus

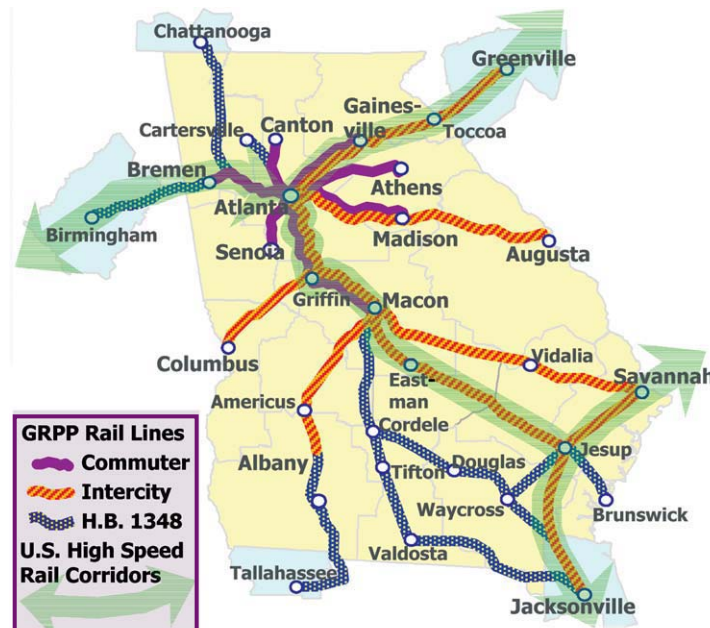
Second Priority Corridors

- Atlanta to Augusta via Madison
- Atlanta to Columbus via Griffin
- Atlanta to Greenville via Gainesville and Toccoa



Silver Meteor departs in Savannah

Georgia Rail Lines Map



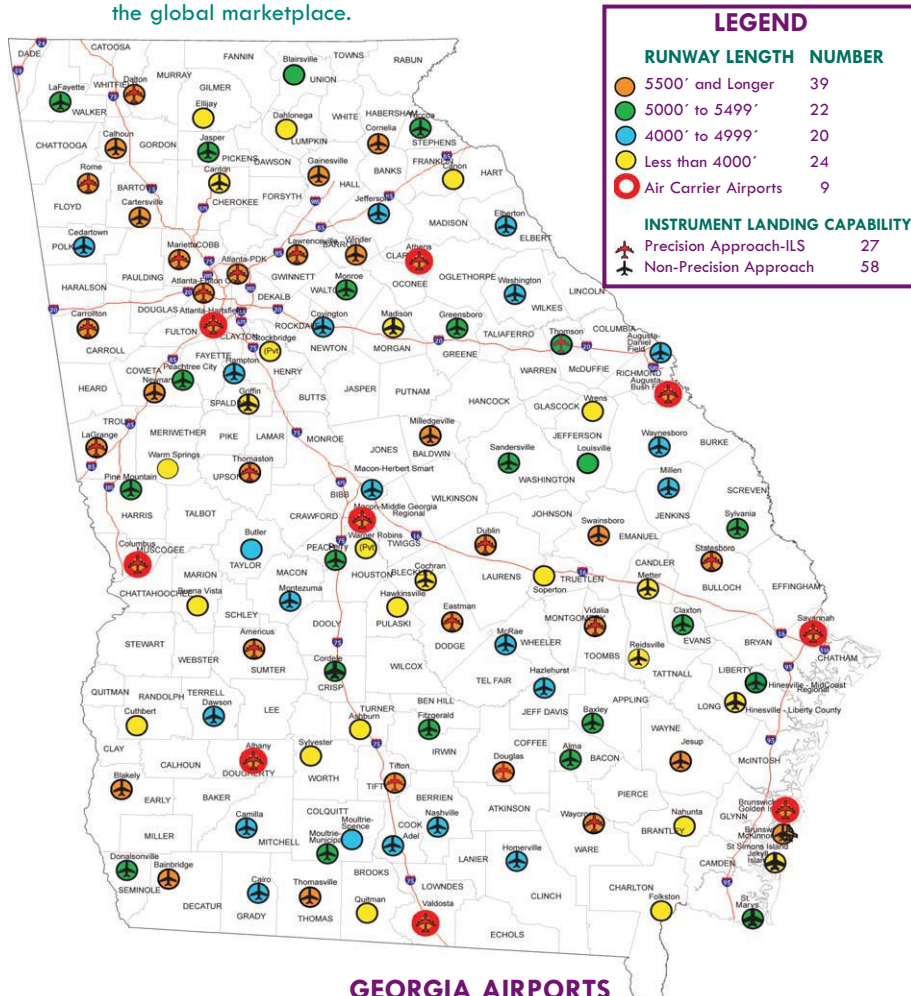
Estimated Track Route Mileage

Railroad Company	Miles
Class 1 Railroads	
Norfolk Southern	1,930
CSX Transportation	1,626
Shortline Railroads	
The Athens Branch (ABR)	19
Chattahoochee Bay (CBR)	2
Chattahoochee Industrial (CIRR)	16
Chattooga & Chickamauga (CCKY)	70
First Coast Railroad (FCRD)	8
Fulton County Railway (FCR)	25
Georgia Central (GCR)	173
Georgia & Florida Railway (GFRR)	232
Georgia Midlands (GMR)	78
Georgia Northeastern (GNRR)	100
Georgia Southwestern (GSWR)	270
Georgia Woodlands (GWRC)	17
Golden Isles Terminal (GITM)	16
Great Walton (GRWR)	36
Hartwell (HRT)	58
Heart of Georgia (HOG)	232
Louisville & Wadley (LW)	10
Riceboro Southern (RSOR)	19
Saint Mary's (SM)	18
Saint Mary's West Railroad (SMWR)	23
Sandersville (SAN)	13
Savannah Port Terminal (SAPT)	10
Valdosta Railway (VR)	10
TOTAL Railroad Mileage	5,011

For more information about Georgia's Rail Programs, visit
www.dot.state.ga.us/dot/plan-prog/intermodal/rail/

Georgia Airport System

Aviation Programs guides and directs the development of the state's system of airports in support of economic development and Georgia's participation in the global marketplace.



GEORGIA AIRPORTS

Total number of Landing Areas (Public and Private) 468

PUBLIC USE AIRPORTS

General Aviation and Air Carrier Airports 105

Publicly Owned and Open to the Public 103

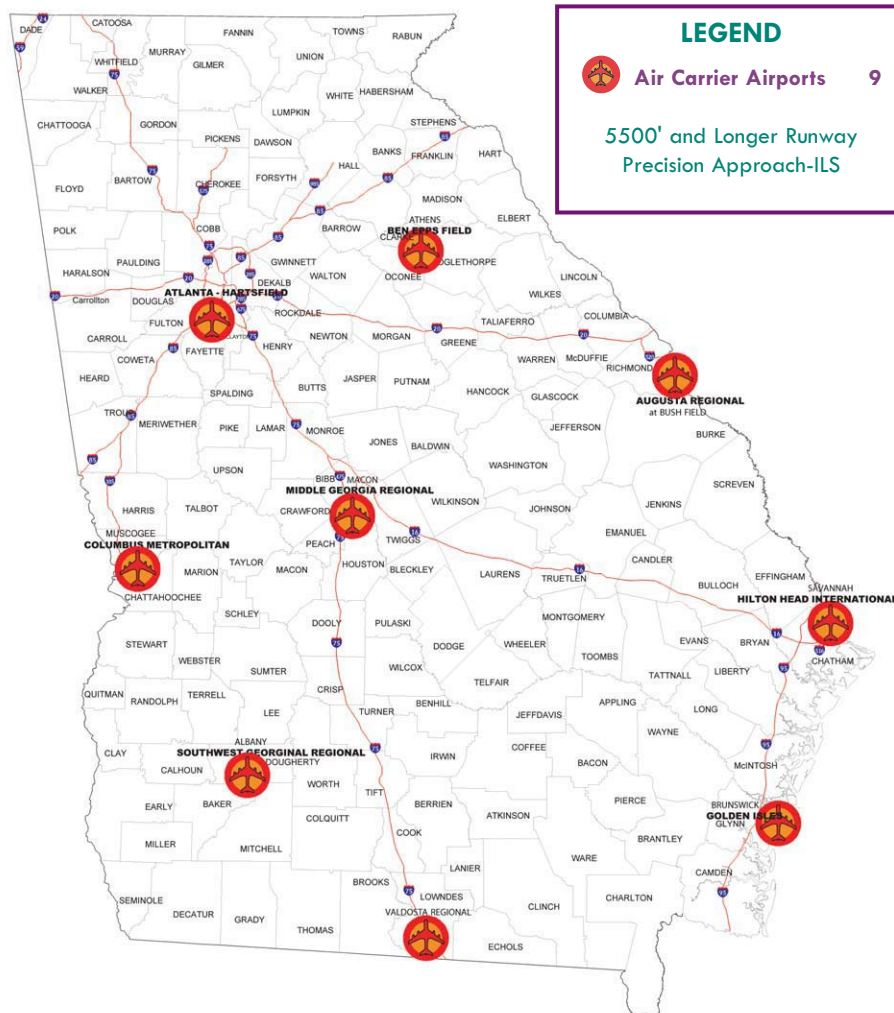
Privately Owned and Open to the Public 2

PRIVATE USE AIRPORTS/HELIPORTS

General Aviation Airports 243

Heliports 116

Airports Providing Scheduled Air Carrier Service



AIR CARRIER FACTS 2005

Number of Passengers	88.7 Million
International Airports (Atlanta and Savannah)	2
Number of Airport Employees	63,000+

Georgia Ports Authority (GPA)

The Port of Savannah and Port of Brunswick reported record gains in FY 06. For the first time in history, the Port of Savannah surpassed two million TEUs (Twenty-foot Equivalent Units) in FY06, an increase of 15.9 percent from the previous year. Total GPA intermodal rail lifts also rose 23.1 percent for the year, further increasing Georgia's reach into expanding markets.

Georgia's deepwater ports and inland barge terminals support more than 275,968 jobs throughout the state annually and contribute \$10.8 billion in income, \$35.4 billion in revenue and \$1.4 billion in state and local taxes to Georgia's bustling economy.

