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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

RESOURCES AND ECONOMIC
DEVELOPMENT DIVISION

MAR 26 1973

The Honorable Ralph R. Bartelsmeyer
Acting Administrator
Federal Highway Administration
Department of Transportation



Dear Mr. Bartelsmeyer:

We have received a number of inquiries from the public questioning the policies and practices of the Federal Highway Administration (FHWA) and the Florida Department of Transportation in acquiring land for a proposed interchange on Interstate Route 95 at Woolbright Road in Boynton Beach, Florida.

Our review of the circumstances relating to the land transaction showed that the State could have acquired the land at an estimated cost of about \$35,000 if it had made the acquisition when it first became apparent that the land would be needed for right-of-way. However, the State neither acquired the land at an early date nor protected it against commercial development. As a result, an apartment complex consisting of 116 condominium units was constructed within the right-of-way during the highway planning process and land acquisition costs are now estimated at about \$3.3 million of which about \$3.0 million represents the Federal share.

We are bringing this matter to your attention because of the significant amount of Federal funds involved and because information available at the State highway department indicates similar situations have occurred on other interstate routes in the State and could occur in the future at other locations.

The location and design of the project containing the Boynton Beach interchange, was approved by FHWA in August 1965 and September 1969 respectively.

Between May 1965 and October 1968 the property owner made several inquiries to the State highway department concerning the right-of-way requirements for the interchange because of his plans to build apartments. The State highway department was not able to specifically identify the quantity of land needed because design plans for the interchange were not finalized. As a result, the property owner continued with plans to build the apartments and received building permits from the City of Boynton Beach in June 1969, July 1969, and January 1970.

R. Bartelsmeyer [093864]

In November 1969, FHWA officials observed the apartment construction in the area of the planned interchange and suggested that the State highway department take whatever action it could to halt the development. FHWA also urged that, if State laws did not adequately protect such lands from development, the highway department seek appropriate legislation. The State highway department did not initiate any legislation because it believed the Florida legislature would not favor such action.

The State highway department requested the property owner to voluntarily stop construction work in the area of the interchange in September 1969 and again in March 1970 but construction continued. According to a State highway official the State had no legal authority to stop the property owner from developing the property until acquisition authority was received from FHWA. Before such authority could be given, the State had to develop and get FHWA approval of an acceptable right-of-way map and relocation plan. In August 1970, after the State developed and received conditional approval of its relocation plan and right-of-way maps, FHWA authorized acquisition of the land for the interchange. By this time, however, construction of the apartments was essentially completed and most of the 116 apartments were sold.

At the completion of our review in November 1972, the State highway department had acquired most of the 116 apartments and had filed a condemnation suit to acquire the land. The estimated cost of these takings is about \$3.3 million. Documentation contained in the State highway department files indicated that similar acquisition problems occurred in constructing other interchanges along I-95 between Miami and Vero Beach and also along I-75 in the vicinity of St. Petersburg.

Acquisition of rights-of-way for highway purposes is a continuing problem. In October 1964 and in April 1965, we brought similar situations to the attention of FHWA. In both instances we suggested that FHWA issue a policy providing that the Federal Government would not participate in costs which could have been avoided if the State had an effective program to protect against the improvement of property known to be required for highway purposes.

In commenting on our suggestion FHWA advised that it was considering the feasibility of issuing a policy pertaining to the subject. FHWA further advised us that it had insisted in all its areas of operation that no reimbursement be made for imprudent expenditures on Federal-aid highway projects. We are aware that FHWA has encouraged many States to revise State statutes to promote efficiency and economy in the acquisition of rights-of-way. However, we still believe there is a need for a FHWA policy similar to that suggested by us in October 1964 and April 1965.

We appreciate the cooperation and courtesies extended to us by both FHWA and the State highway officials during our review. We would appreciate being advised of any action taken with regard to the matters discussed in this report.

Sincerely yours,

Richard W. Kelley

Richard W. Kelley
Associate Director