



February 5, 1996

Los Angeles County
Metropolitan
Transportation
Authority

One Gateway Plaza
Los Angeles, CA
90012

213.922.6000

Mailing Address:
P.O. Box 194
Los Angeles, CA 90053

TO: MTA Board of Directors
FROM: Ronny J. Goldsmith *RJG*
Rae James
SUBJECT: Responses to Board & Committee Meetings
Request List

Attached are responses to the following requests included on the December Board request list:

<u>Requestor</u>	<u>Request#</u>	<u>Request</u>
Alarcon	95-119	Staff to provide a recommendation for handling insurance claims as a result of construction to reduce unfavorable public perception.
Bonzo	95-121	Staff to provide process in which community could participate in our insurance program and how to fill out claims form properly. Include list of criteria required to fill out a claim.

If you have any questions you may contact Ronny Goldsmith at 213-922-7417.

Request

#95-119: Staff to provide a recommendation for handling insurance claims as a result of construction to reduce unfavorable public perception.

Response:

Staff recommends a coordinated, pro-active procedure for high visibility claims. The procedure would involve an integrated team of staff from Public Affairs, Construction, and Risk Management-Construction that ensures claims are handled responsively. Also, the procedure involves mitigation and prevention of claims on an on-going basis. The procedure consists of five major phases, as described below:

1. On-going Mitigation and Prevention of Claims:

This phase uses techniques to prevent and mitigate claims. Specific efforts will include:

- Identifying specific mitigation requirements from Environmental Impact Reports (EIR) which can reduce construction impacts of noise, dust, and traffic to the public;
- Developing specific mitigation requirements, based on the EIR requirements, and incorporating them in construction contracts;
- Monitoring construction activity to ensure that mitigation requirements in the contract are being met; and,
- Conducting a pre construction survey of properties, along the project alignment, to obtain information on their physical condition, prior to initiating construction; and, conducting follow up surveys, after construction begins, to identify any properties that may need additional evaluations as a result of new circumstances (e.g., occurrence of earthquake)

Staff is preparing an RFP for the Eastside Extension Pre-Construction Survey (PCS) Program. The RFP will be released in February 1996. The RFP will request the use of bi-lingual consulting staff.

Historically, the program has been limited to capturing information, before construction begins, on the physical condition of properties that are adjacent to the construction site. Staff will be expanding the scope of the Eastside PCS Program to include capturing financial information and economic data of businesses and communities along the project alignment. This information is expected to facilitate and expedite resolution of claims from business owners who may claim financial loss due to MTA Construction.

2. Claims Initiation:

This phase begins with MTA obtaining notification of a loss. MTA Risk Management-Construction will provide prompt written loss notification to appropriate insurance brokers and insurance carriers. Thereafter, MTA Risk Management-Construction will have the carriers expedite claims adjustors to the site for evaluation of claims.

3. Evaluation:

The evaluation phase includes a survey conducted by Public Affairs to identify any business/property owners who may have been impacted by the incident and have not filed claims.

4. Communications:

MTA will mail insurance claim forms directly to parties who have been impacted. This ensures timely receipt (by the MTA) of potential claims. Additionally, an on-going presence by Public Affairs and Risk Management-Construction staff in field offices may also be used to answer questions, address concerns, and facilitate communication between claimants and the claim adjustors. Additionally, Public Affairs staff, during this phase, will work with the impacted community, on an on-going basis, to identify additional concerns and ensure that their concerns are being addressed.

5. Claims Resolution:

A 72 hour small claim settlement procedure is recommended that will use specific criteria to quickly substantiate and settle the claims. This procedure has been used for the Hollywood Boulevard sinkhole and subsidence incidents.

A request for proposals for insurance broker services was issued in January 1996. One of the objectives of the procurement is to design an insurance program that provides the MTA more direct control over the handling of day-to-day insurance claims. The new insurance program will be effective July 1, 1996. Staff will negotiate with the carriers on claims handling issues to ensure that claims procedures are responsive to the needs of the MTA and to members of the community who have been impacted by construction.

These new procedures may include the establishment of programs which involve members of the community to facilitate the resolution of certain claims (see Response #95-121). Staff will report to the Board by July 1996 on the recommendations for the new insurance program.

