

## **SOUND TRANSIT CONDEMNATION OF OUR SOUTH TACOMA PROPERTY**

We have owned real property in South Tacoma at South 60<sup>th</sup> and Adams Street since 1978. Our ownership of this property is very important to us. Our family construction and lumber business, begun in Tacoma in the early 1940's, has used the So. 60<sup>th</sup> property for manufacturing and other business activities for over a quarter century. In South Tacoma there is no other like property with similar characteristics available to us.

Sound Transit is attempting to take our property from us. This is not a necessary action since Sound Transit has other alternatives which they show in their EIS document. The several other passenger service alternatives for South Tacoma in the EIS are unlike their current proposal at So. 60<sup>th</sup> St. An administrative determination by Sound Transit staff has resulted in the current proposed siting for unknown and unsupported reasons.

Sound Transit argues since the land is to be used for parking and their Board of Directors voted to take real properties including ours by a resolution approved on 6/26/03 no other factors matter. Their legal position is that all other issues are irrelevant. In actuality other issues are to be considered in condemnation actions. Charles Klinge and Diana Kirchheim, attorneys representing us, have presented detailed legal briefs about issues that effect Sound Transit's efforts to take our property.

## **GENERAL BACKGROUND OF THE ATTEMPT TO TAKE OUR PROPERTY**

We purchased land and improvements at So. 60<sup>th</sup> & Adams in 1978. Our site is zoned M-2 heavy industrial served by its own rail spur into our premises for decades. The 1 acre site also includes former Northern Pacific Railroad worker Daniel Hansen's 1890's home. The home was occupied continuously by the Hansen family until our purchase from them. The still occupied home is the last such home along the tracks left in the South Tacoma area.

Dave Burns of the Tacoma Railcar Preservation Society spent countless hours over a long period with local, state officials & Sound Transit staff in efforts to preserve *at least* the Hansen home on our property. Dave Burns had a dream of refurbishing the Hansen home along with several already acquired early 1900's Northern Pacific railcars in a display related to South Tacoma's long history with Northern Pacific Railroad. In spite of South Tacoma's enormous contribution to our town's rich railroad history there is no such exhibit in the entire vicinity that would promote the local history of this railroad community, though there is great interest for such a place to be established. The idea of incorporating the old with the new seemed a perfect fit. Having a historic dining car available for commuters, along with the ability to educate the community through photos, memorabilia and displays in the Hansen house was the objective of Dave Burns and former State Senator, Lorraine Wojahn. State Representative Steve Conway arranged a meeting on 3/3/04 at his Olympia office with himself, Dave Burns, Lorraine Wojahn, Sound Transit's Kim Denny and other interested persons in an effort to assist in the desire to preserve the Hansen home. Sound Transits has not changed. They still intend to demolish the home, which is on Tacoma Historic Preservation Depts. 1981 historic inventory, without regard to the wishes of the railcar preservation group & other's wishes. They also are disregarding regulations pertaining to the preservation of historic structures and affordable housing.

In Sound Transit's mid 2004 newsletter the present South 60<sup>th</sup> proposal appeared. This plan had not been shown before. It was unlike any of the Draft Environmental Impact Statement (DEIS) of June 2000 or the Final Environmental Impact Statement (FEIS) of May 2002 alternative siting choices shown and being considered. Only Sound Transit staff had previous knowledge of the then proposed So.60<sup>th</sup> location. The City of Tacoma had not been consulted and in addition to the city's concern about lack of public process, etc. they had to modify the comprehensive plan and rezone land adjacent to the proposal to accommodate it.

The land available for parking as planned at So. 60<sup>th</sup> Street is not as large in area as the EIS alternatives which show up to 300 parking spaces. The parking to be provided is on the west side of the railroad tracts. The passenger loading area will be on the east side of the tracks. In the original EIS documents that were submitted, there was to be a station for South Tacoma but that too has changed. The proposed South Tacoma Station has now been downgraded to only a load/unload platform.

