



## Wisconsin Department of Transportation

[www.dot.wisconsin.gov](http://www.dot.wisconsin.gov)

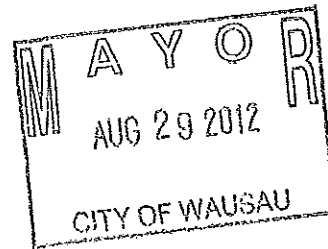
Scott Walker  
Governor

Mark Gottlieb, P.E.  
Secretary

Division of Transportation  
System Development  
4802 Sheboygan Ave, Rm 451  
P O Box 7965  
Madison, WI 53707-7965  
Phone: 608-267-7111  
Fax: 608-264-6667  
E-Mail: DOTDTSDDivision-Office@dot.wi.gov

August 27, 2012

JAMES TIPPLE, MAYOR  
CITY OF WAUSAU  
407 GRANT STREET  
WAUSAU, WI 54403



RE: Thomas Street Project Funding

Subject: Project 6999-12-00  
Thomas Street, City of Wausau  
17<sup>th</sup> Avenue – Wisconsin River Bridge  
Local Street  
Marathon County

Dear Mayor Tipple:

It is the joint responsibility of the Wisconsin Department of Transportation (WisDOT) and the Federal Highway Administration (FHWA) to ensure that transportation funds are spent in a wise and prudent manner, such that the citizens of our government are treated justly, and with respect, when transportation projects are developed. State and Federal regulations require that citizens are notified of their rights when dealing with government agencies during the real estate acquisition stage of all transportation projects.

For this project, several parcels were purchased prior to the completion of the environmental process. Although early acquisition is acceptable in some situations, this project has not incorporated an Environmental Justice analysis of the potential impacts of the project on minority and low income populations. There are concerns that irreversible adverse impacts to the minority or low income populations may have already occurred as part of the early real estate acquisition process.

WisDOT and FHWA have reviewed the City of Wausau files regarding the early acquisition of the 10 parcels on Thomas Street. We have determined that the appropriate process was not followed during the purchase of these properties. It was found that the City did not comply with 49 CFR Part 24 (Uniform Act). This action makes the project ineligible for federal funding. A letter from FHWA to WisDOT addressing this concern is attached.

If you believe that you have additional information regarding the real estate process that was not reviewed by WisDOT local program staff, please provide the information to the North Central Region for evaluation.

The Thomas Street Project's ineligibility does not affect future projects and their ability to be eligible for federal funds provided the following conditions are met:

- WisDOT will provide FHWA prior notice of, and approval for, any proposed decision by WisDOT to provide federal funds to the City of Wausau. This does not mean that the City is not eligible for Federal funding. However, it does mean that for the next three years, FHWA will actively review and approve any such proposed funding.
- City personnel will attend training on complying with Federal requirements. Training will include Real Estate acquisition, Title VI/Nondiscrimination and the NEPA project development process, including a

subsection in Environmental Justice. WisDOT is committed to continued training and will ensure training opportunities will be available.

- WisDOT recommends the City develop a written real estate purchase process. This should include compliance with 49 CFR Part 24 (Uniform Act). WisDOT has on-line manuals and resource material which can be referred to in the City's real estate process.

If you have any questions, please contact our North Central Region - Project Development Chief, Jeff Hess at (715) 365-5730. Jeff can provide you with further assistance regarding this decision.