Request
#95-121:

Staff to provide process in which community could participate in our insurance program and how to fill out claims form properly. Include list of criteria required to fill out a claim.

Response:

The Board, at the January 1996 meeting, approved the Property Protection Program for the Hollywood Hills Community. The program provides community participation for the settlement of certain property damage claims. Staff will review the program with its insurance carriers for the applicability to other projects. A copy of this Board item is enclosed as Attachment 1.

Enclosed is a proposed Construction Claim Form (Attachment 2). Staff and County Counsel will review the claim form with existing carriers. Procedures to expedite claims processing will be included on the back of the claim form. Once approved, staff will also have the claim form translated into various languages.

MTA Board of Directors
February 5, 1996
Page 5

Prepared by:

Victor Mendez
Acting Director, Risk Management-Construction

ATTACHMENT 1

**HOLLYWOOD HILLS COMMUNITY
PROPERTY PROTECTION PROGRAM**



December 4, 1995

ATTACHMENT 1

Los Angeles County
Metropolitan
Transportation
Authority

TO: MTA Board Of Directors

THROUGH: Franklin E. White

FROM: Ronny J. Goldsmith *RJG*

SUBJECT: INSURANCE ALTERNATIVE FOR HOLLYWOOD HILLS
PROPERTY INSURANCE

818 West Seventh Street
Suite 300
Los Angeles, CA 90017

RECOMMENDATION

213-972-6000

It is recommended that the Board authorize the Chief Financial Officer or her designee to negotiate and bind coverage with responsible insurance carriers, through its current property insurance broker, Robert F. Driver/RFP Insurance, in an amount not-to-exceed \$1,000,000.

Mailing Address:

P.O. Box 194

Los Angeles, CA 90053

It is recommended that the Board authorize the Chief Financial Officer to establish a loss reserve in the amount to be determined to pay insurance-related deductibles and other related claims which may arise out of tunnel construction in the Hollywood Hills. In future years, the loss fund will be established as part of MTA's budget cycle.

It is recommended that the Board authorize the Chief Financial Officer to take the necessary steps to establish the Hollywood Hills Community Property Protection Program (HHCPPP) to provide for the handling of physical property claims arising from the MTA's tunnel construction in the Hollywood Hills.

DBE PARTICIPATION

Robert F. Driver/RFP Insurance will establish a DBE goal of 30%. RFP Insurance is a local, women-owned DBE.

ALTERNATIVES CONSIDERED

The Board has the option of withholding authorization for this insurance alternative. If authorization is not provided, all claims which may arise as a result of the Hollywood Hills tunnel construction would be settled through the MTA's existing owner-controlled insurance program (OCIP).

IMPACT ON BUDGET

Funding for this action is available within the Board-approved construction project budgets.

BACKGROUND

At the October meeting of the MTA Board, staff was requested to determine if insurance alternatives were available for residents in the Hollywood Hills whose property may be potentially impacted by tunnel construction. Those insurance alternatives would address a potentially lengthy process to resolve claims arising out of tunnel construction under our current CCIP program. Staff has identified an insurance alternative and is requesting Board authorization to enter into negotiations with responsive insurance carriers so as to bind coverage.

In identifying insurance alternatives, staff found that their requirements could not be met through standard insurance policies. Therefore, to obtain the needed coverage, a uniquely tailored policy had to be developed.

Some of the major points of the insurance alternative are:

- A \$10 million stand-alone insurance program covering approximately 96 property locations in the Hollywood Hills for direct physical property damage arising out of MTA tunnel construction. As a condition of coverage, each insured location must be appraised and a "pre-construction" survey conducted to baseline the condition of the property. This is a "non-negotiable" condition.
- A "one-stop" location for presenting claims and issuing checks (for the deductibles assumed by MTA and other claims presented under the policy).
- A \$50,000 deductible per occurrence has been established. This deductible will be paid by the MTA. This deductible will apply to individual properties incorporated under the policy.