Patrons will park north of So. 60<sup>th</sup> west of the tracts in this plan. They must walk south to So. 60<sup>th</sup>. At So. 60<sup>th</sup>, patrons walk east *across* the railroad tracks. On the east side of the railroad tracks patrons will have to walk north of So. 60<sup>th</sup> to the boarding platform. There is vacant available land used presently for vehicle parking on the east side of the tracks adjacent to the planned boarding platform but Sound Transit is not intending to acquire it. Purchasing that land would eliminate the necessity of all who park needing to cross the tracks both to and from their vehicles.

The favored site of the EIS alternatives for the South Tacoma passenger service site was at approximately So. 52<sup>nd</sup> and Hood Street, (railroad tracks). The South Tacoma Neighborhood Council and its chair, Skip Vaughn and others, felt very strongly about So. 52<sup>nd</sup> location being the most sensible choice for South Tacoma. This location made better economical sense for the community to be situated in the heart of our business district. This site, which is up to 170 acres in size, is owned by the Burlington Northern Railroad with an abundance of land area for parking and all other uses. That location is just across the tracks from the site of the previous South Tacoma railroad station where land is also still available.

## **OUR INITIAL INVOLVEMENT WITH SOUND TRANSIT RELATED TO OUR PROPERTY**

We first became aware of Sound Transit's interest in South Tacoma land on 7/10/01. Roger Parsons of Pharos Corp. representing Sound Transit told us that we must allow Sound Transit access to our property. On 7/25/01 we along with other possibly affected property owners in South Tacoma and others were told by John Hubbard/Sound Transit's agent that passenger service would be starting to South Tacoma by year end 2001. John Hubbard also told us that needed land acquisitions would take place in the next 90 to 120 days and that effected properties would no longer be able to obtain building permits for improvements.

We heard no more about any Sound Transit issues at all after that in 2001 and 2002. On 4/21/03 Roger Parsons again told us we must allow Sound Transit access to our property. Later we received a letter dated 7/10/03 about Sound Transit intentions for our property in South Tacoma. On 3/2/04 Roger

Parsons told us that Sound Transit was taking our property from us. He said we could not do anything to retain our ownership. Over the next several months Roger Parsons called several times telling us we must give up our ownership. We did say to Roger Parsons that if we were to be required to have our land taken to please find us another property which would be equal to ours. There has been no response from Roger Parsons.

During the months following Roger Parsons contact with us on 3/2/04 we made various attempts to have discussion with local and state officials as well as Sound Transit staff with little resulting. Our most promising opportunity was when Tom Stenger, Tacoma City Council member, was able to arrange a meeting at his office including himself, Sound Transit staff members and ourselves to try to sort out the matter. Unfortunately on 7/30/04 – the day of the meeting Sound Transit staff canceled. Julie Anderson, another Tacoma Council member, said that Sound Transit staff “became confused”. The meeting was to be rescheduled. It never was.

### **LEGAL ACTION BEGUN BY SOUND TRANSIT AGAINST US**

We were served with Sound Transit lawsuit on 8/6/04. Our 1<sup>st</sup> Superior Court hearing in Pierce County Superior Court took place on 9/24/04 in Judge Kathryn Nelson’s court room. Subsequent trial on Public use and Necessity took place on 10/25/04 and 11/1/04 with decision issued by Judge Nelson in hearing on 11/19/04. We filed an appeal of that decision to the Washington State Supreme Court on 11/22/04. That action on our part should have halted further Superior Court action pending outcome of our appeal. Sound Transit has had us back in Superior Court 4 more times since 11/22/04. They have filed various motions, requested us to post bonds for various appeal period purported expenses for hundreds of thousands of dollars, and have requested reimbursement for tens of thousands of dollars in their contrived legal cost due to our appeal to the Washington State Supreme Court. We have had to provide bonding, for example for rent of our property during appeal amounting to \$30,000 and for inflation of \$39,000. There have already been 3 different motions to the Supreme Court in addition to our appeal involving Sound Transit’s actions. It’s clear that Sound Transit is oppressive and is attempting to deny us our appeal of the Superior Court ruling in their favor. This appeal is “of right” in eminent domain cases. With our legal costs already having run well into 6 figures plus bond posting required in Superior Court after appeal was filed on 11/22/04 it clearly is not a practical action to file an appeal. Sound Transit is trying to make it an impossibility for us, not to mention pressures other than monetary ones, that come into play in such a situation as this.

