

# the Acquirer

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## Eligibility for Reestablishment Expenses

By Ted Pluta, VP, O. R. Colan Associates / ORC Training, LLC  
NHI Instructor of Excellence Award Winner



*Ted Pluta*

**Topic:** *This article will discuss the claiming of reestablishment expenses by a business owner for modifications and improvements to a replacement building he or she already owns.*

**Discussion:** Duke Dune owns a real estate brokerage company specializing in coastal properties in Northeast Florida. Mr. Dune's office is being acquired for a road widening project as a result of the rapid development of the area. The office is situated in a one story building and Duke is the owner occupant. Because he is in the real estate business Duke has made a habit of acquiring properties he felt were especially good investments and holding on to them for future sale. The rapid growth and growing population has meant good business for Duke and he realizes the road improvements are needed.

During conversations with the relocation agent Duke reveals his plans for the relocation of the business.

Two years ago he purchased a building in a prime location with the intention of selling the property in five or six years. He now realizes that the property is perfect for the relocation of his real estate business and will allow him the capacity to expand and bring on a couple of new agents. The building

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is in good shape structurally but needs to have some work done in order to bring it into compliance with local codes and it also needs some TLC to make it conducive to conducting business.

After reading the Agency relocation brochure Mr. Dune provides the relocation agent with a list of items he will need to address at the replacement site that he believes qualify for reimbursement under reestablishment. The items include the following:

- Improvements to the building to bring the structure in compliance with the local code - \$2,500
- New carpeting, painting and wall paper - \$4,500
- New exterior signage - \$7,500

**Question:** Can Duke Dune be reimbursed for reestablishment expenses for modifications to a building he already owns? If so, how much can he claim for reimbursement?

**Answer:** When we look at the regulations it reads; *§24.304 Reestablishment expenses-nonresidential moves*. In addition to the payments available under §24.301 and 24.303 of this subpart, a small business, as defined in §24.2(a)(24), farm or nonprofit organization is entitled to receive a payment not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site. There is no exclusion anywhere in this section for a building already owned by the displaced person (business) so in this example Duke Dune would be eligible for the reimbursement of eligible reestablishment expenses. The expenses referenced above would all be eligible for reimbursement based on:

1. Improvements to the building to bring the structure in compliance with the local code – eligible under §24.304(a)(1) Repairs or improvements to the replacement property as required by Federal, State or local law, code or ordinance.
2. New carpeting, painting and wallpaper – eligible under §24.304(a)(4) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.
3. New exterior signage – eligible under §24.304(a)(3) Construction and installation costs for exterior signing to advertise the business.

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Mr. Dune would not be eligible to build out a shell structure or construct a new building and be reimbursed for reestablishment expenses, unless he was unable to relocate without construction of a replacement building, in which case he would have to seek a waiver under the provisions of 49 CFR 24.7. These scenarios are addressed in the Uniform Act Frequently Asked Questions (FAQs #76 and #77) at the FHWA website at [http://www.fhwa.dot.gov/REALESTATE/ua/ua\\_faqs.htm](http://www.fhwa.dot.gov/REALESTATE/ua/ua_faqs.htm).

The second part of the question deals with the amount of the reimbursement of eligible reestablishment expenses. Since we have established all of the expenses qualify as eligible we need to determine the monetary amount of the reimbursement. In this case, Mr. Dune has eligible reestablishment expenses of \$14,500. For most Agencies the amount of the reimbursement is going to be capped at \$10,000. However, we must be aware that some states have laws in place that allow a reestablishment payment in excess of the \$10,000 URA cap so a displaced business, farm or nonprofit in such a state would be eligible for a higher payment. If the project is receiving federal funds from the Federal Highway Administration, there is a provision in 23 CFR 710.203, which allows participation

in any expense provided under state law. That means that federal funding would participate in a reestablishment expense payment above the \$10,000 amount when authorized by state law, but that is for a FHWA funded project only. For projects funded by other federal agencies, such as HUD, FAA, FTA, GSA or the Corps of Engineers, there is no reimbursement for a reestablishment payment above the \$10,000 maximum.

