

A. INTRODUCTION

This appendix provides additional information to support the analyses provided in Chapter 8, “Displacement and Relocation.” The focus of Chapter 8, is the project’s effects on businesses, residents, community facilities, or other entities who might be displaced, and on owners and tenants of private property, since displacement of businesses and residents and use of private property generally would require compensation. Compensation and relocation assistance for private property acquisitions would be provided by MTA and NYCT in accordance with the procedures defined at the end of this appendix.

In Section B, this appendix provides additional information on the methodology used in Chapter 8. Then, in Section C, for each area where the project could involve acquisition of private property, the full area where property could be needed is mapped. Text descriptions are provided in Chapter 8 for each such area. The specific properties that would be affected by the project will be finalized as engineering progresses. The analyses in Chapter 8 and the maps in this appendix thus describe the general characteristics of the property interests that may be acquired for the project by describing the qualities of the larger area, in addition to specific discussion of the properties currently under consideration for potential acquisition.

The protection that property owners and tenants are afforded under federal and state law, including compensation and relocation assistance, are discussed at the end of this appendix in Section D. On the federal level, the Second Avenue Subway is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. Section 4601 *et seq.*, and the applicable implementing regulations set forth in Title 49, Part 24 of the Code of Federal Regulations (together, the “Uniform Act”). MTA and NYCT would also adhere to the requirements of the New York State Eminent Domain Procedure Law.

B. METHODOLOGY

At each location where short- or long-term access disruption or acquisition could occur, the properties in the full area that might be affected were identified during field surveys conducted during fall 2001 and spring 2002, in coordination with the surveys conducted for Chapter 6 of this FEIS (“Social and Economic Conditions”). As part of the surveys, detailed information was collected about ground-floor commercial establishments located along the proposed subway alignment. Individual property characteristics were analyzed using the Real Property Assessment Database (RPAD) provided by the New York City Department of Finance, and the Sanborn fire insurance maps, both of which provide detailed information on building type, ownership, and dimensions. Follow-up surveys of potentially affected properties were also conducted in summer 2003.

To determine the occupants who might be affected should relocation be required, general assumptions about the different uses in the study areas were made. For residential tenants, the

estimated number of units in the building (based on building type and size) was multiplied by the average household size reported in the U.S. Census for 2000 for the relevant census tract (for station areas that cross several census tracts, the largest of the tracts' average household sizes was used). For ground-floor retail establishments, employment was estimated based on approximate square footage and standard industry rates ranging from less than 1 to 4 employees per 1,000 square feet. For office use, a ratio of one employee per 250 gross square feet was used to estimate employment. This ratio also reflects industry standards referenced in real estate/development literature, and has been confirmed through field observations and employee interviews conducted for a wide range of building types in New York City.

C. LOCATIONS WHERE DISPLACEMENT MAY OCCUR

As discussed in Chapter 8," the proposed project could result in some direct displacement of businesses and residents. The specific properties that would be affected have not yet been confirmed, so the general areas in which such short- and long-term access disruptions and acquisitions could occur to accommodate station entrances and other essential features¹ are described and illustrated in accompanying figures below. In some cases, the study areas could experience both access disruptions and acquisitions. A number of properties would be needed, for station entrances and other facilities. MTA/NYCT would work to minimize displacement by using existing public property and existing easements wherever possible.

Since completion of the SDEIS, potential properties where displacement could occur have been identified by the project's engineers. These are identified in Chapter 8. However, as noted in that chapter, this information is still preliminary and is subject to change as engineering advances. If the properties to be displaced were to shift, the properties affected and the resulting impacts would be similar in nature and extent to those described in the chapter. Text analyses for the 16 stations along the Second Avenue corridor and the 63rd Street-Lexington Avenue Station on the 63rd Street Line are provided in Chapter 8. The various study area maps where displacement could occur are provided in Figures F-1 to F-18.

D. COMPENSATION AND RELOCATION ASSISTANCE

Once the general property needs have been defined for the project, the MTA Real Estate and Legal Departments are responsible for acquiring right-of-way and other real estate interests necessary to complete the project. The Real Estate and Legal Departments would be assisted by the right-of-way coordinator from the Second Avenue Subway team. The acquisition process would consist of the following six steps: identification of required real estate once design information is available; appraisal of required property interests; preparation of detailed property acquisition maps and metes-and-bounds descriptions of the property interests to be acquired; procurement of title reports to identify owners, lessees, mortgages, lien holders, and any parties with compensable interests in the property to be acquired; acquisition, either through negotiation or eminent domain; settlement or litigation of any claims for additional compensation or property damage; and relocation of occupants if necessary.