### **SOUND TRANSIT IS AN ARROGANT AND UNFEELING BUREAUCRACY WITHOUT HONOR – DOING WHATEVER IT TAKES TO “WIN AT ANY COST”**

During the 1990’s when Sound Transit began planning for service to Lakewood to include South Tacoma we were not provided any communication or notice whatsoever. During that period alternative siting was discussed which could’ve been very important to us regarding our South Tacoma ownership. We had no opportunity to participate in what ever public process did take place. Beyond that shortcoming of not involving effected persons is the matter of notice of Sound Transit Board actions. When their board took

action passing resolutions effecting ownership in real property certain legal procedures were required by state law. Required public notice of those agenda items was not met. In fact even Sound Transit Board rules were not followed to give notice to local newspapers. Sound Transit Board posted notice by web site only. Therefore since we had no likelihood of knowing about such meetings we had no opportunity to testify about issues involving our ownership.

#### **ENVIRONMENTAL IMPACT STATEMENT SEEMS TO HAVE LITTLE MEANING FOR SOUND TRANSIT**

The EIS document seems to mean little at least as it applies to Sound Transit actions or lack thereof in South Tacoma. Public involvement has been limited or non existent. Citizen input and other advisory information has been basically ignored or worse. No explanation of how the latest So. 60<sup>th</sup> plan was arrived at has been provided anyone. Administrative decision making is not legislative and is subject to legal review. The So. 60<sup>th</sup> proposal is unlike any EIS alternatives shown and to be considered. Yet, no amendments or addendums are being prepared for a new proposal. SEPA & NEPA reviews are not taking place related to changes. Requirements for historic structures and affordable housing are just plain being ignored. Other EIS issues like minimizing impacts to property owners, addressing land owners concerns & relocation considerations have never been addressed by any person or agent for Sound Transit.

#### **DECISION CAN REASONABLY BE DETERMINED TO BE A “POLITICAL ONE”**

Condemnation was filed to take our property with out discussion or explanation of any sort as to why our property is to be taken. We have reason to think that the siting – without a doubt – has some political connection. The poor handling of the entire matter and the ongoing legal antics of an out of control bureaucratic agency wrecks of government run amok. We are dealt with as though we are dead with only legal documents citing the preparation of specifications for demolishing of all that is on our land. There are no matters discussed of our moving our property under our own authority in a proper manner. Only statements are made to the effect that when appeal is decided if we should lose we will have a total of 15 days to get everything off our former ownership.

Thank you for enduring this long dissertation of our matter in South Tacoma. We have also enclosed other miscellaneous information related to our continuing dispute. On the 29<sup>th</sup> of March 2005 the Washington State Supreme Court agreed to hear our appeal of the Pierce County Superior Court decision favoring Sound Transit. Oral arguments are to take place during June 2005. If any of you have suggestions for us feel free to contact us by phone at 253-474-1001, by email @ [barbaraimiller@comcast.net](mailto:barbaraimiller@comcast.net) or mail at 4520 Orchard St. West, University Place, WA 98466. Feel free to call Charles Klinge or Diana Kirchheim @ 425-453-6202 in Bellevue, WA 2101 – 112<sup>th</sup> Ave. N.E., Suite 110 or email @ [cklinge@GSKonline.com](mailto:cklinge@GSKonline.com) or [dianak@GSKonline.com](mailto:dianak@GSKonline.com) .

Sincerely,  
Ken and Barbara Miller

