



Some question whether state overpaid for land next to Interstate 35E

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Two Dallas real estate men have reaped millions of taxpayer dollars by buying acres of North Texas right of way where the state plans to widen Interstate 35E, then selling it to the state months later at a profit.

Business partners Kevin Bollman, 45, and Wade Blackburn, 31, have said they used public information about the highway projects to decide where and when to buy land along the highway corridor.

Some experts say it is possible to use such information to target property to buy that the state will eventually need.

But other people familiar with the deals, including a Denton County commissioner, question whether they were in taxpayers' best interest.

"Transactions like this sure don't look right to me," said Denton County Commissioner Hugh Coleman. "Transportation dollars are hard to come by. I would hope [the Texas Department of Transportation] would be zealous with these public funds."

TxDOT declined to discuss the land deals. The agency also declined to release records of its purchases, such as appraisals, requested under the state's open records law.

Information about TxDOT's highway projects is generally public and available to anyone. But it's usually less clear when the state will begin acquiring right of way because that decision is based on the availability of money and shifting priorities, experts say.

Bollman and Blackburn formed several business partnerships to buy properties along I-35E in Denton County and downtown Dallas since 2009. They then sold multiple parcels to TxDOT early in the state's right-of-way acquisition process. *The Dallas Morning News* has been able to identify at least 19 acres, using available public records.

Records show the state agency paid Bollman and Blackburn at least \$22.2 million over roughly a five-month period in 2011 for the Denton County parcels. It is not known how much the men originally paid for the property because real estate sales prices do not have to be disclosed in Texas.

Dallas County deed records do not reflect the prices the state paid the men for at least six acres along Riverfront Boulevard over about four months in 2012.

In a written statement provided to *The News*, Bollman explained the pair's process.

"Our success in these transactions occurred because we had capital to invest during the global recession when many sellers were not willing to wait for TxDOT's inevitable development, and relatively few buyers were willing to get off the sidelines," he said.

"We purchased and later sold these properties solely as a result of our thorough analysis and understanding of TxDOT's well-documented, publicly disclosed plans and land acquisition procedures," Bollman said.

He also cited their "development experience and professional observations of the real estate market along the path of the interstate."

Those who know Bollman and Blackburn say they are very thorough and smart about researching where to buy property near road projects.

The pair retained the services of a former top TxDOT right-of-way official in the Dallas district, who said he was hired to help them

research real estate.

Travis Henderson, 57, oversaw the state's purchases of right of way along I-35E through North Texas, including the most of Bollman and Blackburn's property in Denton County. It's not clear how involved Henderson was in those purchases at the time.

Bollman and Blackburn hired Henderson after he retired from TxDOT in mid-2011. He now owns Henderson Right of Way Solutions.

Henderson said he only does research for Bollman and Blackburn on transportation projects outside of the area he once oversaw.

'A glass bowl'

For his part, Coleman, the Denton County commissioner, believes TxDOT's right-of-way purchases deserved greater oversight and scrutiny. Denton County kicked in millions of dollars for right-of-way acquisition for the highway project.

Coleman said he believes the state overpaid for some of the right of way, in particular because the land was valued significantly less by the appraisal district for tax purposes.

Real estate experts note that property often sells for more than it's valued at for tax purposes. That's because Texas is among a handful of states that don't require the disclosure of real estate sales prices, which makes it difficult for appraisal districts to accurately value real estate.

The state needed the land to widen I-35E in Denton County and to improve bridges and highways near downtown Dallas. Both projects had been on the books for many years, but they were subject to numerous delays and changes because of a lack of funding and other factors.

In North Texas, many property owners along the highway corridor knew the state would eventually buy certain parcels within the proposed highway right of way. The big question was — and continues to be — when.

Because of such delays, buying highway right of way is a risky endeavor, real estate experts say.

"Those kinds of deals, in my opinion, are long shots. And I sure wouldn't recommend it," said Eddie Vassallo, a veteran eminent domain lawyer in Dallas who represents landowners and is considered an expert in the field.

"I would really question somebody wanting to buy property in the hope it's going to be condemned in the next year or two," he said. "Because the economics turn in a minute."

John Polster, Denton County's transportation consultant, said he doesn't know Bollman but said Blackburn is savvy and knowledgeable about the arcane right-of-way acquisition process.

Polster said he doesn't believe anyone could gain an unfair advantage because all the information about state right of way is publicly available and no one person at TxDOT makes key decisions about right-of-way purchases. He also said that TxDOT has numerous checks and balances and that supervisors review and sign off on every decision.

"It's a glass bowl," Polster said.

Polster said land speculating in advance of highway projects is common. People do their research and buy land that they know will be needed for highway projects. They then hope to sell it to the state at a profit, knowing that the state has a certain appraisal process it must follow.

"On every job there are speculators who try to get in front of jobs," he said. "They buy land to get in our way just so we've got to buy them."


Bollman and Blackburn did not provide specifics about their methods, and the state wouldn't comment.

However, one eminent-domain expert shed light on factors that could explain some of the price differences.

Stephen I. Adler, an Austin eminent-domain lawyer with 30 years of experience, said a certain piece of highway land could be valued differently by private and state appraisers based on rules the state's appraisers have to follow.

