

Documenting Right of Access to Private Property for Debris Removal or Demolition

In order to facilitate the Return to Safe Homes in Safe neighborhoods agencies have been working to demolish unsafe structures, divert/reuse rubble, and remove debris in Neighborhoods across Haiti.

Debris and Fully Damaged buildings situated in private property require careful consideration, and appropriate measures to acquire and document Right of Access must be in place. This document is intended to guide actors participating in Debris Removal for disposal or reuse and Demolition of damaged buildings in documenting owner approval to avoid future conflicts or claims.

The Debris Management Working Group (DMWG) highlights that:

- Actors must consult with the local authority prior to undertaking any activities and wherever possible sign a memorandum of understanding clearly stating the scope of the project and each party's responsibilities.
- Property owners must be informed prior to the commencement of demolition or removal activities, and must understand and agree with the activities to be undertaken.
- This guidance only applies to demolition or removal of debris. For shelter/housing construction more stringent verification methods may be necessary as recommended by the Land Tenure Working Group.
- Actors must consult with the Institut de Sauvegarde du Patrimoine National (the Institute for the Protection of the National Heritage of the Republic of Haiti, or ISPAN) prior to considering the demolition or removal of buildings marked as National Heritage. There is an ISPAN label marking those buildings under the Ministry of Public Works (MTPTC) damage label.
- In the event that the owner or its representative is not present, actors may only demolish structures or remove rubble when written authorization has been given by the Major, after the Major has made demonstrable attempts to contact the owner.
- In the event that an owner refuses to demolish/clear the plot the Major may grant written authorization to clear the site. Actors must not enter a plot for the purpose of demolition or removal unless the owner or the Major has granted access.

The DMWG recommends the following steps be taken based on the experience of 5 actors¹. Variances occur with the different purposes of removal; whether it is directly related to shelter construction or clearance only.

1. Identify plots for demolition or removal: It can occur several ways as per your own methodology and may include neighborhood or street survey, participatory enumeration, individual plot identification from camp residents, and/or official

¹ All Hands Volunteers, IOM, JP/HRO, Miyamoto, French Red Cross

assessment lists from MTPTC, owners may contact debris managers directly and request their services, or program planning information may be posted in kiosks or public location with the consent of the Major.

2. Identify owner or owner's representative, if not already done so in step 1.
3. Inform the owner or owner's representative of the process. Please include:
 - a) A range of dates when activities may start
 - b) A set date for the owner to remove any salvageable material
 - c) A range of dates for the removal of rubble (after demolition)
 - d) Inform whether or not shelter construction will follow once debris has been removed
4. Verify to the best of your abilities ownership or proof of authority over the plot. In order of preference:
 - a) Request copies of proof of ownership and verify with local authority or notary records. If not feasible,
 - b) Request copies of proof of ownership. If not available,
 - c) Secure signature of 3 witnesses from the neighborhood and a local authority². If not available,
 - d) Secure signature of 3 witnesses from the neighborhood and of a community leader. If not available,
 - e) Secure signature of 3 witnesses from the neighborhood – minimum recommended for demolition
 - f) Written statement of authority,
 - g) Verbal statement of authority, – not recommended for demolition
5. Document Right of Access: The owner or its representative should sign a written statement of authorization to avoid future disputes. The authorization may state that once the debris is removed, the grantor has full responsibility for securing the site. The Authorization may be countersigned by witness and/or a community leader.

For further information, please visit

<http://haiti.humanitarianresponse.info/Default.aspx?tabid=71>

or contact:

- Carolina Cordero, American Red Cross, corderoc@usa.redcross.org
- Ugo Blanco, United Nations Development Programme, ugo.blanco@undp.org

² Please note that partners have noted the difficulty securing local authority signature for every plot. It is also not an efficient use of the local authority's resources to sign several thousand documents. In some cases signing of individual documents can take up to two months.

