

Rule No.: 941 - 7501 - 09014

Agency: Mississippi Department of Transportation

Agency Effective Date: May 15, 2005

Agency Issued Date: March 8, 2005

Secretary of State Authority Date: May 15, 2005

Supercedes Rule:

Division: MAINTENANCE

Rule Title: Waiver of Deed Restrictions Against On-Premise Advertising

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**The person to be contacted regarding the proposed rule is:** Facility and Records Management Director

**Name of person originating the proposed rule:** John Vance

**Name of supervisor or person who approved the proposed rule:** Melinda McGrath

**Purpose:**

To establish a policy regarding waiver of the advertising sign 150 foot set-back provisions of warranty deeds conveying land to the Mississippi Transportation Commission.

**Summary:**

This rule establishes a policy for the processing of requests for the waiver of the advertising sign 150 foot set-back provisions of warranty deeds conveying land to the Mississippi Transportation Commission.

**The full text of the proposed rule is:**

**All cites herein refer to the most current version of the cited document.**

Instructions for Processing the Waiver of Warranty Deed Restrictions

1. The property owner and/or lease holder sends a request for a waiver along with supporting documents to the District Engineer.
2. The District Engineer reviews the documents and sends the deeds and supporting documents to the State Maintenance Engineer. Upon receipt of the these documents, the State Maintenance Engineer prepares the waiver of warranty deed restriction.

It is very important that the Grantor and the Grantee names are correctly input into the waiver and that the restriction language quoted on the waiver matches that used in the original deed.

An example of the waiver to be used is as follows:

WAIVER OF WARRANTY DEED RESTRICTION

STATE OF MISSISSIPPI  
COUNTY OF \_\_\_\_\_

For and in consideration of the sum of One Dollar (\$1.00) and other good, valuable, and legal considerations, the receipt and sufficiency of which is hereby acknowledged, I \_\_\_\_\_, Executive Director of the Mississippi Department of Transportation, by the authority granted to me by order of the Mississippi Transportation Commission (formerly known as the Mississippi State Highway Commission) passed on the

22nd day of May, 1979 and certified on the 24<sup>th</sup> day of May, 1979 and recorded at Pages 1197 and 1198 in Minute Book 101, do hereby waive to the extent hereinafter stated that paragraph of the warranty deed from \_\_\_\_\_ to the Mississippi State Highway Department, dated \_\_\_\_\_ recorded in Deed Book \_\_\_\_\_ beginning at page \_\_\_\_\_, in the office of the Chancery Clerk of \_\_\_\_\_ County at \_\_\_\_\_, Mississippi, which recited:

"It is further understood and agreed that no signs, billboards or other advertising devices shall be constructed within 150 feet of the centerline of said highway, and the State Highway Commission, its officers, agent or employees are hereby authorized to enter upon such premises and remove there from any signs, billboards, or other advertising devices which now exist or which may hereafter be placed upon said premises, within said 150 feet of the centerline of said highway, without any liability for damage to property attaching to said Commission, its officers, agents or employees for so doing."

It is the intention of this Waiver of Warranty Deed Restriction that the present owner or owners and any successors in title to the property in the aforementioned deed be and are hereby released from the provisions of the aforesaid paragraph to the extent that any signs, billboards, or other advertising devices are constructed in conformity with all then-in-effect regulations of the Mississippi Department of Transportation and all federal and state laws. It is expressly understood that the Mississippi Transportation Commission retains any and all other rights, title, or interest which it might have acquired and presently owns pursuant to the terms of such right of way deeds.

WITNESS my signature this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

MISSISSIPPI TRANSPORTATION COMMISSION

\_\_\_\_\_  
Executive Director

Mississippi Department of Transportation

STATE OF MISSISSIPPI  
COUNTY OF HINDS

Personally appeared before me, the undersigned authority in and for the said county and state, on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, within my jurisdiction, the within named \_\_\_\_\_ who acknowledged that he is the Executive Director of the Mississippi Department of Transportation, and that in this representative capacity he executed the above and foregoing instrument, after first having been authorized so to do.