In FY06, business grew at a rate above 11 percent in Brunswick, to almost 2.6



Savannah shipping photo credit courtesy of the Georgia Department of Economic Development

million tons. More than 368,000 auto and machinery units were handled at Colonel's Island Terminal, a 13 percent increase over FY05. In a year when new car sales in this country grew at only .5 percent, Brunswick recorded its best year ever, expanding market share and improving service to valued customers.

Other GPA Highlights include:

- For the first time in history, GPA surpassed 20 million tons of cargo. Savannah alone handled 17.6 million tons of cargo, a 10.1 percent increase over the previous year.
- GPA experienced a 23.1 percent growth in intermodal traffic.
- Savannah currently has more direct services to and from Asia than any other port on the East Coast. Today, 36 shipping services call on the Port of Savannah.
- The completion of phase one of **Container Berth 8** (CB-8), part of the largest single container facility in the USA.
- The Port of Brunswick rose in its status as a major auto port from the position of 8th largest to 6th largest in the nation.

- An ambitious rail expansion program was approved that will increase rail capacity at the Port of Brunswick by 100%.
- Both Target and IKEA announced a total of four million additional square feet of distribution space at the Savannah International Trade Park, four miles from the Garden City Terminal at the Port of Savannah.

The number one priority for the Georgia Ports Authority, and one that is critical to the economic growth of Savannah, the State of Georgia and the entire nation, is the **Savannah Harbor Expansion Project**, or the SHEP. This harbor deepening project from 42 to 48 feet is not only critical to every industry along the river, but to the future vitality and staying power of our economy. After more than \$32 million and ten years of study, GPA is nearing completion of the study phase of this project.

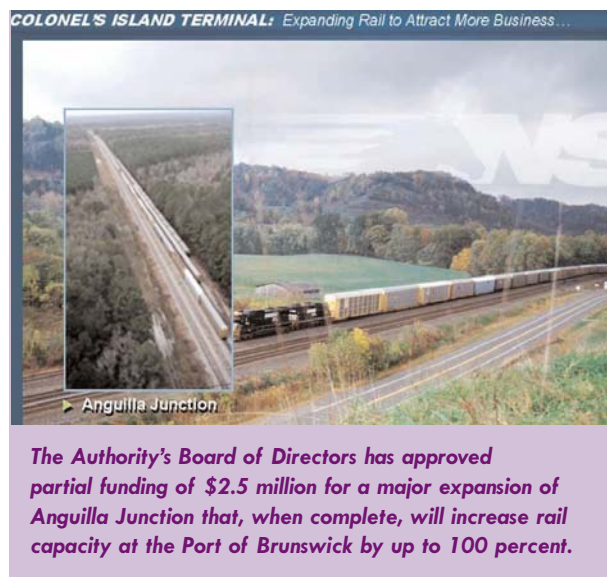
Future Plans

In the coming fiscal year, the GPA will invest more than \$70 million in four new Super Post

Panamax cranes, 15 new Rubber-Tired Gantry Cranes (RTGs), and other infrastructure upgrades on-terminal, such as the completion of an additional 30 acres of container storage behind Container Berth 8, terminal paving and overlay.

Examples of major capital projects for the Port of Brunswick in **2007** include a Grain Storage Tank, Southside Colonel's Island Development and Completion of North/South Colonel's Island Connector Road.

For updated information about Georgia's ports, visit www.gaports.com.



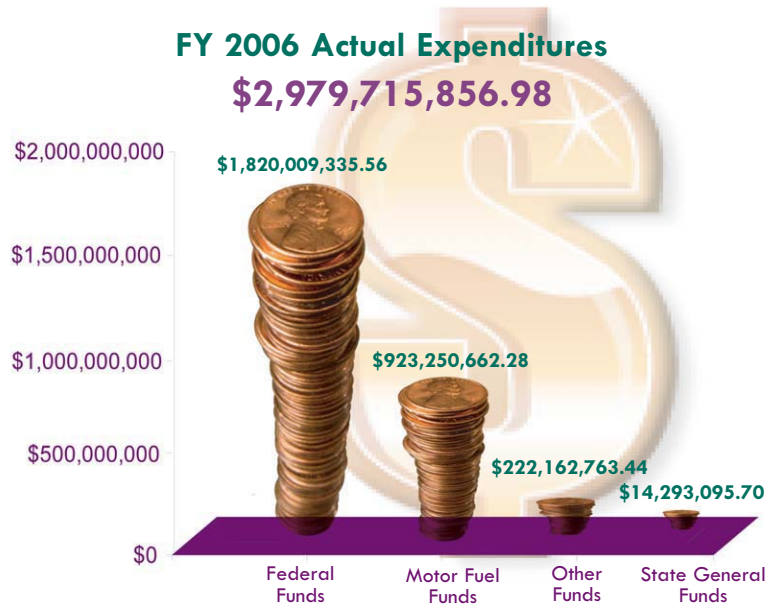
The Authority's Board of Directors has approved partial funding of \$2.5 million for a major expansion of Anguilla Junction that, when complete, will increase rail capacity at the Port of Brunswick by up to 100 percent.

SAFETEA-LU

Federal funding is a key component in financing state and local transportation improvement programs. The Safe, Accountable, Flexible, Efficient Equity Act: A Legacy for Users, referred to as **SAFETEA-LU**, was enacted by Congress in 2005 and provides guaranteed funding of \$286.5 billion for highways, highway safety and transit programs for FYs 2005-2009. Average annual federal highway funding to Georgia is projected to be 29 percent higher, or about \$285 million per year, compared to the previous reauthorization bill. However, Georgia highway users contribute a larger share of federal fuel tax revenue to finance the federal highway program than the share of funding the state receives from the federal highway programs. Thus, it is referred to as a "donor" state. Georgia highway users "donated" about \$1 billion to fund highway projects in other states during FYs 1998-2003. Georgia worked with other donor states to increase the minimum rate of return for formula highway funds relative to a state's share of contributions. As a result, the state's overall rate of return for highway funds is projected to increase from 85 percent under the previous bill to 88 percent under SAFETEA-LU. This contributed to the increased federal highway funding to the state under SAFETEA-LU. Average annual transit formula funding to Georgia for FYs 2006-2009 is projected to be 40 percent higher, or about \$42 million per year, compared to the last four years. Funding for highway safety programs such as encouraging the use of safety belts and child car seats, inspecting heavy trucks for safety and combating drunk and drugged driving will increase as well.

Funding from Selected Federal Highway Categories

Major Programs	FY 2003	FY 2004	FY 2005	FY 2006
Interstate Maintenance	\$281 Million	\$260 Million	\$252 Million	\$240 Million
National Highway System	\$185 Million	\$253 Million	\$235 Million	\$217 Million
Surface Transportation	\$253 Million	\$347 Million	\$336 Million	\$281 Million
Bridges	\$68 Million	\$92 Million	\$74 Million	\$70 Million
Congestion Mitigation and Air Quality	\$36 Million	\$49 Million	\$51 Million	\$48 Million
Summary	\$733 Million	\$1,001 Million	\$948 Million	\$900 Million



Georgia has several major sources for funding public-sector transportation programs.

1. Motor Fuel Tax Funds

Georgia collects a motor fuel tax of 7.5 cents per gallon on gasoline, diesel fuel, gasohol, liquid propane and any other substance sold as motor fuel. It also levies a retail motor fuel sales tax for transportation at a rate of 3 percent.

2. Federal Funds

The **Transportation Equity Act for the 21st Century (TEA-21)** authorizes funding for highway, highway safety, transit and other surface transportation programs for the next three years.

The **Federal Transit Authority** provides mass-transit grants that are used for actions such as buying buses and covering operating expenses for urban and rural public transportation.

Annual Operating Budget for FY2007	
Motor Fuel Tax	\$696,759,400
Federal Funds	\$1,176,511,379
State General Funds	\$17,272,062
Other Funds	\$9,457,265
Totals	\$1,850,000,106

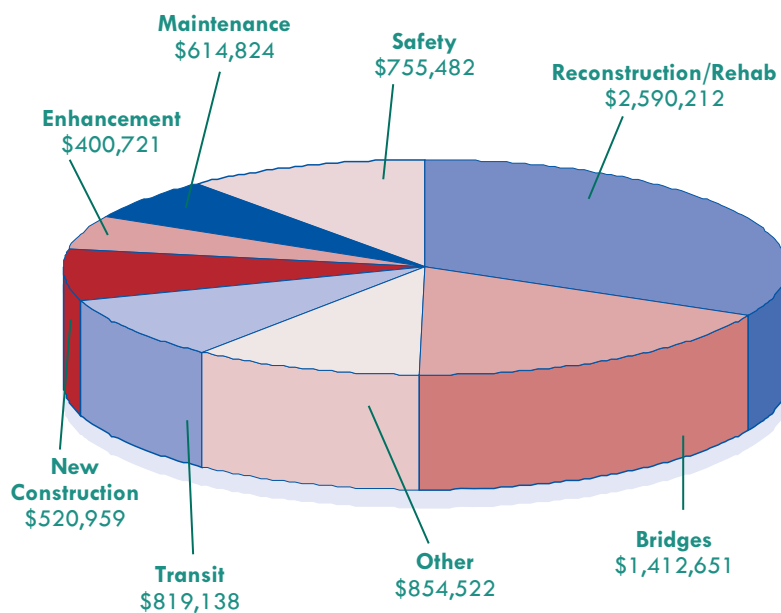
3. Georgia General Assembly

The **Georgia General Assembly** funds transportation programs from motor fuel tax and general funds or through the issuance of general obligation bonds. Projects funded by the Georgia General Assembly can include local roads, the Governor's Road Improvement Program (GRIP) and intermodal projects such as public transportation, rail, ports and aviation.

4. State Road and Tollway Authority

The **State Road & Tollway Authority** provides guaranteed revenue bond funding. These funds will be used to accelerate transportation needs in Georgia.

**STIP* Funds by Category for
2005-2007**



* Statewide Transportation Improvement Program

* Costs are in the thousands

**Total STIP Program Estimate
\$7.9 Billion**

GLOSSARY

Accident Investigation Sites (AIS)

Interstate shoulder extensions that provide safe areas for motorists involved in accidents to exchange information.

Alternative Mode

Transportation modes other than one person in a motorized private vehicle, such as transit, walking, bicycling or carpooling.

