



August 9, 1995

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Transportation
Authority

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TO: BOARD OF DIRECTORS
THROUGH: FRANKLIN E. WHITE
FROM: JUDITH WILSON *fw*
SUBJECT: **AMERICANS WITH DISABILITIES ACT WAIVERS**

ISSUE

At the May board meeting, MTA Director Fasana requested that staff investigate the Americans with Disabilities Act (ADA) waiver that the Washington Metropolitan Area Transit Authority (WMATA) recently received to determine if the MTA could benefit from seeking a similar waiver.

BACKGROUND

Under the ADA, rail transit operators are required to retro-fit "Key Rail Stations" and build all new stations in compliance with the design guidelines promulgated by the United States Architectural Barriers Compliance Board (ATBCB). These guidelines are known as the Americans with Disabilities Act Guidelines (ADAG). The law allows no deviations from these standards unless a finding of "equivalent facilitation" is made by the ATBCB or the U.S. Secretary of Transportation.

WMATA recently received an equivalent facilitation waiver for its signature lighted granite rail platform edge pavers. WMATA argued that its flamed granite edges, when combined with an infra-red door locator system, would provide equivalent safety to vision impaired persons as the ADAG's required raised truncated dome patterned material. After four years of petitions, negotiations and lobbying two different administrations, WMATA's request was granted in April of 1995.

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The applicability of this decision to the MTA is not at all clear-cut. First, MTA staff has always been aware of the opportunity for equivalent facilitation waivers. In fact, the MTA sought and received several waivers which have saved the agency over ten million dollars. (These waivers related to the need to construct areas of fire rescue on existing rail platforms and the need to widen the Red Lines evacuation tunnels by 2 ½ inches.)

As to the issue of edge pavers, it was determined that there was no advantage in seeking a waiver and, in fact, the delay involved in seeking a waiver could have cost the MTA millions of dollars in extra costs on the Green Line and MOS 2. (Both of these projects had stations in which edge pavers were scheduled to be installed shortly after the passage of the ADA regulations. By adopting the new standard, we were able to specify the newly designed edge pavers in the original construction contracts, thereby saving the agency on the order of 8 million dollars in retrofitting costs.) Further complicating the issue was the fact that shortly after the adoption of the ADAG, the California Office of the State Architect adopted revisions to Title 24, California Code of Regulations which required the use of the ADAG configuration in rail stations built in California. Accordingly, to receive a waiver from the edge paver requirements, California administrative law would have to have been amended as well as receiving a waiver from the ATBCB. Because of these impediments, staff recommended and the board approved in June of 1992 a plan to retro-fit all existing stations to the new ADAG edge paver material and to build all future stations with this material. As of today, all MTA stations utilize the ADAG compliant material for the edge paving system. (Note, the ADAG compliant material actually costs less than the flamed granite used by WMATA.)

Regardless of the specifics of the edge paver issue, the WMATA decision may have a potentially positive impact on the MTA. Under the old policy, an agency had to show that its alternative to the ADAG was equivalent or better in

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terms of accessibility and safety for it to be accepted. In WMATA's case, independent tests showed that its edge paving system, when combined with a door locator system, would stop 85% of blind individuals from stepping off the edge of the platform. The same tests showed that the ADAG material would stop 94% of blind persons. Accordingly, the tests showed that the material was not equivalent or better, and, under the old policy, would not have been acceptable. The acceptance by FTA of a material which does not strictly meet its standards may portend a new flexibility in the interpretation of the standards which might over the long run save the MTA significant construction dollars.

In recent discussions with FTA staff, they have indicated they are not willing to bend on this issue, and it was intense lobbying on the part of WMATA for many years that resulted in the waiver. However, staff will continue to monitor this evolving area of the regulatory interpretation to ensure that any opportunities for flexibility will be taken to reduce the cost of rail construction in Los Angeles County.