

Private Roads and Shared Driveways

1. Purpose. The purpose of this Circular is to announce changes to VA's procedural requirements related to the acceptability of private roads and shared driveways for VA lending purposes.

2. Background. The VA Lenders Handbook outlines that any private road required to access the property is protected by a recorded permanent easement or recorded right-of-way from the property to a public road.¹ This is to ensure that the Veteran has legal and continued access to the property. Currently, lenders ensure a Veteran's access through the recorded easement and either an ongoing maintenance agreement through the homeowner's association or a joint maintenance agreement from the owners of properties accessed by the private road or shared driveway.²

Many states have enacted laws that govern the maintenance of private roads and shared driveways, particularly those private roads and shared driveways in which a joint maintenance agreement does not exist. Veterans may also request a waiver from VA in situations where a joint maintenance agreement does not exist. Therefore, requiring the Veteran to obtain such agreement, when this requirement can be met by existing state law or waived at the Veteran's request, creates an undue burden on the Veteran, disadvantages the Veteran when purchasing a property accessed by a private road or shared driveway, creates additional expense to obtain a maintenance agreement, and extends the time it takes for the Veteran to obtain financing for their transaction.

3. Action. Effective immediately, an ongoing maintenance agreement from a homeowner's association or a joint maintenance agreement from the owners of properties accessed by the private road or shared driveway is no longer required for properties with private roads and shared driveways. The following actions will be taken on these properties:

a. A recorded permanent easement or recorded right-of-way from the property to a public road is still required to be placed in the loan file.

b. Item 5 of the Notice of Value will no longer be marked as item 5 of the NOV conditions no longer applies³.

4. Rescission: This Circular is valid until rescinded.

By Direction of the Senior Advisor for
Policy, Performing the Delegable Duties of
the Under Secretary for Benefits

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¹ VA Pamphlet 26-7, Lenders Handbook, Chapter 12, topic 4.

² VA Pamphlet 26-7, Lenders Handbook, Chapter 12, topic 4.b.

³ VA Pamphlet 26-7, Lenders Handbook, Chapter 13, topic 8.c.5.