American Association of State Highway and Transportation Officials (AASHTO)

AASHTO serves member state departments of transportation, the U.S. DOT, and Congress by providing leadership, technical services, information and advice as well as by contributing to national policy on transportation issues.

Arterial

A major highway that is primarily for through traffic and usually on a continuous route; it serves major traffic movements while providing access to abutting land.

Bicycle Lane or Bike Lane

A portion of a roadway that has been designated by striping, signing and pavement markings for preferential or exclusive use of bicycles.

Categorical Exclusion

Examples of categorical exclusions are actions which, based on past experience with similar actions, do not do any of the following: induce significant impacts to planned growth or land use for the area; require the relocation of significant numbers of people; have a significant impact on any natural, cultural, recreational, historic or other resource; involve significant air, noise or water quality impacts; have significant impacts on travel patterns; or otherwise—either individually or cumulatively—have any significant environmental impacts.

Changeable Message Sign (CMS)

Used to advise drivers of traffic or roadway conditions ahead on I-20, I-75, I-85 and Georgia 400 and, in some cases, recommend alternate routes; the CMS also reduces driver frustration by providing advanced warning. A CMS is also referred to as a Variable Message Sign (VMS); also utilized for Amber Alerts and Levi Calls which aide in locating lost, missing or kidnapped individuals.



The Clean Air Campaign

The Clean Air Campaign is a non-profit organization that works to reduce traffic congestion and improve air quality through a variety of voluntary programs and services. It serves as a clearinghouse for a multitude of organizations that have programs in place to address traffic congestion and air pollution.



Commuter Rail

Conventional rail passenger service within a metropolitan area, usually operating over existing, inter-city railroad tracks; a diesel locomotive pulling three (or more) passenger coaches normally provides service primarily in the morning and afternoon home-to-work travel periods.

Conformity

The requirement that state or metropolitan transportation plans, programs and projects be consistent with the State Implementation Plan and attaining federal and state air quality standards. A conformity finding by the U.S. EPA is required as part of the federal review of Transportation Plans and Transportation Improvement Programs.

Congestion Management System (CMS)

A systematic process which provides information on transportation system performance and alternative strategies to alleviate congestion and enhance the mobility of persons and goods. A CMS includes methods and evaluates performance, identifies alternative actions, accesses and implements cost-effective actions.

Congestion Mitigation and Air Quality Improvement Program (CMAQ)

A special provision of the ISTEA that directs funds toward projects in Clean Air Act Non-Attainment areas for ozone and carbon monoxide.

Construction Work Program

A listing of all projects to be funded by/through the Department in a six-year time frame. The project may include Preliminary Engineering (PE), Right of Way (R/W), and/or Construction (CST) phases; most projects are roadway and bridge construction projects. However, the CWP includes other non-roadway projects as well (e.g., transit, bike and pedestrian, railroad crossings, etc.).

***DOT (*368)**

Free cellular phone service for motorists who see or are involved in an accident or traffic congestion. This phone number connects to the Traffic Management Center's operators, who can provide information on roadway incidents.

Daily Vehicle Miles Traveled (DVMT)

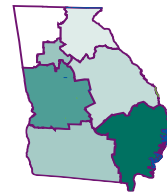
A daily average of the amount of miles a vehicle travels on Georgia's public roads.

Development of Regional Impact

Any development that, because of its character, magnitude or location, would have substantial effect on the health, safety or welfare of more than one county, city, town or other political subdivision.

District

A management region defined by the Georgia DOT; the Department's seven district offices throughout the state provide localized services.



Environmental Assessment (EA)

A document that assesses an action that is not a categorical exclusion and does not clearly require the preparation of an environmental impact statement (EIS); or where the Federal Highway Administration believes an environmental assessment would assist in determining the needs for an EIS.

Environmental Documents

Environmental impact reports and statements, negative declarations, initial studies and environmental assessments under CEQA and NEPA.

Environmental Impact Statement (EIS)

A detailed statement prepared under NEPA presenting studies and information needed to identify and assess the significant effects a project may have on the quality of the human environment.

Environmental Justice (EJ)

According to the EPA, it is the fair treatment of people of all races, income and culture with respect to the development, implementation and enforcement of environmental laws, regulations and policies. Fair treatment implies that no person or group of people should shoulder a disproportionate share of negative environmental impacts resulting from the execution of this country's domestic and foreign policy programs.

Environmental Protection Agency (EPA)

A federal agency charged with protecting the natural resources of the nation.

Environmental Protection Division (EPD)

A federal agency charged with protecting the natural environment.

Feasibility Study

A study about a project's feasibility that is summarized in a document; the study addresses issues including the project's cost, effectiveness, alternatives considered, analysis of alternative selection, environmental effects, public options and other factors. The Major Investment Study replaced the Feasibility Study for major projects involving federal funds under the ISTEA.

Final Environmental Impact Statement (FEIS)

An environmental document is prepared following the Draft Environmental Impact Statement (DEIS), which includes the results of the public involvement process and agency input of the DEIS; this document summarizes the substantive comments on social, economic, environmental and engineering issues made as a result of the public involvement process, and documents compliance with requirements of all applicable environmental laws, executive orders and other related requirements.

Flexible Funding

Authority given to the recipients of federal funds to carry out transportation projects and provide transportation services with minimal governmental restrictions; this can be applied to state and local funds.

Geographic Information System (GIS)

An organized collection of data that utilizes computer software and a hardware system to assemble, store, analyze and display geographically referenced information.

Georgia Rideshare Program

Transportation program that provides a safe and convenient way to commute to and from destinations through the operation of carpools, vanpools and Park & Ride lots.

Governor's Road Improvement Program (GRIP)

A system of four-lane highways that enhance economic development throughout the state. It was initiated in 1989 by a resolution of the state legislature and the Governor to connect 95 percent of our state's cities (with a population of 2,500 or more) to the Interstate System.

High-Occupancy Vehicle (HOV) Lane

Travel lanes designated only for vehicles carrying two or more occupants, motorcycles, alternative fuel vehicles and emergency vehicles travelling on I-20, I-75 and I-85 within the metro Atlanta area.



Highway Emergency Response Operators (HEROs)

Georgia DOT employees who are skilled at offering assistance to motorists with vehicle problems or individuals involved in accidents on Atlanta interstates.



Infrastructure

In transportation planning, all the relevant elements of the environment in which a transportation system operates; in transit systems, all the fixed components of the system such as rights-of-way, tracts, signal equipment, stations, park-and-ride lots, bus stops and maintenance facilities.

Intelligent Transportation Systems (ITS)

Initiatives by government and industry to improve safety, mobility, efficiency, productivity and environmental quality of transportation systems through the use of modern electronics and communications technologies.

Intermodal Management Systems (IMS)

A systematic process of identifying key linkages between one or more modes of transportation, where the performance or use of one mode will affect another, defining strategies for improving the effectiveness of these modal interactions, and evaluation and implementation of these strategies to enhance the overall performance of the transportation system.

Intermodal Surface Transportation Efficiency Act (ISTEA)

Surface transportation legislation created by Congress in 1991 to guide and fund the nation's transportation system. The law expired in 1997, but much of the program was carried forward by TEA-21.

Interstate

A freeway that is part of the Dwight D. Eisenhower National System of Interstate and Defense Highways (the Interstate System); a divided highway which can be accessed only by on and off ramps.

Local Assistance Road Program (LARP)

The Georgia resurfacing program designed to assist local governments in preserving their paved road systems.

Major Investment Study (MIS)

A study and resulting document that replaces Feasibility Studies under ISTEA for major improvement projects involving significant Federal funds. A MIS includes the study of factors that may justify a proposed project such as its cost effectiveness and overall effectiveness and incorporation or intermodal transportation. The MIS also requires consideration of other transportation modes as well as broader public and agency input.

National Environmental Policy Act (NEPA)

The national environmental law that establishes procedures for conducting an environmental analysis for a project involving federal action.

National Highway System (NHS)

A network consisting of the Interstates and other specifically designated routes which provide access to major intermodal facilities and to key military bases.

NaviGator

Georgia's integrated Intelligent Transportation System designated to minimize congestion of highways and improve traveler safety within the metro Atlanta area.

Non-attainment Areas

These are geographical areas, defined by the Environmental Protection Agency, whose air quality does not meet Federal air quality standards designed to protect public health.

Park & Ride

Transit access mode in which passengers drive or bicycle to a transit station, park in a specified area and ride the transit system from there to their destination.

Right-of-Way (ROW)

The land acquired for or devoted to transportation purposes; for example, highway ROW and railroad ROW.

SAFETEA-LU

The Safe, Accountable, Efficient, Transportation Equity Act- A Legacy for Users or SAFETEA-LU, is a bill that authorizes spending for a six-year reauthorization of the nation's surface transportation program.

Scenic Byway

Any designated highway, street, road or route which features certain intrinsic qualities that should be protected or enhanced.

Statewide Transportation Improvement Plan (STIP)

A list of federally funded, priority transportation projects proposed to be carried out in the first three years of adoption. The Office of Planning oversees the STIP public involvement process for the six rural Georgia DOT Districts.



Statewide Transportation Plan (SWTP)

An outline for meeting Transportation 2000 objectives over a 20-year period.

Surface Transportation Assistance Act of 1982 (STAA)

A highway program that designates national routes for oversized trucks to move freight throughout the state.

Surface Transportation Program (STP)

A block grant program that can be used for any roads that are not functionally classified as local or rural minor collector roads.

Transportation Control Centers (TCC)

Satellite transportation management facilities that are linked directly to the TMC, establishing a regional transportation management system.

Transportation Enhancements (TE)

A transportation enhancement project that uses funding from TEA-21 to enhance the public's transportation experience by concentrating on cultural, natural and scenic areas.

**Transportation Equity Act for the 21st Century (TEA-21)**

Legislation that provided \$198 billion in federal funding for highways, highway safety, transit and other transportation programs (1998-2003).

Transportation Control Centers (TCC)

Satellite transportation management facilities that are linked directly to the TMC, establishing a regional transportation management system.

Transportation Management Center (TMC)

The state-of-the-art facility — located in the Wayne Shackelford Building — that houses Georgia's NAVIGATOR system.

Unified Planning Work Program (UPWP)

Document required by the ISTEA that contains a description of all proposed transportation-related planning activities and air quality planning activities undertaken in a metropolitan region in a given year.

