

**DATE:** March 17, 2025

**SUBJECT:** Access Approval – Impacts to Access of Neighboring Owners Procedures for Highway Occupancy Permit (HOP) Projects

**TO:** District Executives

**FROM:** Daniel P. Farley, P.E., Director  
Bureau of Operations

*Daniel Farley, P.E.*

This time and resource neutral Strike-off Letter (SOL) revises PennDOT's policy on the application of its Adjacent Property Owner Notification Procedures as described in Publication 282, the Highway Occupancy Permit Operations Manual.

Consistent with 67 Pa. Code §441.8(j)(5), if an auxiliary lane must be located in front of property of another person, the applicant must secure the approval of the other person or indemnify the Commonwealth against any action the other person may bring against the Commonwealth. If unsuccessful at securing the approval, PennDOT has previously interpreted this regulation by requiring applicants to perform a number of exploratory steps, including an engineering study of alternatives and loss assessment or appraisal for the affected property, prior to accepting indemnification.

PennDOT is revising its interpretation of this guidance by allowing an applicant to indemnify the Commonwealth directly, provided that: (1) the impacted property owner has been provided with a copy of the plan and explained their rights to petition to intervene or protest the HOP application; and (2) a public meeting, such as a public municipal meeting related to the land development process, was advertised and conducted.

The revised content is effective immediately and will be incorporated into the next update to PennDOT's Publication 282 in the following sections, which are also attached:

- Publication 282, Chapter 2.6 - Additional Driveway Application Requirements, Access Approval Procedures – Impacts to Access of Neighboring Owners
- Publication 282, Chapter 9.2 - General Use of Forms, Access Approval Procedure Worksheet and Sample Letter; Form M-950R1

Additionally, Form M-950R1, "Access Approval Procedure – Impacts to Access of Neighboring Owners Worksheet and Sample Letter Templates" has been revised accordingly and is also attached.

Should you have any questions, please contact Michael J. Dzurko, Manager, HOP Program at (717) 783-6080 or [mdzurko@pa.gov](mailto:mdzurko@pa.gov).

## Attachments

cc: Eliza Erickson, OTO Coordinator, Governor's Office  
Brent Sailhamer, Executive Director, ACEC/PA  
Thomas R. Macchione, P.E., Director, Traffic Engineering and Operations, PTC  
Alicia Nolan, Division Administrator, FHWA  
Assistant District Executives – Construction  
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Assistant District Executives – Maintenance  
Fran Hanney, Assistant District Executive – Operations, District 6  
District Planning and Programming Managers  
District Traffic Engineers  
District HOP Managers  
Karen Cummings, Senior Assistant Counsel, OCC  
Shane Rice, Director, Policy Office  
Teresa Wagner, Director, Legislative Affairs  
Daryl St. Clair, P.E., Chief, Employee Safety & Training Division  
Daniel Farley, P.E., Director, BOO  
Christine Spangler, P.E., Director, Bureau of Project and Delivery  
Christine Norris, P.E., Deputy Secretary, Highway Administration  
Brent L. Trivelpiece, Director, Bureau of Construction and Materials  
Chris Metka, Manager, Municipal Research and Outreach Manager, CPDM  
Douglas Tomlinson, P.E., Chief, Highway Safety and Traffic Operations Division, BOO  
Robert Pento, P.E., Manager, Traffic Engineering and Permits Section, BOO  
Michael Dzurko, Manager, Highway Occupancy Permit Program, BOO

## Access Approval Procedures – Impacts to Access of Neighboring Owners

### Background

There are two specific regulations which require PennDOT to recognize the access rights of neighboring owners when reviewing an application:

1. If an auxiliary lane must be located in front of property of another person, the applicant must secure the approval of the other person or indemnify the Commonwealth against any action the other person may bring against the Commonwealth. 67 Pa. Code §441.8(j)(5). An auxiliary lane is defined as either acceleration or deceleration lanes, or left turn stand by lanes, including center left turn lanes. 67 Pa. Code §441.8(j). Transition areas are not considered an auxiliary lane for purposes of this regulation; that is, approval or indemnification is required under this regulation only where any portion of the full width of the lane is located in front of the other person's property. Properties on the opposite side of the road from proposed acceleration or right turn deceleration lanes are not subject to the access approval procedures unless otherwise determined necessary by the Department pursuant to an engineering analysis.
2. The applicant/permittee is responsible to pay all fees, costs and expenses incident to or arising from the permit work, including the cost of related highway improvements which increased traffic necessitates. 67 Pa. Code §441.6(4)(i). The Commonwealth Court has determined that this regulation allows PennDOT to require an applicant to construct improvements to preserve the access rights of abutting property owners. See *Popple v. Department of Transportation*, 575 A.2d 973 (Pa. Cmwlth. 1990). Examples of such a restriction where improvements may be required would include where installation of a median barrier, new signalization or the taper at the end or beginning of an auxiliary lane, limits turning movements from a pre-existing driveway.

