



AUDIT REPORT



DATE November 22, 2021

NO. 2021-005

**REAL ESTATE SERVICES
OCCUPATION AND RELEASE OF EASEMENTS**

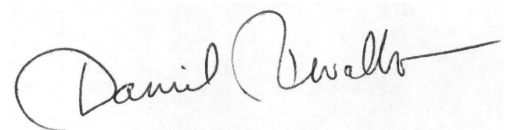
INTERNAL AUDIT DIVISION
ROGER D. EATON
CLERK OF THE CIRCUIT COURT AND COUNTY COMPTROLLER
CHARLOTTE COUNTY FLORIDA

Honorable Roger D. Eaton
Charlotte County Clerk of the Circuit Court and Comptroller
350 East Marion Avenue
Punta Gorda, Florida 33950

We have completed an audit of Real Estate Services - Occupation and Release of Easements. The purpose of this audit was to assess the adequacy of internal controls, and to ensure financial information is complete, accurate, and traces to the general ledger.

The report details the current control environment and includes our comments and recommendations. Management responses have been included and immediately follows the audit report.

Respectfully submitted,

A handwritten signature in black ink that reads "Daniel Revallo". The signature is written in a cursive style with a long horizontal stroke at the end.

Daniel Revallo
Internal Audit Director

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EXECUTIVE SUMMARY

The Internal Audit Division completed an audit of the processes related to the Charlotte County Real Estate Services Division's revenue generating activities, specifically the release and occupation of easements and rights-of-way. The scope of the review was the complete population of 392 transactions performed in fiscal year 2020 with detail testing on a sample selection of 25 applications.

Real Estate Services' primary functions are the acquisition and disposal of real property for County purposes and the administration of the release and occupation of easement program. Resolution 2008-120 established the current procedures for the occupation of easements and rights-of-way and established the fee structure for these procedures.

The purpose of the audit was to assess the adequacy of internal controls regarding the administration and documentation of the occupation and release of easements and rights-of-way, and to determine financial information is accurate, complete and traces to the general ledger.

Our review determined the following:

1. Procedures are complete and current regarding Real Estate Services functions.
2. Real Estate Services maintains a comprehensive spreadsheet on all releases and occupations of easements. This spreadsheet identifies applicable parties, locations, descriptions, statistics, dates and Official Records Book and Page numbers.

A few specific control weaknesses were noted; generally however, controls evaluated are adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives should be met.

Based upon the results of our review, we offer a summary of recommendations. These recommendations are discussed in detail later in this report:

1. **We recommend** Real Estate Services increase controls to ensure applications for release and/or occupation of county easements are properly signed and agents are properly designated.
2. **We recommend** Real Estate Services work with Records Management to ensure the proper retention of documentation.

BACKGROUND

Real Estate Services' primary functions are the acquisition and disposal of real property for County purposes and the administration of the release and occupation of easement program. Resolution 2008-120 established the current procedures for the occupation of easements and rights-of-way and established the fee structure for these procedures. The following fee schedule was established.

Easement application	Fee
Release of Easement	\$550
Occupation of County Easement	\$75
Occupation of County Right-of-Way	\$75
Combined Application (Any combination of a release and occupation above)	\$600

OCCUPATION OF EASEMENT

The County will consider granting an occupation of a county easement in new construction, for utility and drainage easements and canal maintenance easements. The County will also consider approving the occupation of side utility and drainage easements and canal maintenance easements for existing encroachments. Each application is individually reviewed, and occupations are not granted for portions of buildings, block walls, or roof overhangs. Applicants considering an encroachment or easement are encouraged to contact Real Estate Services for a brief, preliminary review of their plans. They will be notified if their application is similar to previous applications which have been approved, with the understanding that a preliminary review will neither express or imply the approval of their plan.

Upon receipt of the properly completed application, application fee and all required documentation and plans, Real Estate Services prepares an informational package that is reviewed by various County departments and all utility companies with an interest in the affected easement area. If no objections are raised during the review process, Real Estate Services prepares a formal Agreement and Consent to Encroach on County Easement for the applicant's review and signature. The Agreement and Consent is recorded with the Charlotte County Clerk of the Circuit Court. If objections are raised during the review process, the applicant will be notified of the objections and given an opportunity to discuss them with the appropriate department or utility company.

RELEASE OF EASEMENT

The County will consider releasing utility and drainage easements that run through the middle of a site when two or more lots are being combined into a single building site. The County may request that the applicant grant replacement side easements. The County will also consider the release of portions of canal maintenance easements for walkways, decks, pools and cages, boat docks and davits, but not enclosed buildings. Releases of easements may be total or partial.

A full or total release of easement may be granted when the County has no current or future use for the easement area. A common example of a full release of easement is when two lots are being combined into

a single building site, the proposed improvements span both lots, common lot line easements would run through the middle of the combined site.

A partial release of an easement may be granted when the proposed encroachment would not substantially affect the easement area and its intended use. Common examples of partial releases occur when a portion of the foundation of a proposed single-family residence, including lanai, pool deck or pool cage would encroach into the easement area (on the ground), or when a portion of the roof overhang would otherwise extend into the easement area (above the ground). The County will consider the release of utility and drainage easements and portions of canal maintenance easements.