Urban Transit Service

Public transportation service located within an urban area that operates on a fixed schedule along designated routes.

Vehicle Miles Traveled (VMT)

The total number of miles traveled on all roadways by all vehicles; reducing VMT can help ease traffic congestion and improve air quality.

GEORGIA DOT's FAST FACTS



- The Department currently owns nearly 15,000 acres of wetland mitigation stream banks.
- Georgia consists of more than 18,000 state highway system miles, 1,245 interstate miles, 83,000 county road miles and 14,000 city street miles.
- There are 15,000 bridges in the state highway system.
- Georgia has 382 miles of Scenic Byways.
- Georgia boasts 3,000 miles of bicycle and pedestrian routes.
- 101 Changeable Message Signs on interstates 20, 75, 85, 285 and GA 400 alert motorists of traffic incidents and Levi's Calls.
- HERO Units assisted in more than 63,400 roadway incidents in 2005.
- 90 miles of HOV lanes on interstates 20, 75 and 85 operate 24 hours a day, 7 days a week
- 14 urban transit systems statewide made over 158.6 million passenger trips in 2005.
- 99 rural transit systems statewide made over 1.6 million passenger trips in 2005.
- 96 Park & Ride Lots statewide provide about 8,454 available spaces to commuters.
- 3,100 mainline rail track miles transport more than 80 million gross tons of freight per year.
- 4 ports – Savannah, Brunswick, Bainbridge and Columbus – generate \$35.4 billion in revenue.
- 20,800 acres of dredged material containment areas provided by Georgia DOT for harbor/waterway maintenance.
- 1.4 million square yards of pavement surround Georgia's 103 publicly-owned, public-use airports and their 3.25 million takeoffs and landings each year.
- Georgia collects a 7.5 cents-per-gallon Motor Fuel Tax and a 3 percent sales tax.

NOTES





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Road And Access Pitfalls When Handling Real Estate Transactions

Submitted by James A. Langlais

- Introduction
- Title Insurance
- Determining Legal Access By Deed Or Other
Public Records
- Conclusion

**NATIONAL BUSINESS INSTITUTE
ROAD AND ACCESS LAW: RESEARCHING AND RESOLVING COMMON
DISPUTES**

Atlanta, Georgia
July 17, 2007

**ROAD AND ACCESS PITFALLS
WHEN HANDLING REAL ESTATE TRANSACTIONS**

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I. Introduction

The importance of roads and legal access to rights-of-way to real estate practitioners and professionals cannot be overstated. The quality of ownership (e.g., value, marketability, etc.) of real property interests naturally depends upon the quality of the title acquired. Lack of access or disputes about access to a parcel can negatively affect the property’s title, which in turn can negatively affect a property’s marketability, insurability, and value, and can result in significant expenses for purchasers, developers and lenders. There are, however, a few practical steps that can be taken to avoid (or at least minimize) costly and time-consuming access issues or disputes, such as obtaining title insurance and carefully examining public (e.g., deeds) and non-public records.

II. Title Insurance

Title insurance is a policy that provides a measure of essential protection to an owner, lessee, mortgagee, or some other holder of an estate, lien,¹ or other interest in real property. The policy also provides protection against costs and expenses incurred in defending the insured estate or interest. Title policies generally insure the warranty of the title contained in the property deed and not the seller’s representations.²

¹ In Georgia, liens on a piece of property may include mortgages, construction or mechanic’s liens, judgment liens, unpaid taxes, unpaid municipal utilities (water and sewer), or past due support liens.

² White v. Lawyers Title Ins. Corp., 197 Ga. App. 780, 399 S.E.2d 526 (1990).

Typically, a standard title policy indemnifies against loss that may be sustained because of:

- title to the estate or other property interest described in the policy being vested other than as stated therein;
- a defect in or lien or encumbrance on the title; and
- unmarketability of the title.

Title policies will also usually typically cover losses and damages suffered if title to the property is unmarketable.³

Matters typically excluded from coverage include loss or damage, costs, attorneys' fees or expenses resulting from:

- surveying errors;⁴
- errors regarding existence of easements that affect marketability of title;⁵
- building and zoning laws, ordinances, or regulations restricting, regulating, prohibiting or relating to the occupancy, use, or enjoyment of the land, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at the effective date of the policy;
- eminent domain rights unless notice of the exercise thereof has been recorded in the public records at the effective date of the policy; and
- any defects, liens, encumbrances, adverse claims or other matters created, assumed or agreed to by the insured; or not known to the insurer, not recorded in the public records at the policy's effective date, but known to the insured and not disclosed in writing to the insurer by the insured claimant prior to the date the insured claimant became an insured under the policy.

Even the most comprehensive title search, however, cannot protect against all title defects and claims. The most common examples of these hidden risks are fraud, forgery, altered documents, incapacity of parties, and inadequate or lack of powers of agents or

³ A title is unmarketable if it would be unacceptable to a "reasonable purchaser exercising reasonable business prudence", who is informed of the facts creating or affecting it and their legal meaning, because it appears subject to material defect, grave doubt or to the likelihood of litigation. *See* Black's Law Dictionary (4th Ed. West Publishing Co. 1951).

⁴ U.S. Life Title Ins. Co. of Dallas v. Hutsell, 164 Ga. App. 443, 296 S.E.2d 760 (1982).

⁵ Green v. Sams, 209 Ga. App. 491, 433 S.E.2d 678 (1993).

fiduciaries.

In some cases, title to a property can also have technical issues related to access to the property (i.e., egress and ingress). While a survey and a diligent search of the public and non-public records should provide the information necessary to determine whether there is legal access to the property, it is prudent to obtain a title policy that protects against such loss. While many standard title policies provide coverage against loss for lack of access to the land, it is prudent to closely review the title policy to determine exactly what coverage is covered or excluded since in Georgia title policies are indemnity contracts and are subject to the same rules of construction as other insurance policies.⁶ Policy coverage extends *only* to the specific risks insured against.⁷ In other words, courts will only look to the four corners of the policy and will strictly construe the terms of the contract.⁸

In light of the importance of access to property, it is essential that title holders and title insurers alike understand what constitutes a legal right-of-way. For example, in *Chandler v. Robinson*, the Georgia Supreme Court held that even though the DOT's road map, and various closing documents, including surveys, indicated that a road ran across properties adjacent to a buyer's, the road was *not* a public road and the party seeking access was forced to look elsewhere for access.⁹

Before a title policy issues, the title insurance company conducts a title search,¹⁰ which typically involves an extensive search, examination and interpretation of relevant public records to determine possible rights, claims, liens or encumbrance that affect the property. Insurance agents from most title insurance companies are instructed not to issue a title policy if they are unable to determine that the insured property has a legal right of access. Alternatively, title insurers may take exception in their policy such that title is not insured against a lack of access. Should a private landowner subsequently have

⁶ *Chicago Title Ins. Co. v. Citizens and Southern Nat. Bank*, 821 F. Supp. 1492 (N.D. Ga. 1993), *aff'd*, 20 F.3d 1175 (11th Cir. 1994).

⁷ *Security Union Title Ins. Co. v. RC Acres, Inc.*, 269 Ga. App. 359, 604 S.E.2d 547 (2004), *cert. denied*, (Nov. 22, 2004).

⁸ *Lynburn Enterprises, Inc. v. Lawyers Title Ins. Corp.*, 191 Ga. App. 710, 382 S.E.2d 599 (1989); *U.S. Life Title Ins. Co. of Dallas v. Hutsell*, 164 Ga. App. 443, 296 S.E.2d 760 (1982); *Green v. Sams*, 209 Ga. App. 491, 433 S.E.2d 678 (1993); *Black v. Pioneer Nat. Title Ins. Co.*, 138 Ga. App. 138, 225 S.E.2d 689 (1976); *Security Union Title Ins. Co. v. RC Acres, Inc.*, 269 Ga. App. 359, 604 S.E.2d 547 (2004), *cert. denied*, (Nov. 22, 2004) (where an insured purchased property subject to a flowage easement, which was recorded and disclosed in a survey to which the deed referred for its legal description, the court ruled that the title policy did not cover the alleged loss from the easement because the policy excluded all preexisting encumbrances and the easement was reflected in the purchase price of the property).

⁹ *Chandler*, 269 Ga. at 883.

¹⁰ *Fidelity Nat. Title Ins. Co. v. Matrix Financial Services Corp.*, 255 Ga. App. 874, 567 S.E.2d 96 (2002).

to pursue rights to access property, he could be subject to great personal expense. If he has title insurance that covers situations where there is a lack of access, however, it will be the insurance company (in most instances) who bear the burden for such expense.

Moreover, while a standard title policy typically insures the policy holder against loss of legal right of access, it does not insure or guarantee the quality of the legal access.

III. Determining Legal Access by Deed or Other Public Records

The starting point for determining whether legal access exists is a title search of the real property deeds. Beginning with the most recent deed, a qualified professional should search the legal description of the property for a specific reference to a public road. A property owner has a legal right of access to land appurtenant to a public highway; whether the fee of the highway is owned by the public or owned by private ownership, but dedicated to the public. For example, a reference to a road in a legal description might be described in one or more of the following manners:

Northerly to the road to Pirates Bluff; thence westerly along said road;

or

Northerly to a point along the southern property line of Forest Glen Road; then easterly along said Forest Glen Road;

or

Lot 23 on a plot plan of land described and entitled as the "Glen Lakes Subdivision" recorded in the Simms County Registry of Deeds as Plot Plan No. 346 (with the plan specifically showing Lot 43 to be abutting a dedicated way).

A road may also be described in a legal description by exclusion. For example, the deed may include the following legal description"

[i]ncluding all with the above-mentioned bounds with the exception of a road traversing in a northerly direction through said parcel beginning at the northern property line of the adjacent property described and entitled as the "Glen Lakes Subdivision" recorded in the Simms County Registry of Deeds as Plot Plan No. 346 and ending at Scenic Road.

A road may also be described in a deed as an easement benefiting the parcel described in the deed which runs over and through the property of another to a public road. Therefore, it is critical that the specifically referenced easement be searched as a separate parcel of land to insure that the easement's description was not made in error or modified in any way. For example, an easement description may have been improperly given at its origin and later refined, or it may have been revoked or abandoned at one time and not carried

over into subsequent deed references or legal descriptions.