Let's look at Mr. Dune's situation and see how the project location and funding can affect the amount of his reestablishment payment. In the situation presented he is located in Florida and displaced by a highway project. Since Florida has no additional payment available for reestablishment, he would be limited to \$10,000. If he were located in Virginia, where the law provides for a reestablishment payment of \$25,000, he would be eligible for the entire \$14,500 payment and FHWA would participate in the payment if it were a federally funded project. This situation would change if Mr. Dune was displaced by a county aviation authority in Virginia. He would still be eligible for the \$14,500 reestablishment payment (since it is mandated by state law), but the FAA would only participate in \$10,000 of those costs with the aviation authority.

# ORC Training Scores a Triple!

The National Highway Institute awards its *Instructor of Excellence* designation to three of ORC Training's best.



*Lisa Barnes, Ted Pluta and Bob Merryman.*

Lisa Barnes, Ted Pluta, and Bob Merryman were all recognized as *Instructors of Excellence* for 2010 by the National Highway Institute (NHI). This award is truly an honor for these ORC employees. In a letter from Richard J. Barnaby, NHI Training Director, Ted, Bob and Lisa were acknowledged for being "a key part of the NHI team that provides technical training to keep the transportation infrastructure viable and our economy strong."

NHI *Instructors of Excellence* are selected based on their consistently high evaluation scores. Their selection demonstrates a commitment to adult learning philosophy and the ability to share their expertise and real world experience in the classroom. This is the fourth year in a row Ted Pluta has been recognized as an *Instructor of Excellence*. That is quite an accomplishment! Bob Merryman and Lisa Barnes have also received this award multiple times.

For all of you who have had the opportunity to

attend a course with any of these talented instructors, you know that this distinction is well-deserved. They are among the top experts in the right-of-way profession who always make the learning experience worthwhile.

O. R. Colan Associates/ORC Training is also pleased to announce that it has received the *Team Administrative Award* from the National Highway Institute for 2010. NHI gives this award annually to contracting firms who meet certain NHI requirements, including a commitment to securing NHI Instructor Certification for the teaching staff, as well as processing and submitting all session administrative materials in a timely fashion. This award recognizes ORC for supporting NHI in its efforts to provide quality instruction and stress the value of "learner-oriented" principles in the classroom.

This is the first time O. R. Colan Associates/ORC Training has received this award.

# The DFW Connector (Tarrant County Funnel Project)

Grapevine, TX

The “DFW Connector” project (also known as the Tarrant County Funnel) extends for 14.4 miles through a highly developed metropolitan area. The current 8 mile segment will rebuild portions of 4 highways, 2 interchanges, and 5 bridges. The project is publicly funded, including \$250 million subsidization from the American Recovery and Reinvestment Act (stimulus), so adherence to the project schedule is crucial. This project was the largest ARRA funded project in the United States.

ORC was hired by design-build consultant NorthGate Constructors (joint venture between Kiewit Texas Construction & Zachry Construction) to provide turnkey right-of-way services for the DFW Connector Project, located in the Dallas-Fort Worth area.



was purchased from the DFW Airport for the highway. The initial phase of this long-term design-build project required the relocation of 25 businesses and 5 outdoor advertising structures. The relocation of the advertising signs was complicated by a zoning change in the City of Grapevine prohibiting this type of signage.

As a design-build project, the proposed construction schedule was aggressive. Though it was initially anticipated that the project would take 15 years to complete, NorthGate Constructors and TxDOT are pursuing a completion date of 2014 (5 years). As such, the ORC Team was also bound by a compressed acquisition schedule that involved acquiring all RW within approximately 12 months. To contend with this challenge, the ORC Team developed a project schedule by parcel using Microsoft Project to track each task due date on a weekly basis.

Other services that ORC provided or managed include preparation of a relocation plan, title research, Phase I Environmental Reports, surveying including metes & bounds descriptions, appraisals, appraisal review, closings and eminent domain packages. ORC also participated in public meetings by outlining the acquisition process to attendees and distributing brochures.



**The DFW Connector Project is the largest ARRA funded project in the U.S.**

ORC negotiated the acquisition of approximately 55 parcels of commercial land in the cities of Grapevine and Southlake, Texas. The properties acquired ranged in commercial utility from restaurants and retail to convenience stores and banks. In addition, a significant amount of land

# On the Road with Bob: Driving through Illinois The Lincoln Library & the Wagon Wheel Sandwich

by Bob Merryman, Sr. VP, O. R. Colan Associates/ ORC Training, LLC

American Airlines sent me a card that says I have flown three million miles! I am not sure how that is possible, but I suppose they track it. So after spending too much time on lots of planes, sometimes it's nice to drive to a project.