Adler said a tract that sits in the path of a highway widening project could be valued less than it ordinarily would be because of the pending highway construction, which could limit visibility and access. The owner of the property might be willing to sell the land to a

private party at a discount to avoid the hassle of dealing with the state and the construction, Adler said.

A savvy buyer would know he could get a good deal on the undervalued land, Adler said. And when the state wa  its appraiser is not allowed to consider what's known as "project influence," or any negative or positive impacts the highway project could have on the property.

In addition, when the state takes a portion of land for a highway project, it is required to pay the owner additional compensation for any damages that may occur to the remainder of the land. For example, the highway project could reduce access to the remaining property or eliminate parking or buildings.

A successful history

Regardless of their methods, Bollman and Blackburn have been extremely successful with their investment strategy.

In one case, the partners bought 1 acre in Lewisville in 2011 for \$2.2 million, according to appraisal district records. A month later, TxDOT paid \$3.5 million for about two-thirds of the property, records show.

Another of their sales to the state took a little longer. But it paid off.

Bollman and Blackburn in 2009 bought about 14 acres alongside the I-35E frontage road in Hickory Creek for \$1.8 million, appraisal district records show. Seventeen months later, TxDOT purchased an option to buy six acres of it. Three months after that, the state paid \$7.2 million for the land, records show.

Many of those who sold property to Bollman and Blackburn expressed surprise over how soon the state bought their former property after they had sold it.

Dan Matise, a broker for landowners who sold 1.5 acres at Reunion and Riverfront boulevards in Dallas to Bollman and Blackburn in September 2011, said he understood that the state would need the land in five to 10 years.

"They may have known something we didn't know," he said about the partners, who sold it to the state about nine months later.

Stephen Griffin, who sold some Lewisville land along I-35E to the pair, said they approached him about buying his land, which was not listed for sale. When told how much the state later paid for it, he said: "They got significantly more than they paid us."

Griffin said he and a co-owner decided to sell because of the uncertainty behind the state's plans.

"We figured they knew more about it than we did," he said about the buyers. "We didn't know how long it would take [for the state to buy it]. I figured it would take several years."

Bollman is a certified public accountant who worked for 11 years at a major accounting firm before joining the Trammel Crow Co. to focus on real estate. He was a vice president at Magellan Commercial Realty in Dallas before leaving to start his own firm with Blackburn in 2011.

Blackburn worked for a real estate appraisal firm after college. From there, he joined Magellan in 2005 as a senior associate where he helped clients with eminent-domain proceedings and gained experience in dealing with TxDOT.

TxDOT bought their property in Denton County using option contracts, which typically lock in the sales price. Such contracts give the state the right to buy property over a certain period after paying the owner a percentage of the purchase price as a fee.

The contracts gave TxDOT the right to buy the Bollman and Blackburn properties before the final widening route was established.

The agency wouldn't say how much the option fees were. Henderson, the former TxDOT right-of-way official, said some fees were half of the purchase price, others less, depending on how each property owner negotiated the fees.

After the highway project received final clearance, owners were eventually paid the balance when their sale closed, he said.

An option to buy

For the Bollman and Blackburn properties, that happened in early 2011.

The process began in September 2009 when TxDOT's right-of-way director, John Campbell, asked the Transportation Commission for the authority to offer option contracts to property owners alongside I-35E in the area of Lewisville and Hickory Creek, saying it

would ultimately save the state money.

Options are given for two main reasons: to help an owner who has a hardship and to acquire property before dev value. While a property is under option, the owner cannot sell, alter or develop it.



But option contracts are risky, TxDOT says. Options allow the agency to acquire right of way early, before the environmental study that determines the final boundaries of the improvements is complete. As a result, the state could wind up paying millions of dollars for property that eventually won't be needed for the highway improvements.

The state could sell that un-needed land but could lose money in the process.

In a 2007 report to the Sunset Advisory Commission, TxDOT said such option contracts are "only effective in very limited circumstances." TxDOT also said options only save the state money in "high growth areas" where development is causing property values to rise quickly.

Bollman and Blackburn were among a handful of property owners to be offered an early buy-out using options, according to documents recorded in Denton County deed records. One was a developer who said he had plans to build on his land. Another was a sick elderly man who wanted to sell his property before he died.

By contrast, others with property along that segment of the highway corridor have fought in vain to get bought out early so they could end the uncertainty and move on with their lives. Business owners along I-35E said they lost tenants and couldn't move forward with renovation plans.

Henderson, the former TxDOT official, said a total of about 30 options were ultimately given to property owners who approached the state or Denton County for help. They couldn't rent their buildings or develop their land because of the state's widening plans, he said.

He said property owners had been told the state would begin buying right of way around 2007, which didn't happen. "We put them in a real bind," Henderson said.

Campbell, the state's right-of-way director, told the transportation commission in 2009 that options were needed in Denton County because of "ongoing and eminent development along the corridor," state records show. The commission granted the request, and TxDOT began signing option contracts in 2010 with Bollman, Blackburn and other property owners.

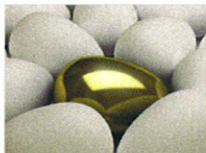
But that development didn't come swiftly after all. Because of the recession, land values fell and banks were not lending.

Hickory Creek and Lewisville officials said recently that the Bollman and Blackburn partnerships have never submitted any development plans for their highway properties.

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