In instances where the deed makes *no* reference to a public road or an easement, one should look next to the plans of record identified in the deed for such references. Practically speaking, plans for recently built subdivisions will specifically describe and illustrate the access to each parcel created by the subdivision.

In other instances, the property in question may have access to a private road which then leads to a public road. The private road may not, however, be described or referenced in the deed, but instead may be part of the covenants for homeowner's association. Consequently, it is prudent to not only have the property deeds investigated and evaluated, but to also look at the plans and covenants associated with the property in question to determine whether legal access exists. Other possible sources of information potentially identifying property access include deeds of adjacent property owners; declarations of taking; Department of Transportation records, plans or layouts; declarations of discontinuance by affected municipalities; public works department plans; surveys and records of municipal surveyors and engineers; U.S.G.S. maps

Furthermore, even when legal access is described in a deed, care must be taken to discern whether the road is public or private, or whether any restrictions or encumbrances exist in the record that limit access to that road in any way. Likewise, even though a deed may specifically refer to or describe legal access to a parcel and a public road, the mere reference or description does not automatically insure legal rights of access. It is critical to not only evaluate the easement owner's rights but also the ownership rights of the party purporting to grant the easement; a party cannot not give away what it does not own.

IV. Conclusion

Access disputes can have a significant effect on title to property. Without a legal right of access, the title is not deemed to be insurable or marketable. Even though the title history to a property may be sound, the fact that the property has no legal right of access renders it unmarketable and uninsurable. Moreover, the property value could suffer, leading to losses upon resale. Therefore, prior to any real estate transaction, to avoid costly and time-consuming mistakes, is it prudent that purchasers and lenders obtain sufficient title insurance, as well as determine whether legal access to the subject property exists through a diligent search of public and non-public records by a qualified real estate professional.

Common Road And Access Problems And Solutions

Submitted by A. McCampbell Gilson

- Disputes Between Private Landowners
- Impact Of Road And Access Disputes On Title
- Landlord/Owner Liability For Third Party Or Public Use Easements
- Overweight Vehicle Permits

COMMON ROAD AND ACCESS PROBLEMS AND SOLUTIONS

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and

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I. Disputes Between Private Landowners.

Some of the most common road and access problems are disputes between two or more private landowners about whether or not a neighboring landowner, or the public in general, has a legal right to use a particular road. The purpose of this section is to create a basic framework through which one can efficiently evaluate the issues and reach an effective solution.

The first question parties in a road or access dispute should ask themselves is, “Is the road a public road or a private road?”¹ If a party can prove that a road is public, while there may still be room for disagreement over issues, such as the width or length of the road, there can be very little dispute over whether or not parties may access the road and use it as a means of travel because no private property owner possesses rights to public roads to the exclusion of others.

Property can become public roads in three primary ways: (1) condemnation; (2) dedication; or (3) prescription. Although it is conceivable private landowners may dispute the public use of property that the State has condemned (e.g., because the property subject to condemnation was not adequately described in the petition), in most

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¹ In Georgia, the term ‘public road’ [refers to] a highway, road, street, avenue, toll road, tollway, drive, detour, or other way open to the public and intended or used for its enjoyment and for the passage of vehicles in any county or municipality of Georgia, including but not limited to . . . surface, shoulders, and sides; bridges; causeways; viaducts; ferries; overpasses; underpasses; railroad grade crossings; tunnels; signs, signals, markings, or other traffic control devices; buildings for public equipment and personnel used for or engaged in administration, construction, or maintenance of such ways or research pertaining thereto; wayside parks; parking facilities; drainage ditches; canals and culverts; rest areas; truck-weighting stations or check points; and scenic easements and easements of light, air, view, and access.” O.C.G.A. § 32-1-3(24).

cases, disputes between private parties will arise when parties disagree about whether private property has been converted to public property through either dedication or prescription. Accordingly, this section will focus on an analysis of dedication and prescription issues.

A. Is the road a public road?

1. Public roads through statutory or condemnation proceedings.

The State of Georgia's possesses general condemnation power allowing the State to permanently assert its dominion over any property within the State so long as it is for the public good.² Private landholders subject to condemnation receive "just and adequate" compensation for their property.³

By statute, the State also has the ability to accept dedications of land from public and private landowners in the form of donations, transfers, or devises of land, in the form of a fee interest or some lesser interest, so long as the land is suitable for public road purposes.⁴ In such cases, the State takes on the responsibility of recording such acquisitions in counties where the subject property is situated.⁵

When property is approved to become party of the State highway system, counties and municipalities have the duty to acquire the property.⁶ The county or municipality through which the road will pass is responsible for compensating the private landholder.⁷

Municipalities may also acquire and/or accept gifts of private property in furtherance of a municipal street system,⁸ as well as perform all acts which are necessary or incidental to the creation and maintenance of a municipal street system.⁹

2. Dedication of private property for use as a public road.

The concept of "dedicating" a piece of private property for the public's use as a road is defined as the "donation by the owner, either expressly or impliedly, and acceptance by the public of property for public road purposes, in accordance with statutory or common-law provisions."¹⁰ Private property owners often utilize this process because it can make for a mutually beneficial arrangement: by donating a small piece of property, the property owner creates a means by which the government can provide him access to the remaining portion of property; likewise, the government

² O.C.G.A. § 22-1-2.

³ O.C.G.A. § 22-1-5.

⁴ O.C.G.A. § 32-3-3(a).

⁵ *Id.*

⁶ O.C.G.A. § 32-4-90.

⁷ O.C.G.A. §§ 32-3-3(e), 32-5-25.

⁸ O.C.G.A. § 32-4-92(a)(3).

⁹ O.C.G.A. § 32-4-92 (b).

¹⁰ O.C.G.A. § 32-1-3(8).

acquires property through which is can provide a means for the entire community to travel efficiently.

The mechanism of dedication requires two elements – there must be (1) a dedication by the property owner, and (2) acceptance by the public. “Dedication” is defined as consent to the abandonment of the land for his personal use and devotion of the same to the public use.¹¹ “Acceptance” is simply the acceptance of the dedication by the proper public authorities, or by the general public.¹²

Both the dedication¹³ and the acceptance¹⁴ can be express or implied. As a result, there are ultimately four manners in which the “dedication” may occur: (1) express dedication/express acceptance; (2) express dedication/express acceptance; (3) implied dedication/express acceptance; and (4) implied dedication/implied acceptance.

As you might expect, these complications are not found in the letter of §32-1-3(8), but they can form the basis of significant disputes between private parties seeking access to roads, or in the alternative, protecting property from public invasion. Each form of dedication and acceptance can take on a life of its own, and requires individual examination.

a. Express dedication.

Express dedications simply require “[a] private landowner...setting [land] apart for public use.”¹⁵ Express dedications typically take the form of written deeds and grants from a private property owner to the State, a county, or a municipality. In these most common situations, private parties have little room to disagree about the validity of the public’s use of the property.

In rarer cases, though, courts find that while a private party did not execute a formal deed or grant to a public authority, the party still expressly intended to “set land apart for public use.” For example, courts presume that a property owner expressly dedicates land to the public for use as a road when the owner subdivides a tract of land and either records a plat showing lots with designated streets, or sells the lots with reference to such a map or plat that reflects the common use of a road.¹⁶ Likewise, when surveys or plats that conform to Georgia Code indicate the existence of public roads and

¹¹ *Cobb County v. Crew*, 267 Ga. 525, 527 (1997); *Postnieks v. Chick-fil-A, Inc.*, No. A07A0270, 2007 WL 1365406, at *3 (Ga. Ct. App. May 10, 2007); *Smith v. State*, 248 Ga. 154, 158 (1981); *Ross v. Hall County Bd. of Comm’rs*, 235 Ga. 309, 310 (1975); *Chandler v. Robinson*, 269 Ga. 881, 882 (1998); *R.G. Foster & Co. v. Fountain*, 216 Ga. 113, 123 (1960); *Dunaway v. Windsor*, 197 Ga. 705, 706 (1944); *Irwin County v. Owens*, 256 Ga. App. 359, 361 (2002).

¹² *Id.*

¹³ *Crew*, 267 Ga. at 527; *Chick-fil-A*, 2007 WL 1365406, at *3 (“There is no particular form of making a dedication. It may be done in writing, or by parol; or it may be inferred from the owner’s acts, or implied, in certain cases, from long use.”); *Ross*, 235 Ga. at 310.

¹⁴ *Crew*, 267 Ga. at 528; *Chick-fil-A*, 2007 WL 1365406, at *3; *Ross*, 235 Ga. at 310.

¹⁵ *Ross*, 235 Ga. at 310.

¹⁶ *Crew*, 267 Ga. at 527; *Bruce*, 248 Ga. at 159; *Ross*, 235 Ga. at 311; *Dunaway*, 197 Ga. at 709.

are filed with county commissioners, the maps serve as presumptive evidence of an express dedication to the public.¹⁷

Express dedications can also be oral, and can be proved by parol evidence.¹⁸ No written instrument is required, so long as there is evidence of an express intention to set property aside for public use.¹⁹

b. Implied dedication.

Examples of express dedication, including deeds, grants, maps, and even oral agreements, all exhibit instances of a property owner taking action for the purpose of communicating to others that he intends to dedicate his private property for public use. By contrast, implied dedications are inferred from the conduct of a property owner, and therefore require a heightened standard of scrutiny.

In Georgia, “[b]efore a dedication of property will be implied by conduct, it must be shown that a property owner’s acts clearly manifested an intention to dedicate the property for public use...the facts relied on must be such as to clearly indicate a purpose on the part of the owner to abandon his personal dominion over the property and to devote it to a definite public use.”²⁰ The dedication of land must be proved by “proof of unequivocal and unambiguous words or acts of such owner...not an intention hidden in the mind of the land-owner, but an intention manifested by his acts. It is the intention which finds expression in conduct, and not that which is secreted in the heart of the owner, that the law regards.”²¹

Ultimately, though, in order to determine whether a landowner’s conduct exhibits an implied dedication of use, courts do not look solely to the landowner’s conduct, but to the landowner’s reaction to the public’s enduring use of his property.²² The prevailing notion is that implied dedication may be shown through a landowner’s “acquiescence by the owner in the use of his property by the public. Acquiescence, however, means a tacit knowledge of those things which are acquiesced in.”²³

Indeed, implied dedications result from the combination of the public’s use and the landowner’s acquiescence. As you might expect then, proving an implied dedication may be quite daunting because in many cases, “acquiescence” consists simply of

¹⁷ *Fountain*, 216 Ga. at 122; compare with *Chandler*, 269 Ga. at 883 (“[A] road’s placement on an official highway map is ‘administrative . . . as between the state, counties and municipalities. Its purpose [is] not to ascertain and fix the status of the public right of use of every road in Georgia’...[and] fails to support a claim of implied dedication.”).

