Chapter 8: Displacement and Relocation

A. INTRODUCTION

This chapter, together with accompanying Appendix F, describes the possible residential and business displacement and relocation that could be required for the Second Avenue Subway. As described in Chapter 2 of this SDEIS (“Project Alternatives”), the proposed Second Avenue Subway has been designed to follow the public right-of-way of city streets, to minimize the need to disrupt use of private property or to acquire private property for the project. Even so, some disruption to residential and commercial uses along the construction route would be required in certain locations to protect public safety or where access to building entrances may be disrupted significantly during construction. Disruptions related to safety and access would be short-term (up to 6 months) and temporary, although in a few locations, longer-term disruptions could be necessary. In addition, the Metropolitan Transportation Authority (MTA) or MTA New York City Transit (NYCT) would need to acquire some private property for the new Second Avenue Subway. Some acquisition of private property—either whole buildings or portions of buildings—would be necessary to allow construction of above-ground ventilation structures or off-street station entrances housing escalators and elevators. The project would also require permanent below-ground easements beneath private property in a small number of locations, for new subway tunnels and other subway-related facilities. Compensation and relocation assistance for owner-occupants or tenants needing to be relocated would be provided by MTA and NYCT in accordance with applicable legal procedures.

As a result of these disruptions to access and acquisitions of property, some direct displacement of businesses and residents is likely to occur, either on a temporary or permanent basis. Although the specific properties that would be acquired or adversely impacted are not yet known, they will be determined during Preliminary Engineering; therefore, this chapter describes the kinds of displacement that could occur as a result of the project. The focus of the chapter is the project’s effects on businesses and residents who might be displaced, and on owners and tenants of private property. A detailed discussion of the types of properties that could be affected is provided in Appendix F. Use of public property, such as parks or public rights-of-way, would require public policy decisions through a public process (see Chapter 4, “Public Outreach and Review Process”). (The process for relocating public utilities such as telephone lines, electricity, gas, and water during construction, and any associated short-term impacts is described in Chapter 13, “Infrastructure and Energy.”) This chapter first describes (in section B) the reasons why displacement of uses and acquisition of private property might be required, the processes to be followed in determining which specific properties are to be acquired, the areas where displacement and acquisition might be required, and the potential impacts of such acquisition. It then discusses (in section C) the protection that property owners and tenants are afforded under federal and state law, including compensation and relocation assistance.
B. ACTIVITIES THAT MAY REQUIRE DISPLACEMENT OR ACQUISITION

SHORT-TERM ACCESS LIMITATIONS DURING CONSTRUCTION

Construction activities associated with building a new subway line (described in detail in Chapter 3, “Description of Construction Methods and Activities”) could temporarily disrupt access to some buildings’ entrances. Throughout most of the alignment, access would be provided to residential and commercial buildings, including retail businesses, at all times. However, in limited areas, it would be necessary to restrict access to buildings for periods ranging from several hours for up to 6 months.

Such disruptions would occur in some locations where underpinning, tunneling beneath buildings, and other ground improvement techniques would be needed. Underpinning (discussed in more detail in Chapter 3) is performed to support buildings’ foundations during construction, and involves strengthening the soil beneath the foundations. This work could occur in the following locations:

- Entrance and egress points for each station;
- Alongside any station constructed by cut-and-cover construction;
- Locations where the Second Avenue Subway would be constructed near existing transit structures, particularly in the Chrystie/Grand Street area;
- The Metro-North Railroad viaduct at Park Avenue and 125th Street;
- The alignment along 125th Street between Fifth and Second Avenues;
- The curve connecting 125th Street with Second Avenue, where the alignment would be partially beneath existing buildings;
- The 63rd Street curved connection tunnels near the existing bellmouths;
- The portion of the alignment between 6th Street and Houston Street;
- Buildings along Forsyth Street from Rivington Street to south of Grand Street in the Forsyth Street Option; and
- The portion of the alignment between Fulton and Wall Streets.

As detailed in previous chapters, the Shallow Chrystie Option is no longer under consideration by NYCT because it would result in a greater number of significant adverse impacts than the Deep Chrystie and Forsyth Street alignments. For example, with the Shallow Chrystie Option, underpinning to support buildings along Chrystie Street for the entire length between Houston and John Streets could be required.

In the above-noted locations, construction might need to occur within basements of certain affected buildings. Though access to these buildings would generally be provided, access to some basement areas might be temporarily restricted. In such areas, it is not anticipated that NYCT will need to acquire buildings or permanently evacuate residents and businesses from buildings adjacent to the construction work. However, in some limited locations, businesses and residents may have to relocate for up to 4 months due to safety concerns or significant access restrictions. In such instances, it is possible that some businesses and residents would choose not to return to their former building locations, and that some businesses would be displaced permanently. NYCT would make extensive efforts to avoid such displacement.

The extent of required underpinning will be further developed during Preliminary and Final Engineering. Plans to maintain access will also be developed for all affected areas. For any
locations where it would not be feasible for the project to maintain reasonable access to businesses or residences, MTA or NYCT could be required either to acquire the properties or to compensate the landlords for diminution of rental value and/or provide relocation payments to displaced tenants.

**POSSIBLE LONGER-TERM ACCESS LIMITATIONS DURING CONSTRUCTION**

In two locations, construction work associated with the new subway could affect access to private property for longer (more than 6 months) periods of time, possibly resulting in permanent displacement of existing uses. These two locations are north of 125th Street and south of Houston Street, as described below.

