

# Metro Board Approved Policy

## Rights-of-Way Guidelines

*Adopted: February 24, 2000*

### Historical Perspective

Staff is frequently approached by adjacent property owners and communities with requests for permission to use the MTA's rights-of-ways and other MTA-owned properties for landscaping projects, rail removal for beautification purposes, community uses and grade crossings serving adjacent land uses. Although the MTA considers these as interim uses, realistically, they can be in place for twenty years or more while the fight-of-way is being preserved for a future transit use. If these transportation corridors are developed extensively for landscaping and other community-oriented uses, it may be difficult to reclaim the land for future transportation purposes. Similarly, bikeways are also proposed on MTA rights-of-way as "interim" uses until a more intensive transportation use is developed.

## **ATTACHMENT A**

### **MTA RIGHTS-OF-WAY**

### **PRESERVATION GUIDELINES**

#### **INTRODUCTION**

These guidelines are intended to supplement the existing Real Estate Department Policies and Procedures. The existing policies provide guidance for property management operations with respect to commercial leases and other uses of MTA real property assets including non-operating rights-of-way and other MTA-owned properties. The existing policies require the preservation of the rights-of-way for future transportation projects while encouraging utilization on an interim basis for the creation of revenue to MTA. While these Policies and Procedures are comprehensive with respect to general property management practices, they provide no specific direction to staff on a number of issues which may affect the preservation of the rights-of-way for future transportation projects.

MTA has received requests from neighborhood associations, cities and nearby residents and landowners to allow extensive landscaping, linear parks and equestrian trails, track removal and public community areas on MTA rights-of-way. In addition, MTA has granted funding to several cities to construct bikeways on segments of several rights-of-way. The existing policies do not provide sufficient guidance for staff or the community as to which of these interim uses will be allowed.

Some of these requests may impact MTA's goal of preserving the rights-of-way for future transit use because it could be extremely difficult to remove extensive landscaping, park like areas, and/or community uses that have been in place for many years. Further, any new residents to an area may not even be aware that a transportation corridor exists and is intended for future transit use.

The following supplemental guidelines seek to balance community needs to beautify and improve MTA's property with MTA's need to preserve the corridors for future transportation uses.

## **RAIL REMOVAL/COVERING**

Rail/track removal is not permitted except for the following purposes:

- a transportation project, including a Class 1 bike path
- intersection improvements needed for vehicular and/or pedestrian/bicycle safety and flow

Track and other track material removal for beautification purposes only is not allowed. Tracks and other track material may be covered with paving, dirt or mulch.

## **LANDSCAPING**

Trees are permitted only within five (5) feet of each edge of MTA's right-of-way to the property line; other landscaping, i.e., low shrubbery or ground cover is permitted within an area of ten (10) feet along the outer edges of MTA's right-of-way to the property line. Lease boundary fences may be covered with screening vines. No significant grading or mounding of soil is permitted.

Planting should comply with local ordinances for street and sidewalk visibility and should not compromise overhead clearance for buses and trucks when fully matured. Plantings should be selected which are drought tolerant, preferably native species. Landscape plans are to be submitted to MTA for review and approval.

Perimeter landscaping must be maintained by the project sponsor or lease holder. The project sponsor or lease holder must enter into a License or Lease Agreement with the MTA Real Estate Department that satisfies the Facilities Maintenance Department. The Facilities Maintenance Department may require that the project sponsor provide maintenance for the entire width of the right-of-way, possibly subject to reimbursement from MTA, where appropriate.

If allowed, imported soil must meet MTA's specifications for clean backfill material guidelines, and the lessee shall be required to follow MTA's specified environmental protocol governing hazardous materials for such soil movement.

## **BICYCLE AND PEDESTRIAN PATHS**

**Construction of a bikeway and/or pedestrian path is prohibited unless the bikeway or pedestrian path is designed so that the sponsor can demonstrate that it will not have to be relocated or removed to allow for construction or operation of a future transportation project.** The additional width of the right-of-way that is not being used for the bikeway/pedestrian facility may not be converted to a landscaped linear park.

An exception to the above requirement is made for the City of Burbank's bikeway project on the Burbank Branch right-of-way west of the Burbank Metrolink Station to the City of Los Angeles city limits. The project has already been fully funded and designed for this segment; the

right-of-way is only 36 feet in width; and this segment of the right-of-way has never been included in MTA's Long Range Transportation Plan for a transit project. Because of the narrow width of this right-of-way segment, a bicycle path and adjacent pedestrian path will be allowed in the center of the right-of-way with adjacent perimeter landscaping, subject to approval by the MTA's CEO or his designee.

Similarly, the final one mile segment of this funded bikeway project is in the City of Los Angeles just east of the North Hollywood Red Line station in the area not proposed for any immediate transit use. The right-of-way in this segment, however, is 60 feet wide. The most appropriate placement of the bikeway and landscaping in this segment shall be subject to approval by MTA's CEO or his designee.