*Tomb of President Lincoln.*

ORC does a substantial amount of work in the State of Illinois, which is just across the river from my hometown of St. Louis. Even the far ends of the State are easy to get to via a pleasant drive. The main route running through Illinois is Interstate 55 which crosses the Mississippi at St. Louis and then runs north to its

terminus in Chicago. It is an easy, flat, enjoyable drive with lots to see along the way.

Springfield, Illinois is the capitol of the state and the home of the Abraham Lincoln Presidential Library. All of the modern era presidents seem to have a library, but many of the historical ones do not. Illinois (The Land of Lincoln) took it upon itself to create a library for this famous president.



*Abraham Lincoln Presidential Library.*

One unusual aspect of the

library is its collection of photographs of Civil War soldiers. Since photography was relatively new at the time of Civil War these "likenesses" were

valued by the families of soldiers and passed to succeeding generations. The library contains about 7000 photos, mostly of Illinois citizens, and has a data base linking it to other collections of similar photos.



*Bob Merryman*

If you stop by the library and museum, leave enough time to visit the Oakridge Cemetery, just a short distance from downtown Springfield, to see the tomb of this president. Following his assassination, the body was buried in his hometown of Springfield. The tomb is open to the public, and you can actually walk right up to the burial vault. Also buried in this tomb are Mary Todd Lincoln, and three of the president's sons.



*The famous Wagon Wheel Sandwich.*

Before you leave Springfield, you need to try one of the local delicacies—the wagon-wheel! This sandwich is not recommended for anyone taking cholesterol drugs. It is usually an open-faced hamburger, piled with French fries that are then smothered in melted cheese sauce. The whole thing is a mess to eat, but delicious. You will find them on the menu at most of the non-chain, local restaurants.

After that sandwich, it's time to drive on to Chicago, just a few more hours north.

# In the Works – Contracts Awarded April 1, 2011 to September 30, 2011

by Steve Toth, Chief Operating Officer

## Appraisal Services

- ODOT NE Region – On Call Appraisal/Review Services
- ODOT SE Region – On Call Appraisal/Review Services
- ODOT NW Region – On Call Appraisal/Review Services
- Duck Creek Local Flood Protection Project
- ODOT ALL 117/309 Project
- LOR 301-21.50
- Clark County – Fairfield Pike Bridge #1021
- City of Cleveland - East 78th Street Osage to Marble
- Stark County Engineer – Cleveland Avenue/Mount Pleasant Street litigation support and testimony
- City of Hudson – Hines Hill Road Grade Separation
- INDOT – US 31 Hamilton County from I-465 to SR 38
- ODOT – WOO 18-6.05 North Baltimore
- EMTA – Bus Facility Expansion
- Cincinnati Metropolitan Sewer District – West Fork Flood Mitigation
- City of Lebanon, OH – Glosser Road Waterline Project

## Arizona

- ADOT – 2011-027 On Call Statewide RW Acquisition and Relocation Services
- ADOT ECS 2010-021 On-Call SW/Loc Gov Project

## Arkansas

- City of Conway – Prince Street Project

## Federal/Training

- FRA Transbay Transit Center Project
- National Transit Institute – Provide Training to FTA grantees
- FTA PMOC – MTA Purple Line – Program Management Oversight Volpe Center – Alternative Uses of RW
- NHI – IDIQ for Web Based Training
- FHWA DTFH61-10-R-00028 Transportation Environment and Realty ID/IQ Award– Real Property Acquisition under the URA and Outdoor Advertising Control Support
- NHI Task Order for Appraisal, Appraisal Review, Basic Relocation, Advanced Relocation, Business Relocation and Local Public Agency

## Florida

- Punta Gorda Airport
- Feasibility Study for two AM Radio Tower Broadcasting sites for the National Park Service as part of their Everglades National Park Expansion
- Solid Waste Authority of Palm Beach County
- FDOT – On Call RW Services for District 6
- Palm Beach Airport – Provide Land Acquisition Services under General Consulting contract
- Martin County – On-Call RW Services Agreement for 1 year period
- City of Port St. Lucie – Crosstown Parkway
- Zephyrhills Municipal Airport

