

California Transportation Commission
C/O Mitch Weiss
Executive Director
California Transportation Commission
Email: Mitchell.Weiss@catc.ca.gov

cc: Teri Anderson
Chief Engineer
California Transportation Commission
Email: Teri.Anderson@catc.ca.gov

Subject: Resolution of Necessity Hearing scheduled for June 24, 2020 relating to 80774-1 & 2 on behalf of owner Michael A. Freedman, Trustee, etc., et al., (18201 Crenshaw Blvd, Torrance CA, APN: 4091-026-009)

Dear Commissioners:

This letter is written on behalf of the owners of the property referenced above, Michael Alan Freedman and Jeanette Freedman, Trustees of The 2003 Michael Alan Freedman and Jeanette Freedman Trust (the "Freedmans"). The Freedmans object to the proposed adoption of a Resolution of Necessity for the condemnation of a portion of their property on the grounds that the proposed project is not planned or located in the manner that will be most compatible with the greatest public good and the least private injury. As you know, Code of Civil Procedure Section 1245.230 requires that a Resolution of Necessity be rejected unless a finding can be properly made that the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

Specifically, the project as currently proposed will result in the removal of a good portion of the landscaping at the front corner of the property, including grass, bushes, and mature trees as well as a critical sign for the Coffee Bean & Tea Leaf business located on the property. This landscaping and sign serve as the "gateway" to the property, projecting the quality of the premises and the onsite coffee and tea business to potential customers traveling along Crenshaw Blvd and 182nd Street. Caltrans' project leaves it for the Owner to mitigate the removal of these gateway features, suggesting that the Owner contact a contractor to come up with a new landscape plan and to interface with the City planners to attempt to obtain approvals for the relocation of the Coffee Bean and Tea Leaf sign and for the restored landscaping.

The problem with this approach is that it puts the burden on the Owner to take the time and trouble to plan and perform the mitigation and to spend the time and bear the risk of dealing with City planners for approval of the mitigation. Mr. Freedman is an elderly owner of this investment property that was chosen because it was already improved with a building and a tenant in place and required minimal time for management or operation, hence representing an ideal passive investment. The Caltrans' project will force the owner to take an active role to mitigate the impacts of the Caltrans' project, transforming the passive investment into a rehabilitation project. Leaving the Freedmans in this situation is not consistent with planning the project to cause the "least private injury".

The Freedmans have simply asked that Caltrans incorporate into the project the mitigation measures necessary to restore the gateway features, specifically relocating the sign and replicating the landscaping on the remainder of the property. We believe this can be done by essentially pushing the front parking back, thus reducing the drive aisles within the parking lot (we believe there is room to do so while remaining within code limits for driving aisles) and replicating the landscaping that currently exists a few feet closer to the building. By creating diagonal parking spaces (as shown in the attached exhibits), we anticipate that this should be feasible.

At the First Level Review meeting and the Second Level Review meeting, the Freedmans asked Caltrans to have their experts review the possibility proposed, and if determined to be feasible, to have its professionals prepare the landscape and repaving plan to graphically portray it, obtain permits from the City to implement the plan, and to incorporate the work into its project. The Caltrans' representatives found reasons to reject this possibility. The principal reason was that doing work on the owner's property is not within the normal purview of Caltrans' responsibilities and authority. My response was that Caltrans frequently does work on the owners' property to mitigate problems caused by its project, including drainage issues, access issues, and landscaping issues. We were not asking for a building to be built, but were merely requesting restoration of the landscaping and relocation of the sign to be removed by Caltrans.

The Caltrans representatives also asserted that it was the responsibility of the owner to do this type of work and to seek reimbursement for the costs through the owner's claim for compensation. This ignores Caltrans' obligation to design the project so as to cause the "least private injury" (compatible with the greatest public good). By putting the onus on the owner, rather than incorporating mitigation

measures into the project, Caltrans would be increasing the private injury and asserting that the owner should seek compensation for the private injury. Such a position is inconsistent with avoiding the private injury in the first place, when it can be avoided. Moreover, the Commissioners should be aware that there is a significant expense involved in seeking compensation through the eminent domain process and, unfortunately, the process often does not provide for reimbursement of all expenses and damages incurred by a private property owner (and only provides for payment of the owner's attorneys' fees under extraordinary circumstances).

The Freedmans and I appreciate your careful consideration of the issues raised in this communication and request that the Commission order that the project be studied further or that the project be revised to incorporate the requested mitigation measures so as to result in the least private injury to the Freedmans.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Michael Rubin", with a long horizontal flourish extending to the right.

Michael Rubin

Michael Rubin

Rutan & Tucker, LLP
611 Anton Boulevard, 14th Floor
Costa Mesa, CA 92626
714-832-3733 (use during pandemic)