- The insurance policy would support alternative procedures, such as the Hollywood Hills Community Property Protection Program (HHCPPP), for claims presented to the MTA. A copy of the alternative program and related procedures is attached for your review. The HHCPPP is intended to provide an easier method of handling insurance claims for physical damage in the Hollywood Hills area. Claims less than \$200 will be resolved in the field. Claims over \$200 but less than \$10,000 will be handled by the Property Protection Board at the option of the homeowner which consists of 2 members of the community, 2 claims specialists and a construction expert. Claims exceeding \$10,000 will be resolved by the insurance company. The decision of the Board will be final and binding.

Prepared by:

Ronny J. Goldsmith
Chief Financial Officer

Attachment

ATTACHEMENT

DRAFT

METRO RED LINE MCS-3

HOLLYWOOD HILLS COMMUNITY PROPERTY PROTECTION PROGRAM

TABLE OF CONTENTS

I.	INTRODUCTION
II.	PURPOSE
III.	MEMBERSHIP OF THE PROPERTY PROTECTION BOARD
IV.	OPERATION OF THE BOARD
V.	CONDUCTING MEETINGS OF THE BOARD
VI.	PRESENTING A CASE BEFORE THE BOARD
VII.	COMPENSATION
VIII.	BINDING DECISIONS
IX.	EXHAUSTION OF REMEDIES

I. INTRODUCTION

As a result of input from the community surrounding the Metro Red Line MCS-3 North Hollywood Project, the MTA has determined that it would be in the best interests of the agency and the public, to establish a program to provide for quick resolution of nominal property related claims that may arise out of the project. This procedure will describe the claims handling process.

The program will consist of several stages of claim resolution:

- A. Claims no more than \$200.00 will be handled in the field.
- B. Claims over \$200.00 but no more than \$10,000 will be handled through a dispute resolution procedure which may be selected at the option of the claimant.
- C. The MTA, at its own expense, will provide to each owner of real property affected by this program, a limited property insurance policy to cover potential physical damage.

II. PURPOSE

This program is intended to provide an opportunity for the immediate resolution of claims not exceeding \$200 as well as the swift hearing of larger claims filed by property owners whose property is being affected by the construction of the Metro Red Line MCS-3 North Hollywood Project through the acquisition of subsurface easements to support the construction of a hard rock tunnel under the Santa Monica Mountains.

III. MEMBERSHIP OF THE PROPERTY PROTECTION BOARD

The Property Protection Board shall consist of three members to be selected by the MTA's Construction Committee from among a list of candidates in three categories. The members shall each meet certain qualifications described below. They will be selected for a term not to exceed the completion of the hard rock tunnel project and shall serve at the pleasure of the Construction Committee.

One member shall be selected from each of the three categories listed below:

- A. Community Representative: one member shall be chosen from among those individuals with an interest in community affairs and lives within the area affected by the tunnel project and has not filed a property related claim in the past five years and does not currently have a property related claim against the MTA or any of its contractors.

B. Property Claims Specialist: one member shall be chosen by the MTA from among those individuals that have at least three years experience in the handling and adjusting of first party property claims. The individual selected will not have worked for or be currently employed by the MTA or MTA's insurance brokers or insurance providers within the past five years.

C. Engineer/Architect/Contractor: one member shall be chosen from among those individuals that have at least three years experience in the field of residential property construction, repair or rehabilitation. The individual selected will not be currently employed by or through any party working on the MTA's construction projects, or be actively working for or through any party or entity that is assisting in the preparation of claims or litigation against the MTA.

IV. OPERATION OF THE BOARD

A. Meetings: The board shall meet no less than once per month during the term of the tunneling portion of the project, except that if there are no claims filed or outstanding during any month, the board will not meet. The board may meet for the full day if there is a sufficient number of claims to warrant a meeting.

B. Staffing: MTA will provide the staffing and accommodations for the board.

C. Limitation of Authority: The board shall not be authorized to consider any issue except for matters arising from property related claims filed by individuals whose real property is the subject of a condemnation action by the MTA. The Board will only consider claims relating to physical damage to the property owner's real property or associated out-buildings. Out-buildings may consist of garages, guest houses, studios or similar types of substantial structures.

V. CONDUCTING MEETINGS OF THE BOARD

A. Selection of the Chair of the Board: The board shall select a chair to conduct the meetings. The term of the chair may be fixed for a specific term by a vote of the board or may rotate from meeting to meeting.