With respect to property acquisition, MTA and NYCT would adhere to the requirements of the New York State Eminent Domain Procedure Law (the "Eminent Domain Procedure Law").

¹ Please note that the boundaries shown on the figures represent larger areas than the areas that would actually be affected.

Among other things, the Eminent Domain Procedure Law requires the condemnor to: hold a public hearing (for all potential acquisitions other than “de minimis” and emergency acquisitions); inform the public and affected parties about the public use, benefit, and purpose of the proposed acquisitions, the reasons for selecting those locations, and the general impacts of the acquisition on the surrounding area; issue a determination and findings within 90 days after the close of the public hearing; make written offers in the full amount of MTA/NYCT’s highest approved appraisal; advise condemnees that, subject to proving title and clearing title objections, the offer may be accepted as payment in full for the property interests to be acquired, or in the alternative, accepted as advance payments with a continuing right on the owners’ part to file claims for additional compensation; and if the compensation offer is not accepted, to file a petition with the New York State Supreme Court to acquire the necessary property interests by condemnation. Compensation for real property generally is determined on the basis of fair market or fair rental value and, in the case of partial takings, diminution (if any) to the value of the remaining property. Compensation for tenant-owned trade fixtures is determined on the basis of “sound value,” which under New York law generally constitutes a fixture’s reproduction cost less depreciation.

MTA and NYCT would also adhere to the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as codified in Title 42, Section 4601 *et seq.* of the United States Code, and the applicable implementing regulations set forth in Title 49, Part 24 of the Code of Federal Regulations (collectively, the “Uniform Act”). As described below, the Uniform Act covers the appraisal and acquisition of real property, relocation services, moving payments, replacement housing payments, and other allowable payments related to commercial and residential moving costs and displacement.

As part of the project’s design work, property identification plans will be developed to identify every parcel affected by the project and to define the need for property acquisitions and/or easements. From property identification plans, preliminary title reports would be obtained to ascertain the owners of record and legal descriptions of the parcels. The parcels would then be certified as needed for the project and the acquisition process initiated.

As part of the procedure for preparing the acquisition stage relocation plan, all site occupants would be personally interviewed to determine their specific relocation needs, and would be furnished written information about benefits to which they may be entitled. Owners, tenants, and parties with compensable interests in the properties to be acquired would be compensated in accordance with the Eminent Domain Procedure Law. Displaced residents, business owners, and commercial tenants would receive relocation benefits and assistance as required under the Uniform Relocation Act.

The rights of owners and tenants of real property acquired to implement the proposed project are protected under the Uniform Act, which provides for fair, uniform, and equitable treatment of persons displaced from their homes, businesses or farms by federal and federally assisted programs. (“Owner” refers to either the fee owner of the property or the tenant-owner of improvements on it.) The Act recognizes that displacement of businesses often results in their closure, and aims to minimize the adverse impact of displacement in order to maintain the economic and social well-being of communities. Overall, the Act is designed to ensure that individuals do not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole, and to minimize the hardship of displacement on such persons.

Entitlements for property owners under the Uniform Act include the following:

- Expedient acquisition, with every reasonable effort made to acquire the property by negotiation;
- Notice to the owner as soon as feasible of the interest in acquiring the property and basic protections;
- Just compensation for property, which may not be less than the acquiring agency's approved appraisal of the fair market value;
- If necessary, a determination of just compensation by a court of law;
- The opportunity to accompany the appraiser who appraises their property;
- Written statement of, and summary of the basis for the amount established by the acquiring agency as just compensation;
- Payment of the agreed upon purchase price (or a deposit in the court) before being required to surrender possession of the property;
- Reimbursement for certain expenses incidental to transfer of title to the acquiring agency, such as recording fees, boundary surveys, and transfer taxes;
- At least 90 days' written notice to vacate occupied property;
- Relocation services and payments, where applicable; these may involve housing supplements, moving cost, etc. for residential acquisitions, or reestablishment, moving costs, etc. for business, nonprofit, or farm acquisitions; and
- Written statement or brochure advising property owners of their rights and entitlements, and assurance that they receive all of the services and payments to which they are entitled under federal and state law and regulations.