Exceptions to the bikeway guideline for other MTA right-of-way segments may be made only at the discretion of the MTA Board.

### **BILLBOARD REMOVAL**

Requests for removal of licensed billboards shall be considered only if, in MTA's sole opinion, it is in the best economic interests of MTA to do so. In the event billboard removals are allowed, the requesting party shall be required to assume all legal and financial responsibility which may arise as a result of the removals, including, but not limited to, relocation or removal expenses to which the billboard owners would be entitled under the law, and reimbursement to MTA of its anticipated lost revenue stream, for a period of not less than ten (10) years, as determined by MTA in its sole discretion.

### **USE RESTRICTIONS**

**Temporary structures** - Leases may allow temporary structures only, such as construction trailers, portable offices or other portable structures, on concrete slabs or temporary pier footings, if any, and that can be easily relocated at minimal cost. No permanent structures will be allowed.

**Supplemental parking** - Leases for parking on the rights-of-way shall be for supplemental parking only, for the convenience of employees or customers, and not parking to fulfill zoning or occupancy code requirements or otherwise serve as primary parking for a permanent use.

**Public community use** - Leases should not be made for a public community use, such as temporary church, school classroom or other community building, parks and recreational uses, equestrian trails, farmers' market, municipal parking lots to serve public civic areas, community gardens and pet parks.

**Outdoor storage areas** - Leases for outdoor storage uses in or near residential areas shall require that the stored materials be screened by normal height fences.

**Compatibility with surrounding areas** - Local elected officials and/or city staff may be contacted for input regarding compatibility with local land uses prior to issuing a lease. Uses should not be allowed that could cause community complaints or erode community goodwill towards the MTA and/or future support for any transit project.

### **GRADE CROSSINGS**

Grade crossings of an MTA-owned right-of-way to an adjacent private property will be allowed only if the crossing is to be used as secondary access to the lessee's property, is not for primary access, and is designed and operated in coordination with local city traffic engineering requirements. Crossings will not be allowed if termination of a crossing right by MTA would make all or a portion of the adjacent property unusable. Exceptions may be made if the private property has the potential for another access which could be readily used if the MTA grade crossing was removed in the future. Permission will be granted only by a short term license agreement.

### **DEVIATIONS FROM THE GUIDELINES**

Minor deviations consistent with the overall intent of the guidelines may be made with the approval of MTA's CEO.

## **ATTACHMENT B**

### **ALTERNATIVES CONSIDERED**

#### **Rail Removal**

Staff considered allowing more extensive removal of tracks in order to make additional segments of the right-of-way available for commercial lease purposes. In some areas the rail is on a slight berm that renders the right-of-way unusable. Absolute restriction on rail removal in these areas denies MTA opportunities to generate operating revenue. It is estimated that restriction on rail removal on the Burbank Branch right-of-way, for example, would render unleaseable, property valued at approximately \$200,000 in annual rent. Staff is not recommending rail removal, however, because it could convey the impression of abandonment of the rail line, and could jeopardize a future transportation project.

#### **Landscaping/ Bicycle and Pedestrian Paths**

Staff considered allowing ground cover and shrubbery across a greater width, or all of, the right-of-way. Similarly, staff considered bikeway and pedestrian path projects towards the center of the right-of-way with landscaping filling the entire right-of-way. This would accommodate requests received from several cities and property owners.

In addition, staff considered allowing "interim" bikeway facilities on rights-of-way. Short segments, especially on the Exposition Branch right-of-way, are not wide enough to accommodate both a bikeway and a future transportation project. Also, existing leases, billboards and utility poles on many right-of-way segments do not allow bikeways to be placed immediately along the edge of the right-of-way without cost prohibitive relocations. Adhering to the strict guideline of maintaining sufficient right-of-way and ensuring the future optimal alignment for both a bikeway and another transit mode could preclude or delay cities from moving forward with plans to design and build bikeways on MTA rights-of-way.

Staff does not recommend automatically allowing interim bikeways on every right-of-way. Rather, staff feels that the Board should have the opportunity to evaluate specific bikeway projects on a case by case basis. The Board can then take into account the most current information available regarding the nature and timing of future corridor transit projects. The guidelines have been written to reflect this.

### **Use Restrictions**

Staff considered being more lenient about allowing community uses such as temporary church buildings, farmers' markets, municipal parking lots, modular school classrooms and similar uses. Staff believes that these uses would be difficult to remove as the community may become dependent upon them and, as such, should more appropriately be placed in permanent locations. Furthermore, MTA is often requested to lease space for these types of public uses at low or no cost, limiting the potential to generate market rate rents from those areas.

### **Grade Crossings**

No alternatives were considered, as staff believes adding grade crossings detracts from the benefit of the rights-of-way as exclusive corridors with minimal crossings which enhance operational safety. Furthermore, an exclusive corridor transit project's cost effectiveness, safety and efficiency decrease in proportion to the number of crossings encountered along its route.