These regulations and the constitutional right of access held by property owners are the basis of PennDOT's policy, when reviewing an application, to balance the rights of an applicant and those of neighboring property owners. The procedures set forth below provide that balance.

The access rights of landowners abutting public highways are twofold: a right to ingress and egress on and off the highway and a reasonable right to connect to the public road system. PennDOT may be liable for damages if it unreasonably interferes with these property rights. Liability in condemnation is more readily recognized for direct impacts to the ability to get on and off the highway than indirect impacts to the landowner's connection to the road system. For instance, the issuance of a permit that significantly impacts the circuitry of travel, in some cases, may be determined to be unreasonable.

This access approval procedure applies to three specific cases as follows. CASES 1, 2, and 3 are referenced in the decision-making flowchart provided at the end of this section as a companion to this policy. For the purposes of this policy, "impact" is defined as the construction of public roadway improvements along the adjacent property owner's frontage which may affect ingress or egress from the adjacent property; use of the term "impact" in this policy does not include other effects on adjacent property owners.

1. CASE 1 - An auxiliary lane will be located along property frontage at which there is no existing driveway.
2. CASE 2 - Existing driveways (whether they have a permit or not) that are impacted by the proposed highway improvements but need not be reconstructed or have turning movements restricted. For example, an auxiliary lane will be located at the driveway or there is an impact other than reconstruction or a turning movement restriction due to proposed highway improvements not involving an auxiliary lane.
3. CASE 3 - Existing driveways (whether they have a permit or not) that must be reconstructed or have turning movements restricted due to permit work. A reconstruction is where the driveway must be physically reconfigured, modified, relocated or removed. A turning movement restriction is where there is a loss of turning movement due to permit work.

For existing driveways that must be reconstructed or restricted (CASE 3), the applicant will first be required to ask the impacted landowner to obtain a permit for the reconstructed/restricted driveway. This is consistent with 67 Pa. Code §441.3(a), which states that “no driveway...shall be constructed or altered within State highway right-of-way...without first obtaining a permit from the Department.” However, if the impacted landowner is unwilling or unable to obtain a permit and all permit work will occur within the State highway right-of-way, the Department may allow the applicant to construct the alteration consistent with the indemnification procedure described in the following section if it believes the reconstruction/restriction to be reasonable.

These procedures do not apply when additional land is required, either permanently or temporarily, from the neighboring landowner. The rights of the neighboring owner are dealt with in the acquisition process in those situations. Nor do the procedures apply to frontage without an existing driveway unless an auxiliary lane is being located along the frontage. In this situation, the neighboring landowner has not yet exercised their right of access; therefore, only the very specific auxiliary lane regulation is applicable.

During the HOP process, the applicant should explore alternative designs which avoid impacts to adjacent properties, provided the revised design satisfies all mitigation requirements identified in the approved TIS, and safety and operations are not compromised. The District will assess whether the alternative design is feasible; otherwise, the applicant can elect to proceed with the indemnification and/or approval processes.

**Indemnification should not be viewed as a substitute for sound engineering practices in the development and design of traffic mitigation solutions while preserving the access rights of abutting property owners including, but not limited to, relocating an existing access.**

### Approval / Indemnification Procedures

The permit applicant may choose to secure the approval of the property owner or indemnify the Commonwealth (§441.8(j)(5)), though amicable resolutions with neighboring property owners is encouraged. Whether choosing to obtain approval from impacted property owners or indemnify the Commonwealth, the applicant must first identify all properties within the limits of the permit work that may be impacted using Form M-950R1, a worksheet for identifying impacted properties.

This will include all properties along which an auxiliary lane would be located as well as those properties whose existing driveways would be: (1) reconfigured, modified, relocated or removed, or (2) operationally affected by the permitted work (e.g., loss of turning movement, limited to right in/right out, median limitations, traffic signal proximity limitations, etc.).