B. Meeting rules: The board's meetings shall be informal and the board may receive any information relating to a party's claim that the board deems relevant and shall not be constrained by the standard rules of evidence.

1. The Chair shall open and close the meeting.

2. The Chair shall determine the order by which each party shall present their information regarding their claims.

3. Each side shall be given a maximum of twenty minutes to present their information. The party presenting may reserve part of their time to be used to rebut the information presented by the other party, but in no event shall a party's total presentation exceed this time limitation.

4. After the presentation of information concerning the claim, the board shall deliberate either in private or in public. The final decision of the board shall be made public either orally at the meeting or through a written statement of decision released within one week of the day of the meeting.

5. No information developed for or presented at a meeting shall be deemed admissible in a court.

6. The decision of the board shall be binding and final, giving no rise to additional legal action by either party. The binding and final nature of the procedure shall be explained at the outset of the meeting to both parties by the chair of the board.

C. Quorum: All decisions of the board shall be reached by a majority vote of the full board.

VI. PRESENTING A CASE BEFORE THE BOARD

A. Form of presentation: Each party may use any form of presentation that would be considered reasonably calculated to inform the board of the nature of the real property damage and the party responsible for the damage. If the presentation requires any special equipment, the party making the presentation shall be solely responsible for the equipment.

B. Witnesses and Presentation materials:

1. Witnesses: Each party may call upon any witnesses that have actual or personal knowledge of the facts and events surrounding the alleged physical real property damages that are the basis of the claim. The witnesses shall not give testimony under oath.

2. Presentation materials: Each party may use any type of presentation material before the board. If the board determines that it cannot reasonably understand or interpret the materials, it may advise the presenter of this fact and may reschedule the meeting to give the

party an opportunity to prepare another set of presentation materials.

VII. COMPENSATION

The MTA shall pay each member a maximum of \$100.00 per meeting, not to exceed \$400.00 per month, as well as, the reasonable costs of normal expenses that are directly related to a meeting, as defined under MTA's expense reimbursement procedure, for members of the board while they are either preparing for or attending a hearing. Expenses shall be those cost items normally and reasonably incurred by a board member while reviewing and preparing for a hearing.

VIII. BINDING DECISIONS

It shall be understood by all parties that the decision of the board shall be binding and final, giving no rise to additional legal action.

VIII. EXHAUSTION OF REMEDY

Any party qualified to present a claim for physical real property damages under this program, is not required to present a claim to the Property Protection Board before filing an insurance claim or seeking legal redress in court.

HHC299.doc

ATTACHMENT 2

CONSTRUCTION CLAIM FORM

MTA
CONSTRUCTION
CLAIM FORM

Name of Claimant: _____

Address of Claimant: _____

Home Phone: _____

Name of Business: _____

Address of Business: _____

Business Phone: _____

Date of Accident or Incident: _____

Description of Accident or Incident: _____

Estimate of Damages: _____

Witnesses: _____

(Name)

(Phone Number)

Witnesses: _____

(Name)

(Phone Number)

Signature of Claimant: _____

(Date)

Turn over for Procedures and Criteria

PROCEDURES TO ASSIST IN EXPEDITING CLAIMS:

1. On claims involving PROPERTY DAMAGE* or STRUCTURAL DAMAGE**, complete the claim form and send it to the MTA. The address appears on the bottom of the form. A claims adjustor will contact you upon receipt of the claim form, to make an appointment to inspect and adjust the damage claimed. Make certain that you include contact phone numbers of the owners and/or property managers, in order for appointments to be made for an inspection of the building.

2. On claims involving BUSINESS INTERRUPTION, please collect the following information:
 - Historical financial records
 - Historical sales records
 - Actual sales since the time of the subject construction accident, closure or relocation
 - Bank statements, Sales and Use Tax returns, tax returns and sales journals.

A claims adjustor will contact you to make an appointment to review these financial records.

3. Send all claims to:

**Metropolitan Transportation Authority
Risk Management Construction Dept 5360
P.O. Box 194
Los Angeles, CA 90053**

Phone Number 213-922-2175

* Includes damage to, loss of, or destruction of property.

** Relates to damage to, loss of, or destruction of a structure.