The implementing regulations under the Uniform Act are published at 49 CFR Part 24 (which can be found on the internet at www.fhwa.dot.gov/realestate/act.htm). Detailed information on the rights of displaced persons is provided on the internet at www.fhwa.dot.gov/environment/subject.htm under "Real Estate Services." As it has in other major projects involving relocation of tenants and residents, the MTA Real Estate Department intends to retain a consulting firm specialized in relocation for government construction projects to assist MTA and NYCT in complying with the terms of the Uniform Act. The specific provisions of the Uniform Act for businesses and residents affected by a federal project are outlined below.

BUSINESSES

The Uniform Act provides entitlements to qualified businesses displaced as part of a federal and federally assisted program, including reimbursement for the following relocation expenses:

- Actual reasonable moving and related expenses for: transportation of personal property up to 50 miles, disconnecting, dismantling, removing, packing, crating, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including connection to utilities available nearby; storage of the personal property for a period not to exceed 12 months; insurance for the replacement value of the personal property in connection with the move and necessary storage; any license, permit, or certification required of the displaced business at the replacement location; replacement value of property

lost, stolen, or damaged in the process of moving; and professional services necessary for planning, moving and installing the relocated personal property at the replacement location.

- Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business based on the fair market value of the item for continued use at the displacement site, less the proceeds from its sale.
- Purchase of substitute personal property, if an item of personal property that is used as part of a business is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site.
- Actual reasonable payment for expenses required to search for a replacement location, not to exceed \$1,000, including transportation, fees to a real estate agent, and time spent searching.
- Other moving-related expenses that are not listed as ineligible, as determined to be reasonable and necessary.

BUSINESS RE-ESTABLISHMENT

In addition to the above mentioned payments, a small business or nonprofit organization is entitled to receive a payment, not to exceed a total sum of \$10,000, for expenses actually incurred in relocating and reestablishing such small business or nonprofit organization at a replacement site, including:

- Repairs or improvements to the replacement real property as required by federal, state or local law, code or ordinance;
- Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business;
- Construction and installation costs, for exterior signing to advertise the business;
- Provision of utilities from right-of-way to improvements on the replacement site;
- Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting;
- Licenses, fees, and permits when not paid as part of moving expenses;
- Feasibility surveys, soil testing and marketing studies; and
- Professional services in connection with the purchase or lease of a replacement site.

FIXED PAYMENT FOR MOVING EXPENSES

A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses as provided. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with the average annual net earnings of an eligible business, but not less than \$1,000 nor more than \$20,000. The displaced business is eligible for the payment if it is determined, among other conditions, that the business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless it is determined that it will not suffer a substantial loss of its existing patronage.

RESIDENTS

Under the Uniform Act, displaced residents are entitled to relocation payments including moving expenses (for both tenants and owner/occupants), and under certain conditions, rental and utility assistance (for tenants) or replacement housing expenses (for owner/occupants). No person can be required to move from his or her dwelling unless at least one comparable replacement dwelling has been made available to the person. Where possible, three or more replacement dwellings shall be made available. The law requires that relocations be planned in such a manner as to minimize potential adverse impacts of displacement. Relocation advisory services would be provided to displaced tenants, including a personal interview to determine the relocation needs and preferences of each person to be displaced, and to explain relocation payments, available assistance, and procedures for obtaining such assistance. Like business relocations, any qualified displaced residential tenant (or owner) is entitled to payment of his or her actual moving and related expenses (as described above). In addition, payment shall be made to or for any person displaced from any dwelling not eligible to receive a payment under the above resident relocation provisions, if the tenant actually and lawfully occupied the displacement dwelling for not less than ninety days immediately prior to the initiation on negotiations for acquisition of such dwelling, and has rented or purchased a decent, safe, and sanitary replacement dwelling within one year after the tenant moves from the displacement dwelling. Such payment shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed 42 months, a comparable replacement dwelling, but not to exceed \$5,250.

In addition to rights of residential tenants outlined above, any person who is displaced from a dwelling actually owned and occupied by such displaced person for at least 180 days prior to initiation of discussions for the acquisition of the property is entitled to an additional payment not in excess of \$22,500. Such additional payment shall be the sum of the following elements:

- The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling.
- The amount, if any, which will compensate such displaced person for any increased interest costs and other debt service costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling.
- Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

The additional payment authorized by the Uniform Act shall be made only to a displaced person who has purchased and occupied a decent, safe, and sanitary replacement dwelling within one year after the date on which such a person receives final payment from the displacing agency for the acquired dwelling or the date on which the displacing agency's obligation under section 205(c)(3) of the Uniform Act is met, whichever is later, except that the displacing agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one year of such date.

Any person eligible for payment under the previous paragraph may elect to apply such payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. *