The County will consider the release of utility and drainage easements and canal maintenance easements for new construction and pre-existing encroachments. Because of the uniqueness of easement configurations and uses, applications are reviewed on an individual basis. Again, applicants are encouraged to contact Real Estate Services for a brief, preliminary review of their plans. They will be notified if their application is similar to previous applications which have been approved, with the understanding that a preliminary review will neither express or imply the approval of their plan.

Upon receipt of the properly completed application, the application fee and all required documentation and plans, Real Estate Services prepares an informational package that is reviewed by various county departments and all utility companies with an interest in the affected easement area. If no objections are raised during the review process, Real Estate Services prepares the legal and supporting documents specific to your request. Those documents include the deed releasing the easement area to the property owners, and supporting information and plans. If approved, the deed releasing the easement area is recorded with the Charlotte County Clerk of the Circuit Court. If any objections are raised during the review process, the applicant will be notified of the objections and given an opportunity to discuss them with the appropriate department or utility company.

AUDIT OBJECTIVES

Our review was based on the following objectives:

1. Determine that internal controls are in place and adequate, regarding the release and occupation of easements.
2. Determine that financial information captured in the occupation and release of easements is accurate, complete and traces to the Eden Financial system.
3. Determine that documentation is complete, accurate, and complies with internal controls.

SCOPE AND METHODOLOGY

The scope of the review was the complete population of 392 transactions performed in fiscal year 2020. Additionally, we reviewed a judgmentally selected stratified sample of 25 applications for completeness, accuracy and compliance with requirements.

COMMENTS AND RECOMMENDATIONS

1. Internal control weaknesses were identified in the completion of the Application for Release and/or Occupation of County Easements

When construction takes place that needs an occupation or release of easement, if the party performing the activity is not the property owner, they are an agent. Our review of applications found inconsistencies in whether the form was completed and signed by the property owner or an agent for the property owner. We reviewed twenty-five applications and found;

- One Agent Authorization form was completed by the agent, no property owner signature. (Agent signed)
- Two agents signed applications with no Agent Authorization form included from the property owner. One application did not contain a section to enter agent information.
- Five had agents listed with no Agent Authorization form, and the property owner signed the application.
- Three had the property owner listed as the agent. (Property owner signed)
- One had an agent listed with no Agent Authorization and no property owner or agent signature on the form.
- Two had no applicant signature on the application. Of these, one had an agent listed.

The County website states “Identification of any agents you may designate allows Real Estate Services to contact those individuals should we encounter specific problems. It also permits us to discuss the status of your request with them. It is important to understand that your use of the Agent’s Authorization and the individuals or firms named on it are solely your decision.”

We recommend Real Estate Services increase controls to ensure applications for release and/or occupation of county easements are properly signed and agents are properly designated.

2. Internal control weaknesses were identified in the retention of Applications for Release and/or Occupation of County Easements

During our review of fiscal year 2020 Applications for Release and/or Occupation of County Easements, original applications were not available. However, electronic copies of applications were available. Files are considered closed when the Agreement and Consent to Encroach on County Easement and/or the County Deed Release of Easement are recorded.

The General Records Schedule GS1-SL for State and Local Government Agencies sets the following minimum retention periods.

Occupation of Easement is considered CONTRACTS/LEASES/AGREEMENTS: CAPITAL IMPROVEMENT/REAL PROPERTY Item #64. Retention is 10 fiscal years after completion or termination of contract / lease / agreement.

Release of Easement is considered REAL PROPERTY RECORDS: PROPERTY ACQUIRED Item #172. Retention is 3 fiscal years after termination of agency's ownership of the real property.

We recommend Real Estate Services work with Records Management to ensure the proper retention of documentation.

CONCLUSION

A few specific control weaknesses were noted; generally however, controls evaluated are adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives should be met.

ACKNOWLEDGEMENT

We would like to thank the County's Real Estate Services Division for their assistance in the completion of this audit.

Audit performed by:
Dan Revallo
Director – Internal Audit
Charlotte County Clerk of Court and Comptroller



Date: October 28, 2021

To: Dan Revallo, Internal Audit Director, Charlotte County Clerk of Courts and Comptroller

From: Gordon Burger, Director of Budget & Admin Services *GB*

Subject: Responses to the Internal Audit review of Real Estate Services revenue generating activities

Please find below the list of recommendations from your department, and the response from the Board.

1. **Recommend:** Real Estate Services increase controls to ensure applications for release and/or occupation of county easements are properly signed and agents are properly designated

Response: Real Estate Services, in concert with Records Management, will create a worksheet for data entry purposes of the release and/or occupation of County easements. The worksheet will replace the previously utilized application and allow for better control of authorized signees.

2. **Recommend:** Real Estate Services work with Records Management to ensure the proper retention of documentation.

Response: In conjunction with Records Management, we identified the records for retention purposes. Recorded Occupation Agreements will be maintained under GS1-SL - #64 (10 FY after end date) and Recorded Deeds will be maintained under GS1-SL - #172 (3 FY after end date).