The District, upon receipt of the HOP plans and Form M-950R1, must review and approve the initial determination of the applicant as to impacted properties. This may result in the addition or deletion of properties to be considered. Similarly, changes to design during the HOP review process may also necessitate further review of properties to be considered.

### Impacted Property Owner Approval

Consistent with §441.8(j)(5), the applicant may secure the approval of adjacent property owners by (1) having the property owner submit an HOP application (M-945A or M-950A), as appropriate; (2) obtaining an approval letter from the property owner; or (3) obtaining the property owner's signature on the HOP plan. Refer to the below flow chart for additional guidance.

### Indemnification

Consistent with §441.8(j)(5), for adjacent properties with an auxiliary lane being installed along their property frontage, the applicant can also address the neighboring owner's access rights by indemnifying the Commonwealth. Indemnification will not be accepted by PennDOT until 30 days after the "Right to Intervene for Impacts to Access of Neighboring Property Owners" letter was received by the impacted property owner by certified mail.

For PennDOT to accept indemnification, the Applicant must provide:

- a. Proof that they have provided each impacted property owner with a copy of the HOP plan depicting the proposed roadway improvements and explained their rights to petition to intervene or protest the HOP application. The notification letter template included as part of Form M-950 R1 must be used to satisfy this requirement. Additional information on Form M-950R1 can be found in Subchapter 9.2 of this publication.
- b. Proof that a public meeting discussing the proposed development with plans depicting the proposed roadway improvements was advertised and held. An advertised public municipal meeting related to the land development approval process satisfies this requirement.

Once the above requirements have been satisfied, the applicant may request and execute Form M-950IA (Indemnification Access). Refer to Chapter 3, "Indemnification," and Chapter 9, "Use of Forms" for guidance on completing Form M-950IA. A single Form M-950IA can be completed for all applicable properties, with all property owners listed and attached to the indemnification as Exhibit A.

### Petitions to Intervene and Protests

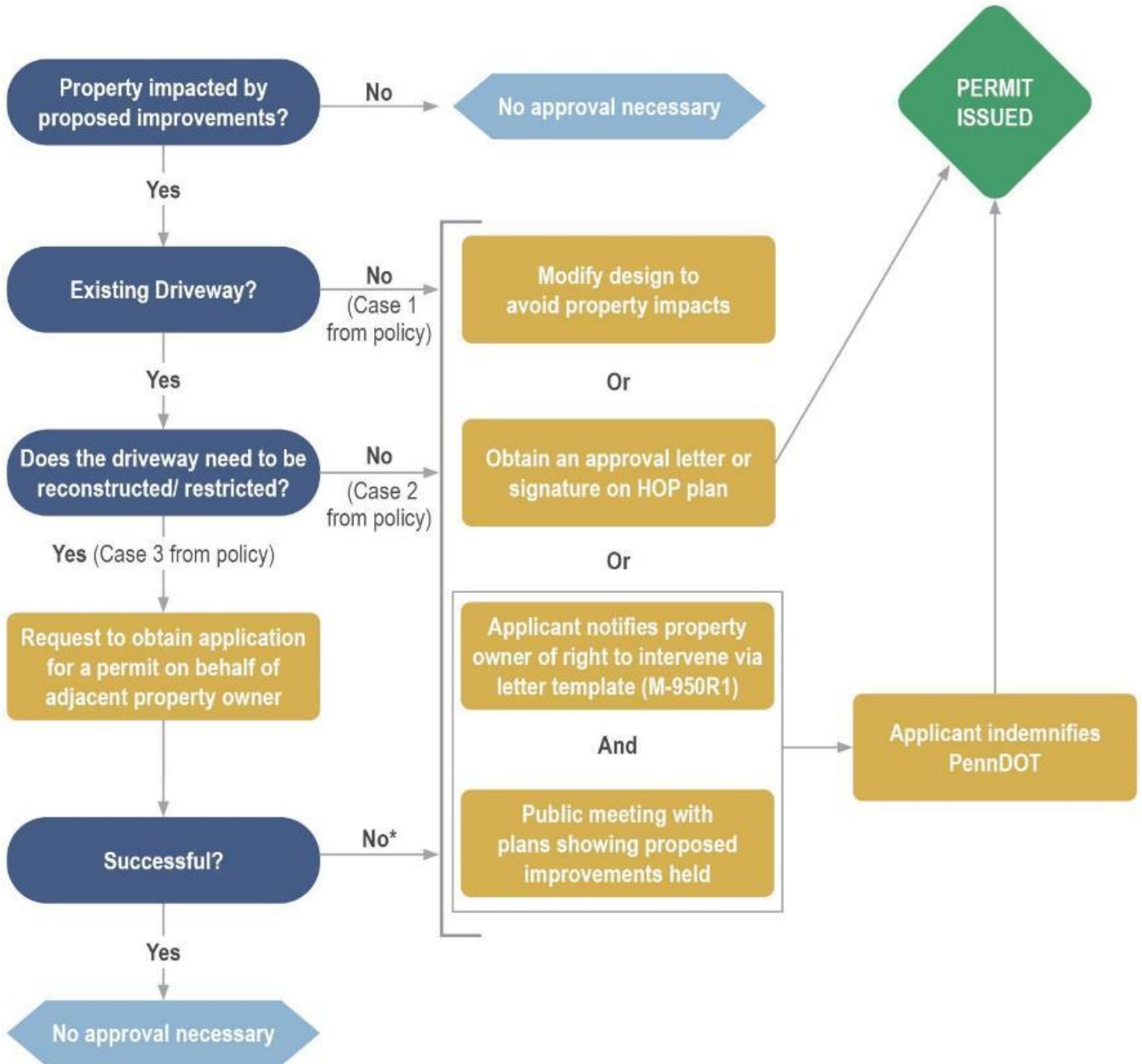
Interventions and protests are legal proceedings brought before PennDOT's Administrative Docket pursuant to Pennsylvania's Administrative Code. The proceedings are governed by the General Rules of Administrative Practice and Procedure, 1 Pa. Code Chapters 31-35, and PennDOT's Rules