¹⁸ *Chick-fil-A*, 2007 WL 1365406, at *3 (citing *Chatham Motorcycle Club, Inc. v. Blount*, 214 Ga. 770, 775 (1959) (“There is no particular form of making a dedication. It may be done in writing or by parol; it may be inferred from the owner’s acts, or implied, in certain cases, from long use.”)).

¹⁹ *Id.*

²⁰ *Chandler*, 269 Ga. at 882, 883; *Dunaway*, 197 Ga. at 706-08.

²¹ *Windsor*, 197 Ga. at 708.

²² *Fountain*, 216 Ga. at 123-24; *Dunaway*, 197 Ga. at 708-09.

²³ *Dunaway*, 197 Ga. at 709.

allowing the public to use the property without raising objection. In cases of implied dedication, the permitted use is critical in establishing whether there has been a dedication -- “there is no dedication implied beyond the use.”²⁴ For example, “[P]ermitting public authorities to occasionally scrape and grade a private road...does not manifest an intention to dedicate the roadway....[O]ccasional and customary maintenance...[does] not implicitly dedicate [a] roadway for public use.” *Chandler*, 269 Ga. at 882-83; *Owens*, 256 Ga. App. at 361. And it should not, because the owner never acquiesced in the *use* of the road by the public, only that the public can clean it.

Another way of viewing implied dedication is to analyze the elements in reverse order, asking first whether the public accepted the property, and second whether, in hindsight, it appears the property owner intended it as a dedication. The fluidity of the analysis highlights the fact-intensive analysis of the issues and the flexibility courts have to rationalize their decisions. As one court instructed, “[I]t must appear that the land has been in the exclusive control of the public long enough to raise the presumption of a gift...accompanied by evidence of such acquiescence on the part of the owner as would manifest an intention to make a gift.”²⁵

In addition, courts have held that acquiescence must be at least somewhat enduring. While implied dedication may be proved by showing the landowner’s assent, mere use by a city from time to time, without more, will not create a dedication of such property for that purpose forever.²⁶

On the contrary, use of a piece of property by a small portion of the public will not amount to a dedication of the property to a public use, even if the use is for an extended period of time.²⁷

c. Express acceptance.

Much like express dedication, express acceptance is rarely the source of much debate amongst private landowners. Express acceptance of a dedication of private property can be accomplished in a variety of ways, including board meetings of county commissioners or municipalities.²⁸ In at least one instance, a county expressly accepted (or was forced to accept) roads simply by passing ordinances that required them to accept roads whenever a private party’s dedication met certain standards.²⁹

²⁴ *Fountain*, 216 Ga. at 119 (owner with land abutting road allowed public to use property as sidewalk, but the public cannot later try to turn the sidewalk into a road without going through proper purchase or eminent domain procedures); *Crew*, 267 Ga. at 528.

²⁵ *Fountain*, 216 Ga. at 123-24.

²⁶ *Dunaway*, 197 Ga. at 708.

²⁷ *Owens*, 256 Ga. App. at 361; *Dunaway*, 197 Ga. at 706.

²⁸ *Ross*, 235 Ga. at 311.

²⁹ *Rabun County v. Mountain Creek Estates*, 280 Ga. 855, 860 (2006).

In many instances, public authorities have express statutory obligations to record grants or acquisitions of private property which the public authority intends to convert to a public way.³⁰ As a result, when there is express evidence of acceptance by a public authority, disputes between private parties over whether the public has a right to use a road usually revolve around whether there was a valid dedication.

d. Implied acceptance.

While dedications must always be made by the private property owner, public acceptance of a dedication may be accomplished by the public authorities, or by the general public.³¹ Instances of *implied* acceptance of a dedication are most common when a dedication is accepted by the public, as opposed to public authorities, because there is rarely conclusive evidence of such acceptance as the general public would not make public recordings and certainly does not keep meeting minutes.

As a result, courts have crafted flexible standards to accommodate such a question of fact. For example, “Georgia cases have not required that the public use the land for any specific period of time in order to impliedly accept the offer of dedication; rather the cases have indicated that the use must simply be over a period of time long enough to indicate an intent or purpose to accept the offer” which is established when “the public accommodation and private rights might be materially affected by the interruption of the enjoyment.”³²

Essentially, the public need only show that it has some interest, such as by making improvements to the road, or maintaining its upkeep.³³ Likewise, when the public assumes control of part of a road, but not another tract, the court “must presume that the dedication of that [latter] tract was declined.”³⁴

3. Acquisition of a public road through prescription.

The most significant distinction between the public’s acquisition of a road through dedication versus prescription is that dedication involves a voluntary conveyance on behalf of the landowner, whereas prescription requires unbroken possession under a claim of right against the landowner.³⁵ Accordingly, since the landowner has not dedicated his property to the public, “[t]o allow a person to acquire prescriptive rights over the lands of another is a harsh result for the burdened landowner. Thus, Georgia

³⁰ See footnote 5, *supra*.

³¹ See footnote 12, *supra*.

³² *Smith*, 248 Ga. at 160; *Chick-fil-A*, 2007 WL 1365406, at *5; *Chatham Motorcycle Club*, 214 Ga. at 774-75.

³³ *Crew*, 267 Ga. at 528; *Ross*, 235 Ga. at 312 (implied acceptance found where county officials approved grading, listed roads on county books, prepared roads for paving, patched the roads, inspecting the roads).

³⁴ *Crew*, 267 Ga. at 528.

³⁵ O.C.G.A. §§ 44-5-161; *Dunaway*, 197 Ga. 705; see footnote 12, *supra*.

courts gave strictly construed the elements of O.C.G.A. § 44-9-1 against the party who asserts a right of entry over the lands of another.”³⁶

There are two ways to acquire a public way by prescription in Georgia: (1) prescription via public use; and (2) prescription via adverse possession.³⁷ Prescription via public use takes place when the public “incorporate(s) into its system of public roads any road on private land which has come to be a public road by the exercise of unlimited public use for the preceding seven years or more.”³⁸ On the other hand, prescription via adverse possession requires the customary showing that the possession did not originate in fraud, is public, continuous, exclusive, uninterrupted, peaceable, and accompanied by a claim of right such that the use is adverse rather than permissive.^{39, 40} Due to Georgia courts’ distinguishing between the methods it is necessary to explore each separately.

a. Prescription via public use.

Even when the private landowner has no intention to dedicate his land for public use, if the public takes possession and uses it and maintains it as a highway for the seven years preceding the claim of right, “a highway by prescription becomes complete.”⁴¹ While, in the case of an implied acceptance of a dedication, there is no specific period of use required, the legislature requires seven years of “unlimited public use” to acquire an easement by prescription because the public must overcome the fact that the owner never manifested an intent to burden his property.⁴²

Since *Shearin*, courts have had little opportunity to apply the standard for prescription via public use (even in *Shearin*, the court found prescription via adverse possession and declined ruling on the prescription via public use portion of the case).⁴³ Because § 32-3-3(c) expressly authorizes acquisition by “prescription,” it incorporates the elements necessary “for possession to be the foundation of prescripti[on]” found in § 44-5-161 (the elements of adverse possession).

³⁶ *Norton v. Holcomb*, No. A06A2437, 2007 WL 926056, at *3 (Ga. Ct. App. Mar. 29, 2007); *Moody v. Degges*, 258 Ga. App. 135, 137 (2002).

³⁷ *Shearin v. Wayne Davis & Co.*, 281 Ga. 385, 387 (2006) (the adoption of the adverse possession criteria does not necessarily include adoption of a 20 year period of use requirement in all situations).

³⁸ O.C.G.A. § 32-3-3(c).

³⁹ O.C.G.A. §§ 44-5-161, 44-5-163.

⁴⁰ Prior to *Shearin*, courts generally combined the two prescription mechanisms such that parties had to prove not only that they had previously acquired the property via adverse possession, but that they had been in “unlimited use” of the property for the immediately preceding seven years. See *Irwin County v. Owens*, 256 Ga. App. 359 (2002); *Harbor Co. v. Copelan*, 256 Ga. App. 79 (2002); and *Chandler v. Robinson*, 269 Ga. 881 (1998). The *Shearin* court specifically disapproved of this over-burdensome construction, and held that the legislature intended there to be two means of prescription. *Shearin*, 281 Ga. 385.

⁴¹ *Windsor*, 197 Ga. at 711; see, e.g., *Chandler*, 269 Ga. at 881 (even when there was continuous use for a long period of time prior to the claim of prescriptive rights, if the owner blocked the path in question for a period of time prior to the claim, a party cannot satisfy the requirements for prescription via public use).

⁴² *Dunaway*, 197 Ga. at 711.

⁴³ See footnote 36, *supra*.

The primary difference between prescription via public use and prescription via adverse possession lies in the time period requirement during which the public must satisfy the elements of adverse possession. For prescription via public use, the focus is on the time period ending with the claim of prescriptive rights (as opposed to prescription via adverse possession, which requires twenty consecutive years of use).⁴⁴ If the public can demonstrate the elements of adverse possession for the seven year period immediately preceding the claim, they have satisfied the requirement of § 32-3-3(c).

b. Prescription via adverse possession.

Similar to prescription via public use, Georgia courts interpret the general prescription mechanism to provide a second means for the public to acquire a prescriptive easement.⁴⁵ The combination of §§ 44-5-161 and 163 require that “[i]n order to obtain prescriptive rights over a roadway, the possession must not originate in fraud, must be public, continuous, exclusive, uninterrupted, peaceable, and accompanied by a claim of right. The use must also be adverse rather than permissive.”⁴⁶ As mentioned above, though, prescription via adverse possession is distinct from prescription via public use because there must be a demonstration of the elements of adverse possession for any period of twenty years, rather than the seven years leading up to the claim.⁴⁷

The essential element to prescription via adverse possession is that the party uses the road under a claim of right, such that his use is adverse to the interests of the landowner’s, rather than permissive. It is the claim of right by the user that distinguishes the prescriber from the acceptor of an implied dedication.

