

## **FasTracks Noise Barrier Change Policy**

### **Purpose**

To provide a procedure for affected parties to request changes to a proposed noise barrier design on a FasTracks project.

### **Background**

Federal Transit Administration's (FTA's) Transit Noise and Vibration Impact Assessment Guidance Manual (FTA-VA-90-1003-06 May, 2006) require that transit agencies:

- Determine anticipated noise impacts associated with their proposed transportation projects (including maintenance facilities);
- Analyze the overall social, economic, and environmental effects of providing noise mitigation; and
- Incorporate the views of impacted residents as a major consideration in reaching decisions on the reasonableness of the mitigation measures to be provided.

Noise analyses, conducted in accordance with FTA guidance, determine the need for and the most appropriate form of mitigation to reduce the effects of increased noise. Typically, the recommended mitigation strategy is to construct a noise barrier of a prescribed height and length. However, the guidance states that "...decisions regarding mitigation should be made only after considering input from the affected public, relevant government agencies, and community organizations."

The following discusses the consideration of specific criteria when evaluating the reasonableness and feasibility of changes proposed to noise mitigation barriers as a part of the Regional Transportation District's (RTD) FasTracks program. There are three scenarios that describe individual, neighborhood or businesses that fall "within sensitive land use categories" under the FTA guidance requests to alter recommended noise mitigation:

1. The requested change would increase the height or length of the barrier.
2. The requested change would decrease the height or length of the barrier, or change the recommended location, or eliminate the barrier.
3. The requested change would alter the aesthetic features of the barrier.

Each scenario is presented below with criteria that establish the reasonableness of the requested change.

## **Procedure**

### **Scenario 1: Increased Noise Barrier Length or Height**

Criteria that establish the reasonableness of this scenario include the following:

- At least 75% of all parties affected by the change must be in agreement with the change. It is the responsibility of the advocates for the change to provide proof of this majority agreement. "Affected parties" shall be understood to mean the owners of the properties identified in the NEPA document or technical noise report that are expected to receive a perceptible benefit.
- RTD must still determine the feasibility of any recommended change and must balance all factors, including public input, in determining reasonableness.
- Full and complete costs are to be borne by the proponents of the change.
- No increases in noise barrier height will be approved for lengths of less than 800 feet.
- A legally binding agreement to cover the full costs of the increases in mitigation must be in hand prior to initiating the change.
- RTD will contact all affected owners if a change has been approved.

### **Scenario 2: Decrease Height/Length of Noise Barrier, Change its Location or Eliminate Noise Barrier**

Criteria that establish the reasonableness of this scenario include the following:

- Any changes to the location of a proposed noise barrier will be considered provided the property owner or Homeowners Association provides access, easements and right-of-way, and any other actions necessary at no cost to RTD.
- Any desired lowering of the recommended noise barrier height at the end of a recommended noise barrier or along an interior portion of the noise barrier must have the approval of at least 75% of all affected parties.
- No gaps or holes of less than 800 linear feet will be approved in a continuous noise barrier, unless the removal of the noise barrier is recommended for the end of a non contiguous (i.e., unconnected) noise barrier. In the case of an end section of noise barrier, the minimum length shall be determined by the property lines of the parties desiring the change, and the property lines of all parties who would be affected by the change.
- No reductions in noise barrier height or changes in location will be approved for noise barrier lengths of less than 800 continuous feet to accommodate individual property owners unless these deviations are at the end of a non-contiguous (i.e., unconnected) noise barrier. In the case of an end section of noise barrier, the minimum length shall be determined by the property lines of all parties affected by the proposed change.
- RTD will determine the "affected" parties based on the noise analysis completed for the project. "Affected parties" shall be understood to mean the owners of the properties identified in the NEPA document or technical noise report that are expected to receive a perceptible benefit.
- Tenants/renters who reside in, but are not the actual owners of the properties, can not be afforded a vote in the process, however, their input will be considered.

- The RTD must still determine the reasonability and feasibility of any recommended change and must balance all factors in determining reasonableness.
- Full and complete costs, if any, are to borne by the proponents of the change.
- All property owners who agree to a proposed change in noise mitigation treatments must submit a statement in writing to RTD indicating:
  - They approve of the reduction in mitigation;
  - Their reasons for desiring a reduction or elimination of the proposed noise mitigation; and
  - They hold RTD harmless for any past, present, or future consequences that might arise related to the provision of noise mitigation for their property until and unless a future highway or roadway project warrants a change in the originally prescribed noise barrier heights.
  - In addition, property owners must acknowledge that they will be responsible for informing potential buyers of their property or their agents that noise mitigation was offered and refused, or was reduced, to meet the desires of the affected parties.
- It shall be the responsibility of the proponents for the reduction in mitigation to secure all required letters of support and assemble them into a single submittal to RTD.
- All letters of support for the reduction or elimination of noise mitigation must be notarized and submitted to RTD prior to initiating the change.
- RTD will contact all affected owners if a change has been approved.

**Scenario 3: Enhance the appearance of the recommended noise barrier.**

These aesthetic changes would be made through a change in construction materials, architectural or decorative treatments, or changed landscaping features. Criteria that establish the reasonableness of this scenario include the following:

- At least 75% of all parties affected by the change must be in agreement with the change. It is the responsibility of the advocates for the change to provide proof of this majority agreement. "Affected parties" shall be understood to mean the owners of the properties identified in the NEPA document or technical noise report that are expected to receive a perceptible benefit.
- Changes to be made must apply to the entire noise barrier to be constructed, not to a single or multiple sections of the noise barrier.
- Full and complete costs are to be borne by the proponents of the change.
- A legally binding agreement to cover the full costs of the increases in mitigation must be in hand prior to initiating the change.
- RTD will contact all affected owners if a change has been approved.