of Administrative Practice and Procedure, 67 Pa. Code Chapter 491. These rules require specific information to be included when initiating an action before the docket.

A person who wishes to intervene as a party in the HOP Application process must file a petition for leave to intervene in accordance with the rules and file it with the Administrative Docket Clerk, c/o Office of Chief Counsel, Commonwealth Keystone Building, 400 North Street, 9th floor, Harrisburg, Pennsylvania 17120-0096, along with a \$100 filing fee. Electronic filings are accepted at [RA-PDDOTADMINDOCKET@pa.gov](mailto:RA-PDDOTADMINDOCKET@pa.gov), but the filer must submit the filing fee by check. The District HOP manager and the HOP applicant should be served with a copy of the filing. The matter will be assigned to PennDOT Hearing Officer for disposition.

A person who does not wish to intervene in the HOP application process but objects to the approval of an application may file a protest. There is no filing fee associated with a protest and no service requirement. However, it is recommended that a copy be sent to the District HOP manager and the HOP applicant. Protests are filed solely to alert PennDOT and the HOP applicant that someone objects to the issuance of an HOP and the nature of that objection. No formal proceedings result from a protest. When timely filed, PennDOT may consider the protest in reviewing the HOP application.

## Decision-making Flowchart for Impacts to Adjacent Property Owners



\*It is assumed that if an adjacent property owner is unwilling to submit a permit application, they will also be unwilling to provide an approval letter or signature on the HOP plan. Therefore, an applicant's remaining options in this case are either to modify the design to avoid property impacts or indemnify PennDOT. As noted in Publication 282, if all permit work will occur within the State highway right-of-way, the Department may allow the applicant to construct the alteration consistent with the indemnification procedure if it believes the reconstruction/ restriction to be reasonable.

**Access Approval Procedure Worksheet and Sample Letter; [Form M-950R1](#)**

Purpose

This worksheet assists the applicant in navigating through the access approval procedure steps. It provides a method for the applicant to track its progress as they identify impacted property owners, attempt to obtain approvals or applications, or begin the indemnification process if necessary. This completed form should be submitted to the District Permit Office for review and approval of the initial determination of impacted properties, and as supporting documentation of applicant contact with impacted property owners.

Included with the form are two letter templates to be used if correspondence with impacted property owners is needed:

- A sample approval letter template to be used if approval is sought from an impacted property owner.
- A Right to Intervene Letter Template, used to notify an adjacent property owner of their rights associated with roadway modifications along their property frontage, as provided by Commonwealth law. This letter template must be used by the HOP applicant before PennDOT will accept indemnification, as described in Chapter 2 of this publication.

The letters should be modified for the specific application and impact the applicant is attempting to obtain approval for. See PennDOT “permits shared” folder for Form M-950R1.