Sincerely;



Daniel Grasser, P.E.  
WisDOT DTSD Administrator

Enclosure:  
FHWA letter

Cc: Brad Marquardt, Wausau Public Works Director  
Brad Lenz, Wausau, City Planner  
Greg Wolfe, Cedar Corp  
Mark Gottlieb, WisDOT Secretary  
Don Miller, WisDOT  
David Simon, WisDOT  
Russ Habeck, WisDOT, NC Regions  
Lynn Saeger, WisDOT, NC Region  
Jeff Hess, WisDOT, NC Region  
George Poirier, FHWA  
Kirk Fredrichs, FHWA



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

**Wisconsin Division Office**

August 27, 2012

525 Junction Road, Suite 8000  
Madison, WI 53717  
(608) 829-7500  
(608) 829-7526  
[www.fhwa.dot.gov/widiv/](http://www.fhwa.dot.gov/widiv/)

In Reply Refer To:  
HDA-WI

Daniel Grasser  
Wisconsin Department of Transportation  
4802 Sheboygan Ave., Room 933  
Madison, WI 53707-7965

Dear Mr. Grasser:

This letter is a follow up to the August 23, 2012 meeting between WisDOT and FHWA to discuss the Thomas Street expansion project in Wausau. Based on WisDOT's review of the City's parcel files and independent verification performed by the FHWA, we find that the City did not comply with the Uniform Act in acquiring Right of Way for this project.

The purpose of the Uniform Act is to ensure that people are treated fairly and equitably when they are impacted by federally funded projects. The role of a government entity is to protect these individuals and make sure they are receiving all considerations they are entitled to under the law.

A critical area of non-compliance that is consistent throughout all ten acquired parcels is the lack of just compensation based on an approved appraisal. According to 49 CFR §24.102(d), the amount of just compensation "shall not be less than the approved appraisal of the fair market value of the property." There is no evidence that an appraisal was completed for any of the properties acquired. Because all the properties have been razed it is unfeasible for the City to go back and appraise the properties in accordance with any acceptable appraisal standards to determine if property owners received just compensation.

Another critical aspect of the Uniform Act requires that property owners and tenants be advised of their rights and entitlements to relocation and their rights to appeal. On most parcels our review found no documentation that the City had advised property owners and tenants accordingly. Further, there is no documentation that relocation assistance was offered or provided. FHWA is also concerned about the potential impacts of the proposed project and acquisitions on minority and low income populations in the context of environmental justice.

Given the magnitude of non-compliance and lack of acceptable means to remedy these issues, FHWA cannot authorize use of federal-aid highway funding for any aspect of this project.

Due to the critical nature of the issues associated with the Thomas Street project, FHWA will monitor Federally funded projects in the City of Wausau for the next three years. The monitoring will be done to ensure that programming and project development and implementation for

federally funded projects to ensure the City is successful in implementing Federal-aid requirements.

The next steps and monitoring requirements agreed to are as follows:

1. WisDOT will write a letter to the City documenting the findings from both agencies and explaining the resulting monitoring requirements.
2. FHWA would need to be provided prior notice of, and approval for, any proposed decision by WisDOT to provide federal funds to the City of Wausau. This does not mean that the City is not eligible for Federal funding. However, it does mean that for the next three years, FHWA will actively review and approve any such proposed funding.
3. WisDOT will provide training to the City regarding compliance with Federal requirements. In particular, the training will need to include Real Estate acquisition, Title VI/Nondiscrimination and the NEPA project development process. The NEPA training will need to include Environment Justice. WisDOT is free to add any other topics that the Department believes are appropriate.

If you have any questions on this matter, you may contact me at (608) 829-7500, or you may contact Kirk Fredrichs at (608) 829-7506.

Sincerely,

George R. Poirier, P.E.  
Division Administrator

Enclosure

ecc: Don Miller, WisDOT  
Tanace Matthiesen, WisDOT  
Dave Simon, WisDOT  
Cindy Michalski, WisDOT  
Lynn Saeger, WisDOT  
Kirk Fredrichs, FHWA  
Dwight McComb, FHWA  
Bill Stark, FHWA  
Bethaney Bacher-Gresock, FHWA

Dan Scudder, WisDOT  
Aggo Akyea, WisDOT  
Kerry Paruleski, WisDOT  
Jay Waldschmidt, WisDOT  
Jeff Hess, WisDOT  
Pete Garcia, FHWA  
Lindsey Svendsen, FHWA  
John Berg, FHWA