Parties often can establish the requisite continuous use, but only in hindsight realize they must establish a claim of right. Courts closely analyze whether the landowner was on notice of a claim against his interest.⁴⁸ Because parties that do not own roads would rarely conduct significant improvements, those parties fail to indicate an exertion of dominion, and cannot establish the claim for prescription.⁴⁹

B. If the road is not public, is there a personal right to use the road?

Even if a party ultimately determines that he has no claim that a particular road is open to the public, the same party may have a private claim to use the road. Private rights to a road, however, are quite limited in that only qualifying individuals gain access

⁴⁴ O.C.G.A. § 32-3-3(c); compare with § 44-5-163.

⁴⁵ See footnote 36, *supra*.

⁴⁶ *Owens*, 256 Ga. App. at 361-62; *Copelan*, 256 Ga. App. at 82.

⁴⁷ O.C.G.A. § 44-5-163.

⁴⁸ See *Owens*, 256 Ga. App. at 360 (community members use of a private road to, “among other things, walk to church, access crop fields, reach softball fields, and truck fertilizer to nearby fields” failed to establish adversity); *Copelan*, 256 Ga. App. 79, 82 (while county maintained an entire road, it did not acquire a prescriptive easement over six inch gutters because the county never did anything to maintain them, and therefore, did not exhibit dominion over the gutters).

⁴⁹ *Fountain*, 216 Ga. at 119 (merely scraping streets and raking sidewalks does not establish the elements of prescription).

to the private way. The most common forms of private easements are those by express grant, prescription and necessity.

1. Express grant.

“The right of a private way over another’s land may arise from an express grant.” O.C.G.A. § 44-9-1. Like express dedications to the public, this is the ideal means to assert a claim of right over a road as there is likely some documentation of the express grant of an easement.

To be a valid easement, an express grant must only contain language sufficient to designate with reasonable certainty the land over which it extends.⁵⁰ It is generally sufficient to identify the whole tract of land owned by the grantor over which the easement passes.⁵¹

2. Private easements through prescription.

Private prescriptive easements are very similar to the public’s acquisition of a road through prescription, except that a private party’s use of the road (rather than the use of the public, generally) manifests in a *personal* right to use the road under limited circumstances. Like public prescription, courts combine statutes that allow for private easements by prescription with the elements of adverse possession.⁵² Also similar to public prescriptive easements, courts construe the elements of private prescription strictly against one party seeking to burden another.⁵³

Accordingly, the party seeking the prescriptive easement must first prove the following elements of adverse possession: the claim did not originate in fraud, and that the owner’s use was public, continuous,⁵⁴ exclusive, uninterrupted,⁵⁵ peaceable, accompanied by a claim of right,⁵⁶ and adverse rather than permissive.⁵⁷

⁵⁰ *Lovell v. Anderson*, 242 Ga. App. 537 (2000).

⁵¹ *Id.*

⁵² O.C.G.A. §§ 44-9-1, 44-9-54, 44-5-161; *see Degges*, 258 Ga. App. at 137; *Norton*, 2007 WL 926056, at *2.

⁵³ *See Degges*, 258 Ga. App. at 137; *Norton*, 2007 WL 926056, at *2.

⁵⁴ *Norton*, 2007 WL 926056, at *3 (use by predecessors in interest may be tacked together when calculating whether the use was continuous for the seven or twenty year period).

⁵⁵ *BMH Real Estate P’ship v. Montgomery*, 246 Ga. App. 301, 303 (2000) (when an owner obstructs part of a private way but permits the private way to be changed a few feet so that its use is continued without interruption, the owner does not create a new date from which prescriptive title must ripen).

⁵⁶ *Degges*, 258 Ga. App. at 139 (“mere use” does not establish a claim of right; there must be some claim of ownership).

⁵⁷ *Norton*, 2007 WL 926056, at *4 (“Building a road across the lands of another may be the strongest example of constructive notice to the owner of those lands that the builder is asserting a claim of right and is taking action adverse to the owner’s title and interest.”); *Montgomery*, 246 Ga. App. at 304 (“When the use of a private way originates by permission of the owner, prescription does not begin to run until the permissive user notifies the owner, by repairs or otherwise, that he has changed his position from mere licensee to prescriber”).

If the prescriber is able to prove the general elements of adverse possession, he must then establish the following requisite elements of a prescriptive easement: seven years' uninterrupted use through improved land or by 20 years' through wild lands,⁵⁸ no more than 20 feet wide,⁵⁹ and the road must have been kept open and in repair.⁶⁰

3. Easements of access and easements of necessity.

When any person owns real estate to which the person has no means of access, ingress, and egress, and when the means of ingress, egress, and access may be had over and across the lands of any private person, such person may petition the superior court of the county having jurisdiction for judgment condemning an easement, not to exceed 20 feet in width.⁶¹ The party potentially burdened by the easement may defeat the petition by a showing that the petitioner has another reasonable means of access, or that the petition is otherwise unreasonable.⁶² While the general rule that a party may acquire an easement due to necessity is relatively straightforward there are several peculiarities that require attention.

While many states recognize the concept of an "implied reservation" of an easement when a party sells a piece of property that renders the seller landlocked, Georgia does not.⁶³ An easement by necessity cannot be created by one's own voluntary action in giving up reasonable access.⁶⁴ Georgia courts view the failure to reserve an easement as creating an "otherwise unreasonable" attempt at acquiring an easement through the property of an adjoining landowner.⁶⁵

Easements by necessity are also, in many cases, difficult to defend against for a potentially burdened landowner. Section 44-9-40(b) provides, "The filing of the petition shall be deemed to be the declaration of necessity." Georgia courts interpret this statute such that once a petitioner makes out a *prima facie* case that he is landlocked, the burden shifts to the opposing party to prove that the petitioner has another reasonable means of access.⁶⁶ Unless the opposing party can point to another road already in existence,

⁵⁸ O.C.G.A. § 44-9-1(a); *Norton*, 2007 WL 926056 at *2 (even though § 44-9-54 only requires seven years to acquire a prescriptive easement, if the land is unimproved, the adverse use must persist for 20 years pursuant to § 44-5-163).

⁵⁹ O.C.G.A. § 44-9-40(a); see *Jackson v. Norfolk S.R.R.*, 255 Ga. App. 695, 697 (2002) ("where the width of a private way exceeds [20 feet], it cannot establish prescriptive rights...[even] if the width of the crossing originally was less than 20 feet, the width appropriated for a prescriptive easement cannot subsequently change.").

⁶⁰ O.C.G.A. § 44-9-40(a); see *Montgomery*, 246 Ga. App. at 303 (rationale behind keeping the road in repair is to afford landowner notice of adverse use).

⁶¹ O.C.G.A. § 44-9-40(b) *et seq.*

⁶² *Id.*

⁶³ *Mersac, Inc. v. Nat'l Hills Condominium Ass'n*, 267 Ga. 493, 494 (1997); *Kellett v. Salter*, 244 Ga. 601, 602 (1979).

⁶⁴ *Id.* ("The grant of a private way would reward [petitioner's] negligence in failing to reserve an easement and at the same time deprive [adjacent landowner] of the full use and enjoyment of its property.").

⁶⁵ *Id.* (petitioner could have reserved an easement over land it sold to provide access to its remaining land, and therefore condemnation of adjoining land was "otherwise unreasonable.");

⁶⁶ *Hensley v. Henry*, 246 Ga. App. 417, 419 (2000); *Atlanta-East, Inc. v. Tate Mountain Assocs.*, 265 Ga. 742 (1995).

several cases suggest that it is difficult to prove that building a new road is “more reasonable” than simply allowing use of the present road.⁶⁷

The standard of “necessity” may also be different depending on the nature of the landlocked landowner. While private parties must show no other reasonable means of access, ingress and egress, § 44-9-70 states that businesses engaged in certain mining or quarrying operations must only show that use of the road is “necessary for the successful operation of their business” in order to obtain a right-of-way for a railroad across the lands of others.⁶⁸

In certain unique situations, landowners find themselves landlocked with the exception of a navigable waterway. Georgia courts, however, consistently maintain that access to water does not constitute “reasonable” access to one’s property.⁶⁹ There is a presumption of no reasonable access when the only means of access is by navigable waterway, and the burden shifts to the opposing party to rebut the presumption with evidence that the waterway constitutes reasonable means of ingress and egress.⁷⁰

Finally, questions arise when a party is landlocked, but there are multiple private roads running through the property of adjacent property owners. At least two courts have held that so long as one of those property owners has not cut off access, “even though the owner may at some time in the future close off this access,” then “cases of necessity do not arise” and the easement sought is not “absolutely indispensable” to the petitioner.⁷¹

II. Impact of Road and Access Disputes on Title.

Road and access disputes can have a significant effect on the title to property. For example, the title itself may inaccurately describe an owner’s actual property rights, or simply lead to uncertainties that lead to difficulties in obtaining and enforcing title insurance policies.

A. Title insurance.

From a title insurance perspective, if an insurer issues a policy insuring a title that purports to provide access of ingress and egress, and later discovers a lack thereof, the insurer could be subject to large payouts to an insured who is forced to pursue legal remedies to acquire access to public roads. As a result, title insurers often require proof of access to public roads in order to provide full insurance of title.

⁶⁷ *Id.*

⁶⁸ *See Benton v. Ga. Marble Co.*, 258 Ga. 58 (1988).

⁶⁹ *Pierce v. Wise*, 282 Ga. App. 709, 711 (2006); *Int’l. Paper Realty Corp. v. Miller*, 255 Ga. 676, 677 (1986).

⁷⁰ *Id.*

⁷¹ *Blount v. Chambers*, 257 Ga. App. 663, 664 (2002); *Moore v. Dooley*, 240 Ga. 472, 474, 241 S.E.2d 232 (1978).

If a landowner is unable to proof access of ingress and egress, title insurers may take exception in their policy such that title is not insured against a lack of access. Should a private landowner subsequently have to pursue rights to access, he could be subject to great personal expense. Moreover, the property value could suffer, leading to losses upon resale.