Preparation

Begin by documenting all property owners (and addresses) within the limits of work on the worksheet. Continue to work across the rows as necessary until:

1. Property owner will not be impacted by project.
2. Impacted property owner approval is obtained by signed HOP plan or letter.
3. A driveway application (Form M-950A or Form M-945A) is obtained.
4. Determination is made to indemnify PennDOT.





Property owner name(s)  
Street Address  
City, State ZIP  
Date

HOP Applicant  
Street Address  
City, State ZIP

**RE: Approval for Impacts to Access of Neighboring Property Owners**  
Highway Occupancy Permit (HOP) Application No. 123456  
Municipality Name, County Name  
SR 1234 Segment 0000 Offset 0000

To whom it may concern:

I have reviewed the proposed highway improvements along my property frontage associated with your HOP application referenced above. I am aware that an auxiliary lane and/or other features under the HOP Permit will be installed along my property frontage **Choose an item.**

I am also aware that the proposed improvements located along my property frontage may restrict where a future access may be located and/or may restrict certain turning movements at a future access.

With that understanding, I approve the proposed improvements along my property frontage as shown on your plan titled xxxxxxxxxx and dated xx/xx20xx.

Sincerely,

Property owner name

Property owner name(s)  
Street Address  
City, State ZIP  
Date

HOP Applicant  
Street Address  
City, State ZIP

**RE: Right to Intervene for Impacts to Access of Neighboring Property Owners**  
Highway Occupancy Permit (HOP) Application No. 123456  
Municipality Name, County Name  
SR 1234 Segment 0000 Offset 0000

To whom it may concern:

As outlined in 67 Pa. Code Chapter 441, Pennsylvania Department of Transportation (PennDOT) regulates the location, design, construction and drainage of access driveways, local roads, and other property within State highway right-of-way for the purpose of security, economy of maintenance, preservation of proper drainage and safe and reasonable access. Pursuant to the regulations, PennDOT requires property owners to apply for and obtain a Highway Occupancy Permit (HOP) prior to the construction or alteration of a driveway or local road accessing the State highway and any associated roadway improvements.

As described in the TIS/TIA Executive Summary of Improvements and depicted in the set of HOP plans included with this letter, proposed roadway improvements associated with the HOP application referenced above include modifications along the frontage of your property. The improvements have been determined by PennDOT to be necessary to mitigate the traffic impacts associated with the applicant's project. These improvements preserve the access rights of abutting property owners including, but not limited to, relocating an existing access.

Prior to HOP issuance, the regulation (67 Pa. Code Chapter 441) requires the applicant secure your approval for the proposed roadway improvements or indemnify the Commonwealth against any action brought against the Commonwealth. If you are agreeable to the proposed roadway improvements, please sign the approval letter included as an attachment to this letter and return to the applicant for inclusion with their application for HOP approval.

If you do not wish to approve the proposed roadway improvements, the applicant has the right to indemnify the Department and you have the right to petition to intervene or protest the HOP Application pursuant to the General Rules of Administration Practice and Procedure, 1 Pa. Code, Chapters 31-35, and PennDOT's rules of Administrative Practice and Procedure, 67 Pa. Code, Chapter 491. The filing of a petition to intervene may result in a hearing to determine whether the proposed improvements unreasonably interfere with your rights to ingress and egress on and off the highway and to reasonably connect to the public road system. The applicant indemnifying the Commonwealth is not a substitute to the applicant and its agents applying sound engineering practices to develop and design the traffic mitigation solutions required.

In addition, Pennsylvania's Sunshine Act requires that you have an opportunity to participate in public municipal meetings and/or hearings related to the approval process for the subject application's land development. Such meetings are required to be advertised in a local newspaper and provide another avenue for engagement on the roadway improvements associated with this application.

For additional information on PennDOT's Highway Occupancy Permit (HOP) program, including the regulation (67 Pa. Code §441.8(j)), policy (Publication 282, Chapter 2.6) governing the rights of adjacent property owners, and a PennDOT point of contact, please visit <https://www.pa.gov/services/penndot/apply-for-a-penn-dot-highway-occupancy-permit.html>.

If you have questions related to the proposed roadway improvements associated with this application, please contact the applicant, XXX at XXX or PennDOT as noted in the paragraph above.

