



Richard M. Tefank, Executive Director
Board of Police Commissioners
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3 March 2014

[VIA E-MAIL]

Dear Mr. Tefank,

On January 6, 2012 I wrote to the Police Commission on behalf of the Miracle Mile Residential Association [MMRA] to express our opposition to exemptions from nighttime and weekend work hour restrictions sought by the Los Angeles County Metropolitan Transportation Authority [Metro] for construction of the Purple Line Extension at the Fairfax and La Brea station areas. I am writing to you today to further clarify our position and to express our frustration with the manner in which Metro is pursuing these exemptions.

Los Angeles Municipal Code Section 41.40 is both precise and concise. Its pertinent provisions state:

No person shall, between the hours of 9:00 P.M. and 7:00 A.M. of the following day, perform any construction or repair work of any kind upon, or any excavating for, any building or structure, where any of the foregoing entails the use of any power driven drill, riveting machine excavator or any other machine, tool, device or equipment which makes loud noises to the disturbance of persons occupying sleeping quarters in any dwelling hotel or apartment or other place of residence. In addition, the operation, repair or servicing of construction equipment and the job-site delivering of construction materials in such areas shall be prohibited during the hours herein specified. Any person who knowingly and wilfully violates the foregoing provision shall be deemed guilty of a misdemeanor punishable as elsewhere provided in this Code.

The provisions of Subsection (a) shall not apply to any person who performs the construction, repair or excavation work involved pursuant to the express written permission of the Board of Police Commissioners through its Executive Director. The Executive Director, on behalf of the Board, may grant this permission, upon

application in writing, where the work proposed to be done is in the public interest, or where hardship or injustice, or unreasonable delay would result from its interruption during the hours mentioned above[.]

No person ... shall perform any construction or repair work of any kind upon, or any earth grading for, any building or structure located on land developed with residential buildings under the provisions of Chapter I of this Code, or perform such work within 500 feet of land so occupied, before 8:00 a.m. or after 6:00 p.m. on any Saturday or national holiday nor at any time on any Sunday. In addition, the operation, repair or servicing of construction equipment and the job-site delivering of construction materials in such areas shall be prohibited on Saturdays and on Sundays during the hours herein specified.

Metro concedes, as it must, that the construction of the Purple Line Extension is subject to all of these provisions.

The Los Angeles Police Commission is charged with protecting citizens from disturbances that violates their fundamental right to enjoy the “peace and quiet” of their own homes. A review of the exemptions granted by the Commission reflects that you take this responsibility very seriously. When you do grant exemptions from nighttime and weekend restrictions the Commission carefully delineates specific construction activities within a specific time period. But Metro, in its applications for the Fairfax and La Brea station areas, has been maddeningly vague about what sort of nighttime and weekend construction activities it wishes to pursue and exactly when it intends to conduct such activities.

In this regard, both the Commission and the MMRA are at a serious disadvantage. Metro consistently maintains that it cannot supply specific answers to specific questions about construction activity and scheduling until it officially engages a contractor. Metro recently informed the MMRA that a contractor will not be announced until this summer – yet it applied to the Commission in January for exemptions for work to commence in August.

Metro’s stance with the Commission – and with the MMRA – is “trust us.” Metro evades specificity by issuing platitudes about how you can’t make an omelet without breaking a few eggs, which provides no comfort to the residents of the Miracle Mile because it creates the impression that Metro conceives of our neighborhood as a frying pan. We hope this is not the case, but absent accurate information about what Metro wants to do and when it wants to do it, we cannot help but to imagine the worst-case scenario.

Let us be clear: **the MMRA fully supports the Purple Line extension.** Our issues with this project solely relates to the noise impact its construction will have on our community. We realize that certain construction activities may warrant exemptions from nighttime and weekend restrictions. On a case-by-case basis, we are willing to consider supporting specific exemptions for specific limited periods of time. But we will not and cannot support the blanket exemptions that Metro is currently seeking

from the Commission – nor do we understand how the Commission could consider these exemptions when Metro’s applications are so utterly vague.

Metro must present compelling and detailed reasons to the Commission why the residents of the Miracle Mile should forfeit their right to the protections of Los Angeles Municipal Code 41.40 on an open-ended, unlimited basis. Pursuant to Section 41.40(b), the burden of proof is on Metro to prove that “the work proposed to be done is in the public interest, or [that] hardship or injustice, or unreasonable delay would result from [the] interruption [of construction] during the [prohibited] hours.” Metro must make this showing for **specific** construction projects at **specific** dates and times and at **specific** locations. Indeed, that has always been the Commission’s requirement and practice. But Metro’s position is that it is entitled to the exemptions first, before it even needs to consider whether and how it can carry its burden of proof.

A common sense solution to this situation – one that would enable both the Commission and the MMRA to make well-informed decisions in order to support the Purple Line Extension – would be for Metro to withdraw its current applications for the Fairfax and La Brea stations until such time that a contractor is hired. Then – with facts in hand – the Commission, the MMRA, and Metro could work together to mitigate any negative impacts on the Miracle Mile from subway construction. But if Metro insists on pursuing exemptions in such an obtuse and unlimited fashion, the MMRA has no choice but to maintain an adversarial position in order to protect our residents.

Sincerely yours,



James O’Sullivan, President

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