## Illinois

- DCEO CDBG Disaster Recovery Program Management
- IDOT – On-Call Relocation Services contract for District 2
- City of Rockford – West State Street
- Lansing Municipal Airport
- Conoco Phillips)– ROW Services for 138kV Electrical Upgrade Project
- City of Rockford – Harrison Avenue

## Indiana

- INDOT – US 31 Hamilton County
- INDOT – US 31 South Bend
- INDOT – On call agreement for relocation services
- City of Portland – Lafayette Street
- City of Kokomo S. Washington Street
- City of Shelbyville OCRA Project
- City of Richmond – Salisbury Road Project
- Henry County Airport – New Castle
- Hoosier Heartland Corridor (SR 25)

## Maine

- Maine DOT – Caribou Connector project business relocations
- Maine DOT – Caribou Connector project acquisitions

## Massachusetts

- Mass Highway Statewide Real Estate Services

## Maryland

- Maryland Aviation Authority

## Mississippi

- Jackson County Airport Authority

## Missouri

- Public Water Supply District #2 - WO # 26 – Hopewell Road
- Public Water Supply District #2 - WO # 27 – Rolling Meadows
- City of Ballwin – Kehrs Mill Road
- East Central Missouri Water & Sewer Authority – On Call Real Estate Acquisition Contract
- City of Bridgeton – Fee Fee Road Improvement project
- City of Bridgeton – Locke Avenue City of Ballwin – Kehrs Mill Road
- Lee's Summit Airport
- Enoch's Knob Road Bridge Replacement
- Veterans Administration VA Hospital Expansion
- St Louis Metropolitan Sewer District – Real Property Acquisition Consultant Services
- St Louis Lambert Airport – Contract extension
- Lebanon, MO – Floyd Jones Airport

## North Carolina

- NCDOT – On Call Statewide RW Services Agreement
- Charlotte Mecklenburg Storm Water Services –Flood Mitigation
- US 158 – NCTA DB Project
- City of Charlotte – University City Boulevard Sidewalk Project
- NCDOT I- 485 DB Project - Charlotte

## New York

- Dansville Airport
- Massena Airport

## Ohio

- ODOT CEO On Call RW Services Contract
- City of Cleveland – Commercial Road (Stones Levy Bridge)
- LOR – Chamberlain Road
- Anderson Township – Clough Pike Project
- ODOT – ALL 117/309-18.65/15.17
- SUM-White Pond Drive - City of Akron
- SUM – SR 91-15.20/Prospect Road (City of Hudson)
- SUM – Wooster Road (SR 619/I-76) (City of Barberton)
- Kelley's Island Airport
- City of Marietta – WAS 007 – 23.74
- Etna Township – Licking County TR 169-4.60
- Muskingum County Bike Trail Project
- ODOT – HAM 75-6.78
- City of Piqua – Wellhead Development
- ODOT – HAM 75-7.72
- Princeton/Sharonville LSD
- ODOT Statewide On Call Turnkey RW services
- Ohio DOT - HAM 75 – 12.60
- CRA Patterson Street Bridge – City of Crestline
- Wood County – Dunbridge Road
- Northeast Ohio Regional Sewer District - On Call RW services
- Ohio DOT - HAM 75-7.72 –
- CRA 61-1.29 – City of Galion
- Cuyahoga County Engineer – Barrett Road (CR 178)
- City of Cleveland – SR 87 (Woodland Avenue) Rehabilitation
- City of Cleveland – Waterloo Road
- City of Strongsville – SR 42 (Pearl Road) Phase II – Title research
- City of Mason – WAR – Mason Montgomery Road/Bethany Road Roundabout

## Pennsylvania

- Erie Airport – Zone 3 Avigation Easements

## Texas

- Haltom City – Denton Highway Realignment
- ONCOR – Provide Project Management Services
- Fort Worth Aviation Department
- San Antonio, TX - Renaissance Village Apartments

## Virginia

- VDOT – Route 613 Montgomery County
- VDOT – Route 221 Floyd County
- VDOT – Roanoke – Jamison Avenue to North Orange Avenue
- Mountain Empire Airport, VA

## Wisconsin

- Wisconsin DOT Statewide On Call Relocation services