#### Attachments

Sincerely,

Applicant's / applicant's representative name

Attachments:

- A. TIS/TIA Executive Summary of Improvements
- B. HOP Construction Plans
- C. "Approval for Impacts to Access of Neighboring Property Owners" Letter

SAMPLE

**ATTENTION: If you speak another language other than English, language assistance services can be made available to you. Call (717) 787-5891.**

**Arabic:**

تنبيه: إذا كنت تتحدث لغة أخرى غير اللغة الإنجليزية، يمكننا توفير خدمات المساعدة اللغوية لك. اتصل بالرقم (717) 787 5891.

**Burmese:**

သတိပြုရန်- သင်သည် အင်္ဂလိပ် ဘာသာစကား မဟုတ်သော အခြား ဘာသာစကားကို ပြောလျှင် သင့်အတွက် ဘာသာစကား အကူအညီ ဝန်ဆောင်မှုကို ရရှိနိုင်ပါသည်။ (717) 787-5891 သို့ ခေါ်ဆိုပါ။

**French:**

« ATTENTION : Si vous parlez une autre langue que l'anglais, des services d'assistance linguistique peuvent être mis à votre disposition. Appelez le (717) 787-5891. »

**Greek:**

ΠΡΟΣΟΧΗ: Εάν μιλάτε άλλη γλώσσα διαφορετική από τα αγγλικά, οι υπηρεσίες γλωσσικής βοήθειας μπορούν να σας διατεθούν. Καλέστε (717) 787-5891.

**Hindi:**

सूचना: यदि आप अंग्रेजी के अलावा कोई अन्य भाषा बोलते हैं, तो आपको भाषा सहायता सेवाएं उपलब्ध कराई जा सकती हैं। कॉल करें (717) 787-5891

**Italian:**

ATTENZIONE: Se parli una lingua che non sia l'inglese, i servizi di assistenza linguistica possono essere messi a tua disposizione. Chiama (717) 787-5891.

**Japanese:**

注意：英語以外の言語を話す場合は、言語支援サービスを利用できるようにすることができません。電話 (717) 787-5891

**Korean:**

주의: 영어 이외의 다른 언어를 사용하는 경우, 언어 지원 서비스를 이용할 수 있습니다. (717) 787-5891으로 전화하십시오.

**Nepali:**

ध्यान दिनुहोस्: यदि तपाईं अंग्रेजीबाहेक अन्य भाषा बोल्नुहुन्छ भने तपाईंलाई भाषा सहायता सेवा उपलब्ध गराउन सकिन्छ। (717) 787-5891 मा फोन गर्नुहोस्।

**Polish:**

UWAGA: Jeśli posługujesz się językiem innym niż angielski, możesz skorzystać z usługi pomocy językowej. Zadzwoń pod numer (717) 787-5891.

**Russian:**

ВНИМАНИЕ: если вы говорите на другом языке, вам может быть оказана языковая помощь. Обратитесь в информационно-справочную службу по номеру: (717) 787-5891.

**Simplified Chinese:**

請注意：如果您說英語以外的另一種語言，我們可以為您提供語言幫助服務。  
請致電 (717) 787-5891。

**Somali:**

FIIRO GAAR AH: Haddii aad ku hadasho luqad kale aanan ahayn Ingiriisiga, adeegyada gargaarka luqadda ayaa lagu diyaarin karaa. Wac (717) 787-5891.

**Spanish:**

**ATENCIÓN: Si habla otro idioma que no sea inglés, habrá servicios de asistencia en otros idiomas disponibles. Llame al (717) 787-5891.**

**Traditional Chinese:**

請注意：如果您說英語以外的另一種語言，我們可以為您提供語言幫助服務。  
請致電 (717) 787-5891。

**Ukrainian:**

УВАГА: якщо ви розмовляєте іншою мовою, вам може бути надана мовна допомога. Зверніться до інформаційно-довідкової служби за номером: (717) 787-5891.

**Urdu:**

توجہ دیں: اگر آپ انگریزی کے علاوہ کوئی اور زبان بولتے ہیں تو آپ کی زبان میں مدد کے لیے آپ کو خدمات فراہم کرائی جاسکتی ہے۔ براہ کرم (717) 787-5891 پر کال کریں۔

**Vietnamese:**

LƯU Ý: Nếu quý vị nói một ngôn ngữ khác không phải tiếng Anh, các dịch vụ hỗ trợ ngôn ngữ có thể được cung cấp cho quý vị. Gọi (717) 787-5891.