Accordingly, it is important that title holders and title insurers alike understand what constitutes a right of way. For example, in *Chandler v. Robinson*, the Georgia Supreme Court held that even though the Department of Transportation's road map, and various closing documents, including surveys, indicated that a road ran across properties adjacent to a buyer's, the road was not a public road and the party seeking access was forced to look elsewhere for access (no doubt having already incurred significant expense).⁷²

B. Abutting landowners' rights.

Landowner title can also be affected by the character of neighbors' property. For example, even if a landowner is not himself landlocked, a neighbor may seek an easement traversing others' property in order to achieve access. If the result is an easement, it could decrease his neighbor's property interest, and potentially resell value.⁷³

On the other hand, property owners whose land abuts public roads have property interests in roads in excess of the general public. Changes to these roads may affect the adjoining property owners' rights. Consequently, property owners should be vigilant in knowing the reason for and effect of any alterations to those roads that abut one's property. The owner may be entitled to recover damages for both the taking of one's property, as well as "inconveniences and circuitry of travel,"⁷⁴ and in some cases may be able to halt the alteration altogether.

Moreover, in some situations a party's property interest could increase through diligent research of road and access issues. For example, if a party can prove that the State does not have an express right to the property on which a road is situated, the owner of a lot abutting the road is presumed to own half of the road that abuts his land.⁷⁵ Moreover, the private party's presumption of ownership may not be rebutted by a deed that describes the road as the private party's boundary line.⁷⁶

⁷² *Chandler*, 269 Ga. at 883.

⁷³ See Section I.B.3., *supra*.

⁷⁴ See *Barham v. Grant*, 185 Ga. 601 (1938); *Dep't of Transp. v. Whitehead*, 253 Ga. 150, 151-52 (1984).

⁷⁵ *Fountain*, 216 Ga. at 123; *Thomas v. Douglass*, 165 Ga. App. 128, 130 (1983).

⁷⁶ *Id.*

C. Effect of court proceedings on title.

It is also important to be aware that there could be ongoing property disputes that could manifest in title defects, but that are not evident through and inspection of deeds or county records. For example, government condemnations and many easement acquisitions require court proceedings, and their results are often recorded in court records rather than deed offices. Because real estate professionals and individuals alike may be unfamiliar with such proceedings, failure to identify rights acquired through the judicial system can lead to gaps in the chain of title, and ultimately uncertainty about the ownership of certain tracts.

Similarly, where roads are being used adversely, but a court has not yet deemed them easements by prescription or condemnation, there will be no evidence of a right of way through property in either court or deed records. As a result, a person may possess title subject to a latent individual or public claim to an easement.

III. Landlord/Owner Liability for Third Party or Public Use Easements.

Once parties determine that either the general public or an individual has a right of access to a road, someone must be responsible for maintaining the road, as well as its design, quality, and ability to effectively serve the public. It is important to know which public or private entities are responsible for maintaining roads, as these responsibilities can lead to significant consequences regarding the allocation of maintenance costs, liability for failure to properly maintain a road, and even a party's ongoing right to use the road.

A. The beneficiary of an easement is responsible for its maintenance.

1. Counties and municipalities are responsible for maintenance of public roads and easements.

In the case of public roadways, the public as a whole is the beneficiary and as a result, state counties and municipalities maintain the road through use of public resources.⁷⁷ The duty of the public authorities to repair roads, however, does not arise unless the public accepts the roads.⁷⁸ As a result, a private landholder cannot burden the State simply by dedicating land for public use as a road.

In some cases, though, counties have been *required* to accept private landowner's dedications.⁷⁹ In *Rabun County v. Mountain Creek*, a private developer built roads for a neighborhood in accordance with specifications found in county ordinances.⁸⁰ Those same ordinances stated, "[t]he Rabun County Board of Commissioners shall accept roads

⁷⁷ O.C.G.A. §§ 32-4-41, 32-4-91.

⁷⁸ *Ross*, 235 Ga. at 311.

⁷⁹ *Mountain Creek Estates*, 280 Ga. 855.

⁸⁰ *Id.*

constructed according to specifications in the Rabun County road system.”⁸¹ The Georgia Supreme Court held that because the developer complied with the specifications, the county’s ordinance required Rabun County to accept the dedication and maintain the roads in accordance with state law and other county ordinances.⁸²

Once it is established that a public authority accepted dedication of a piece of property for use as a road, the State must maintain it. “A county’s failure to meet its obligation to maintain [the public road is not an acceptable] method of abandoning a roadway.”⁸³

2. Holders of private easements or rights of way are responsible for maintenance.

As a general rule, the beneficiary (or if there are multiple beneficiaries who enjoy distinct easements) of an easement has a duty to the primary landowner to repair and maintain the portions of land used in the enjoyment of the easement that are under the beneficiary’s control.⁸⁴ If the beneficiary and the landowner share in the use of the easement, the beneficiary and the landowner should contribute jointly to the costs reasonably incurred for repair and maintenance of that portion of the easement that is used in common.⁸⁵

The beneficiary has an obligation not to unreasonably interfere with the landowner’s remaining estate.⁸⁶ As part of that responsibility, the beneficiary must take whatever corrective measures are necessary to insure that the landowner avoids liability to third parties as a result of the easement.⁸⁷

B. Failure to repair.

In the case of failing to repair or adequately maintain public roads, counties and municipalities are protected from liability by the doctrine of sovereign immunity.⁸⁸ Despite the fact that several statutes require counties and municipalities to maintain public roads, none of the statutes have constituted a waiver of sovereign immunity.⁸⁹

As for private roads and easements, private landholders or easement beneficiaries are typically only responsible to third parties to the extent they have control over a piece of property, and open that property to the general public. In certain commercial situations, however, private parties grant the general public “common easements of passage.” In those situations, landowners owe the general public the duty of care “not to

⁸¹ *Id.* at 858.

⁸² *Id.*

⁸³ *Shearin*, 281 Ga. at 388.

⁸⁴ *See* Restatement (Third) of Property: Servitudes §4.13 (2000).

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ Ga. Const., art. 1, § 2, ¶ IX; *see Kordares v. Gwinnett County*, 220 Ga. App. 848, 849 (1996).

⁸⁹ *Kordares*, 220 Ga. App. at 849.

injure them in places where they are invited or their presence is reasonably to be anticipated.”⁹⁰

IV. Overweight Vehicle Permits.

Pursuant to O.C.G.A. § 32-6-20 *et seq.*, no vehicle or load shall be operated or moved upon the public roads of Georgia if a dimension or the weight of such vehicle or load exceeds the limitations set out in §§ 32-6-22 through 32-6-24. Specific limitations are addressed in the following Code sections:

- § 32-6-22. Height.
- § 32-6-23. Width.
- § 32-6-24. Length.

There are also several industry-specific exemptions to the general limitations found in §§ 32-6-22 through 32-6-24. The following statutes provide for special exemptions for vehicles involved in farming, agricultural, forest management, and certain marine industries. Those exemptions are found in the following Code sections:

- § 32-6-25. Exemptions for farming, agricultural, and forest management equipment.
- § 32-6-25.1. Exemptions for vehicles or equipment used within or within radius of ten miles of port facility.

In addition to the limitations and exemptions set forth in §§ 32-6-20 through 32-6-25.1, the State may issue special permits in accordance with the rules set for in § 32-6-28. Sections 32-6-28(a)(1)(A)-(B) provide:

(A) The commissioner or an official of the department designated by the commissioner may, in his or her discretion, upon application in writing and good cause being shown therefor, issue a permit in writing authorizing the applicant to operate or move upon the state's public roads a motor vehicle or combination of vehicles and loads whose weight, width, length, or height, or combination thereof, exceeds the maximum limit specified by law, provided that the load transported by such vehicle or vehicles is of such nature that it is a unit which cannot be readily dismantled or separated; and provided, further, that no permit shall be issued to any vehicle whose operation upon the public roads of this state threatens to unduly damage a road or any appurtenance thereto, except that the dismantling limitation specified in this Code section shall not apply to loads which consist of cotton, tobacco, concrete pipe, and plywood that do not exceed a width of nine feet or of round bales of hay that do not exceed a width of 11 feet and which are not moved on part of The Dwight D. Eisenhower System of Interstate and Defense Highways. However,

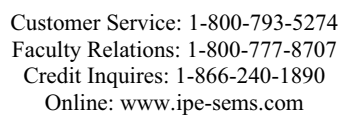
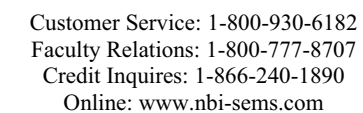
⁹⁰ *Todd v. F.W. Woolworth Co.*, 258 Ga. 194 (1988); *Spindel v. Gulf Oil Corp.*, 100 Ga. App. 323 (1959).

vehicles transporting portable buildings and vehicles not exceeding 65 feet in length transporting boats on roads not a part of The Dwight D. Eisenhower System of Interstate and Defense Highways, regardless of whether the nature of such buildings or boats is such that they can be readily dismantled or separated, may exceed the lengths and widths established in this article, provided that a special permit for such purposes has been issued as provided in this Code section, but no such special permit shall be issued for a load exceeding 12 feet in width when such load may be readily dismantled or separated. A truck tractor and low boy type trailer may, after depositing its permitted load, return to its point of origin on the authorization of its original permit.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the commissioner or an official of the department designated by the commissioner may, in his or her discretion, upon application in writing and good cause being shown therefor, issue to a specific tow vehicle a permit in writing authorizing the applicant to operate or move upon the state's public roads a motor vehicle or combination of vehicles and loads for transporting not more than two modular housing units or sectional housing units if the total weight, width, length, and height of the vehicle or combination of vehicles, including the load, does not exceed the limits specified in Code Section 32-6-22 and Code Section 32-6-26. No permit shall be issued to any vehicle or combination of vehicles whose operation upon the public roads of this state threatens the safety of others or threatens to damage unduly a road or any appurtenance thereto.

Further details regarding permits for excess weight and dimensions may be found at §§ 32-6-28(a)(2)-(7) through (d). These provisions cover issues such as applications for and issuance of permits, use of permits for multiple vehicles, the duration and limits of permits, and the fees associated with acquiring excess weight and dimension permits.

Additional rules governing the issuance of permits and policies for enforcement may be found in the Georgia Administrative Code, § 672, Chapter 2.

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