

REAL ESTATE ISSUES IN LEVEE MANAGEMENT

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REAL ESTATE 101

- Rights in property may be thought of as a “bundle of sticks”
- Each “stick” in the bundle represents a right in the property
- Multiple parties can own one, some, or all of the “sticks”
- Types of rights: Right to occupy and use the land, right to sell the land, grant access to the land, in whole or in part, right to mortgage the property, right to lease it, right to build improvements



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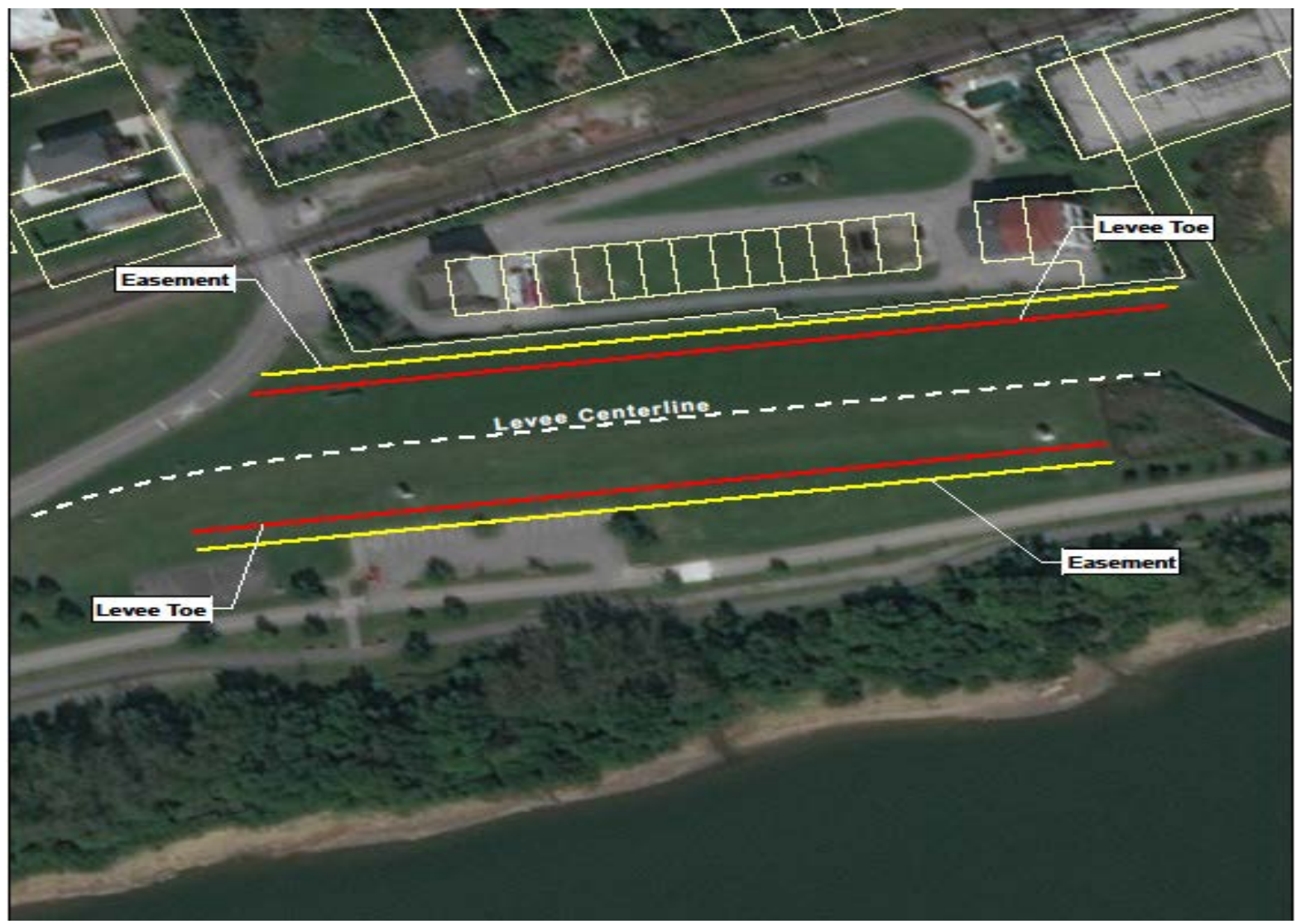
FEE SIMPLE VS. EASEMENT OWNERSHIP

- Fee Simple is ownership of all of the “sticks” in the bundle
- Fee Simple allows the owner to convey various property rights to multiple parties
- Easement is a possessory interest that runs with the land
- Easement grants a right to property for specific uses
- Easement may merge with the fee title under certain circumstances



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PROTECTING REAL PROPERTY INTERESTS AROUND THE LEVEE

- Cooperative Agreements require Levee Sponsors to acquire and maintain sufficient ownership interest of lands, easements and rights-of-way to allow for design, construction, inspection, maintenance, repair, rehabilitation and replacement of the levee project
- Levee constructed on land owned in fee simple or an easement in favor of the Levee Sponsor
- There must be access to both sides of the levee to allow continued maintenance, inspection and repairs
 - Recommend a minimum 15 feet from the toe of the levee on each side



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PROTECTING REAL PROPERTY INTERESTS AROUND THE LEVEE

- Cooperative Agreements require Levee Sponsors to prevent obstructions or encroachments on the Levee Project
- Potential obstructions or encroachments:
 - New developments on Levee Project lands, easements, and rights-of-way
 - Addition of facilities which might reduce the level of protection of the Levee Project, hinder operation and maintenance, or interfere with the Levee Project's proper function



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PROTECTING REAL PROPERTY INTERESTS AROUND THE LEVEE-O&M REQUIREMENTS

- Operations & Maintenance Manual requires that there be no encroachment or trespass which will adversely affect the efficient operation or maintenance of the project upon the rights-of-way for the Levee Project
- Without the proper permits and Corps approvals, there can be no improvements over, under, or through the walls, levees, improved channels or floodways, nor any excavation or construction within the limits of the project
- For any questions regarding potential improvements, excavation, construction or alteration, check with your USACE Levee Safety Area Representative (LSAR)



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CONSEQUENCES FOR FAILURE TO ADEQUATELY PROTECT REAL ESTATE INTERESTS

- Failure to comply with the terms of the Cooperative Agreement and O&M requirements compromises the Levee Project
- Without sufficient real estate interests, operation, maintenance, inspection, repair and replacement are seriously hindered
- Potential impacts to the community:
 - Loss of eligibility for National Flood Insurance program
 - Loss of federal assistance during flood events



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TAKEAWAYS

- Make sure you continue to maintain sufficient real estate interest to support the Levee Project
- Be vigilant in monitoring all development going on near the Levee Project
- Before granting any real estate interest around the Levee Project, contact your Levee Safety Area Representative for confirmation
- Maintain a minimum access area (fee or easement) of 15 feet from the toe of the Levee on either side of the Levee and monitor the area for any encroachments potentially affecting the easement



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