



“CQ”

CHARGE OF QUARTERS DUTY

The angry resident phone call

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CQ, or the charge of quarters phrase, is derived from a tasked duty in which a United States armed forces service member is to guard the front entrance to the barracks. Two service members, one a non-commissioned officer and the other a junior enlisted service member, would sit at a desk to monitor incoming and outgoing traffic into the barracks.

In 1990, every right of way agent in the Caltrans Right of Way Department from senior to associate to junior right of way agent, was required to do “CQ” desk duty 3:00 p.m. to 5:00 p.m. from time to time to answer and respond to any and all calls from the general public even remotely related to right of way issues. The CQ desk duty reference was a nod and carryover from the 1970s, where many of the State right of way agents, including the State’s right of way directors, were retired military service members who then adopted the use of this CQ phrase.



Caltrans had a switchboard operator fielding all of the incoming calls to right of way department and forwarding those calls to the CQ desk person. On my CQ desk duty day, I received a call from Mrs. S. From the start of the conversation, she was extremely agitated and upset with Caltrans and their construction project located “right in her backyard.” The noise, dust, fumes and vibrations from the ongoing Caltrans construction project were so impactful that her family could not go outside during the day for fear of breathing harmful construction dust byproducts or getting injured from the shaking of her home’s foundation. She described her home as a sanctuary that had turned into a prison. I gathered information about her property to begin an investigation of whether it was a Caltrans project, and if so, what were the circumstances surrounding the construction activities behind her home.

It was indeed a Caltrans project, and the construction project was behind Mrs. S’s home. An elevated transition ramp, 200 feet above grade and a quarter-mile long, was being constructed, connecting a new park and ride lot to the northbound carpool lanes of Interstate 110 freeway going towards downtown Los Angeles. No property rights were acquired from Mrs. S’s property. The elevated ramp was not quite “right in her backyard,” as the ramp footprint was 500 linear feet away from her property line. But Mrs. S’s home and backyard would eventually be within the actual shadows of the elevated ramp structure. The new ramp design required deep-driven soldier piles that were causing heavy ground vibrations through Mrs. S’s home. Construction equipment and materials used for the concrete ramps created clouds of dust and fumes landing daily on Mrs. S’s property downwind, despite the effort of the contractor to water down the loose construction materials. Mrs. S. had endured 30 days of the construction project before calling Caltrans. Unfortunately for Mrs. S., the construction in this area was scheduled to last another five months.

Was this a right of way or legal issue? This situation was not covered by the rules within the relocation assistance, property management, acquisition or maintenance department manuals. It was a right of way issue because it involved the use of acquired private property for construction of the project, but the contractor was working within the right of way acquired for constructing the project. Mrs. S.’s backyard was indisputably outside the physical right of way limits and the right of way department was not in position to negotiate to acquire rights from Mrs. S. because this property was not already part of the existing project design or limits.

Legal liability for temporary inconveniences that affect all properties in the general surrounding area are not compensable in most scenarios. Arguably, the facts here were sufficient to bring inverse condemnation, nuisance and trespass claims, but regardless, liability and damages would be difficult to prove and the case would be costly to litigate for an uncertain result. Few attorneys would be willing to take the case on a contingency basis, and Mrs. S. stated that she had no appetite or resources for hiring legal counsel to represent her on an hourly basis.

What was the outcome?

Caltrans Right of Way decided to help Mrs. S. despite having no clear legal liability. Right of way developed a plan to provide this aggrieved homeowner with emergency relief that included monies for an occasional local hotel room on an as-needed basis for her family. We surveyed local hotel daily rates and crafted a process for advancing monies to the homeowner. The construction schedule was also thereafter carefully monitored to alert the homeowner of significant construction activity so the homeowner could plan her schedule accordingly.

When project was completed, and resident no longer felt aggrieved, the total costs for inconvenience “expense” paid to the homeowner was about \$1,200. Mrs. S. was never thrilled about the project “right in her backyard,” but she later expressed her appreciation that her concerns were heard, information was provided and her expenses paid. A potential fubar (definition: out of working order; seriously, perhaps irreparably, damaged.) situation was averted. This CQ desk call was resolved without the need for Caltrans legal counsel assistance, Mrs. S. didn’t retain an attorney that might have complicated matters, Caltrans District director-level management didn’t need to get involved, and the elevated ramp was built without delay or further claims. And although challenging, this situation was instructive to right of way in planning mitigation measures for future construction projects with excessive noise, dust, fumes and vibrations. ⚡



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