\_\_\_\_\_  
Secretary  
Mississippi Transportation Commission

Indexing Instructions: To the Chancery Clerk of \_\_\_\_\_ County, Mississippi

The property is situated in the Northwest ¼ of the Northwest ¼ of Section 18, Township 2 South, Range 8 East, \_\_\_\_\_ County, Mississippi. [THIS IS AN EXAMPLE ONLY- THE CORRECT INFORMATION SHOULD BE INPUT HERE.]

3. The State Maintenance Engineer sends the documents to the Legal Division for review who upon completion returns all documents to the State Maintenance Engineer.
4. The State Maintenance Engineer sends the waiver and all associated support documents to the Executive Director by memorandum for review and approval who then sends it to the Secretary to the Commission for acknowledgement. The Secretary to the Commission will forward the executed waiver and warranty deeds to the State Maintenance Engineer. An example of the memorandum to be used is as follows:

MEMORANDUM

\_\_\_\_\_ DATE \_\_\_\_\_

TO: \_\_\_\_\_  
Executive Director

FROM: \_\_\_\_\_  
State Maintenance Engineer

RE: **Waiver of Warranty Deed Restriction**

The Commission has authorized the Executive Director to execute waivers to warranty deed restrictions, specifically sign, billboard, and other advertising device restrictions contained in old warranty deeds of property rights to the Commission, by Commission Order, dated May 22, 1979. MDOT has received a request from \_\_\_\_\_, through their counsel, if applicable, to waive such restriction. Enclosed are the documents necessary to execute the waiver.

Please sign the Waiver of Warranty Deed Restriction and forward it to the Secretary to the Commission for acknowledgement. Also, please have the Secretary to the Commission return the executed waiver and warranty deeds to me.

\_\_\_\_\_/\_\_\_\_\_  
Enclosure

Pc: \_\_\_\_\_ Legal Division

5. The State Maintenance Engineer sends the executed copies of the waiver to the requestor by letter which explains the directions and procedure to record the transactions in the applicable Chancery Clerk office. Upon completion, the requestor is to return the book and page number of the recording of the waiver to the State Maintenance Engineer.

An example of the letter to be used is as follows:

MDOT LETTER HEAD

\_\_\_\_\_ Date \_\_\_\_\_

REQUESTOR ADDRESS

Attention: \_\_\_\_\_

RE: Enter Requestor Name Waiver of Warranty Deed Restriction affecting property in \_\_\_\_\_, MS (Enter original grantor's name deed, Book \_\_\_\_\_, Page \_\_\_\_\_).

Dear \_\_\_\_\_:

Pursuant to your request, please find enclosed one (1) original and one (1) copy of the executed "Waiver of Warranty Deed Restriction" for the above-encaptioned property. I have attached to the waiver the relevant property descriptions that you sent to the District Engineer. Upon filing the waiver, please have the Chancery Clerk of \_\_\_\_\_ County return, in the enclosed envelope, the copy of the waiver showing the book and page number(s) where it is recorded. Please contact me at 601-359-7111, if you have any questions.

Sincerely,

\_\_\_\_\_  
State Maintenance Engineer  
Mississippi Department of Transportation

\_\_\_\_/\_\_\_\_

Enclosures

Pc: \_\_\_\_\_ (as applicable)

6. The State Maintenance Engineer will send a conformed copy of the waiver of warranty deed restriction to the Right-of-Way Division for inclusion in its files and for adjustment of its property inventory.

An example of the memorandum to be used is as followed:

MEMORANDUM

\_\_\_\_\_  
Date

TO: \_\_\_\_\_  
Chief of Right of Way

FROM: \_\_\_\_\_  
State Maintenance Engineer

RE: ***Waiver of Warranty Deed Restriction***

Enclosed please find a conformed copy of the waiver of warranty deed restriction which has been duly executed and recorded on the land records of \_\_\_\_\_ County, Mississippi. Please place this copy in the appropriate file(s) for the appropriate parcel(s) and adjust your property inventory accordingly. Call me at Extension \_\_\_\_\_ if your have any questions.

\_\_\_\_/\_\_\_\_

Enclosure

**REFERENCES:** (All references herein to other materials are as to the most current version of that particular document.)

1. Mississippi Transportation Commission Order, Waiver of Warranty Deed Restrictions, Dated May 22, 1979, Recorded in Minute Book 101, Pages 1197 and 1198.

- MDOT specific rules, forms, publications, SOPs, and other support documentation are available for review at MDOT