The cut-and-cover construction associated with creation of a new underground storage yard beneath Second Avenue north of 125th Street could require temporary use of private property (see Figure F-1 in Appendix F, “Displacement and Relocation”). Although no existing buildings would need to be demolished, the excavation may encroach on two businesses currently located on Second Avenue north of 125th Street—an auto repair shop at 127th Street and Second Avenue, and a gas station at 125th Street and Second Avenue. These properties could be disrupted during construction, and access could be temporarily lost.

Construction in the area immediately south of the Houston Street Station poses a number of potential environmental concerns and difficulties, including impacts to private properties and businesses and Sara D. Roosevelt Park, as well as to two existing subway lines. For these reasons, three options were analyzed for the alignment south of Houston Street: the Shallow Chrystie Option (no longer under consideration), the Deep Chrystie Option, and the Forsyth Street Option. The extensive construction activities associated with work along Chrystie Street between Houston and Canal Streets in all three options would mean that access to buildings could be difficult to maintain in the area along the west side of Chrystie Street between Houston and Canal Streets. The extent of the possible disruption to access would vary depending on the alignment option selected in this area, as discussed below. See Figures F-13 through F-15 in Appendix F for an indication of the areas in which properties could be affected with each option.

**SHALLOW CHRYSTIE OPTION**

With this option, which is no longer under consideration because of the severity of its impacts, disruptive construction activity would be required very close to the buildings along the west side of Chrystie Street between Houston and Canal Streets, and underpinning would likely be needed along the entire length of Chrystie Street in this area, affecting approximately 60 properties. These properties are largely a mix of low- and mid-rise residential buildings with ground-floor commercial space; warehouses, factories and lofts; several gas stations and parking lots; and store buildings. As described in Chapter 3, because of the proximity of the excavation area to the building line, construction work could prohibit or severely restrict access to these buildings for up to four weeks at a time, several times during the construction period. A combination of technical problems, including the complexity of the underpinning required in this area, the fact that the tunnel and station support walls would need to abut the building facades along this entire area, the types of building foundations, and the fact that safe egress from fire escapes at the buildings could not be ensured during construction would likely require temporary displacement of all residents and businesses in the area(s) directly bordering construction activities for the Shallow Chrystie Option.
DEEP CHRYSTIE OPTION

With the Deep Chrystie Option, construction would shift east of the buildings lining Chrystie Street. However, at the properties bordering the existing Grand Street Station, from just south of Delancey Street to Hester Street, access could still be difficult to maintain during construction and could be curtailed for up to four weeks at a time several times during the construction period. In addition, underpinning is likely to be required for some buildings within the vicinity of the Grand Street Station. Vehicle access would be interrupted at several times during construction for up to two weeks at a time. Pedestrian access would be maintained for the majority of the buildings throughout construction. For a limited number of buildings to be underpinned, pedestrian access would be interrupted for up to two weeks during underpinning of the building. The specific extent of disruption will be determined during Final Design.

FORSYTH STREET OPTION

As described in Chapter 3, the Forsyth Street Option would require extensive renovation to the existing Grand Street Station beneath Chrystie Street. The work required could potentially result in limitations to access and possible underpinning for the buildings in the area from just south of Delancey Street to Hester Street—the same area that could be affected by construction of the Deep Chrystie Option. Impacts to buildings would be similar to those described in the Deep Chrystie Option.

ACQUISITION OF PROPERTY FOR SHAFT SITES AND STAGING AREAS

As presented in the description of construction methods in Chapter 3, properties may need to be acquired for off-street shaft sites and staging areas. Most of the locations being considered for this purpose are within the streetbed owned by the City of New York, or on other publicly owned property. One private property at the northeast corner of 1st Street and Second Avenue, currently occupied by a gas station, has been identified as a potential shaft site (see Figure F-12 in Appendix F). This property includes an approximately 1,400-square-foot, 1-story building, which would probably need to be demolished.

ACQUISITION OF PRIVATE PROPERTY FOR PERMANENT PROJECT ELEMENTS

NEED FOR PRIVATE PROPERTY

The Second Avenue Subway alignment follows the public right-of-way along most of its route, to limit the number of acquisitions and amount of displacement required. However, the project is likely to require some permanent acquisition of private property along the alignment, for ventilation and cooling structures and for off-street entrances to subway stations. It is also possible that the contractors selected to build the Second Avenue Subway might choose to acquire properties for their use during construction.

As noted in Chapter 2, “Project Alternatives,” several options are under consideration for the new subway stations’ street entrances (see Figure 2-9 in Chapter 2 for a graphic representation of the various options). Depending on the configuration of the station and the expected passenger flows, entrances could be located in the sidewalk or within buildings. While sidewalk entrances often provide the shortest travel paths to the fare control area, they can also constrain pedestrian movements and may not always be large enough to allow escalators and elevators to be provided. Consequently, the project is evaluating plans that provide access via stairs, escalators, and elevators within buildings or within plaza areas set back from the street.
As described elsewhere in the SDEIS, New York City zoning encourages off-sidewalk station access through the provision of special transit districts where easements may be required of private developers. In anticipation of station construction, NYCT has used this provision to acquire easements in certain existing and planned buildings along the project right-of-way. These easements (listed in Chapter 2) would be used wherever practicable; however, they might have to be supplemented or replaced with other easement entrances, depending on size and location requirements.

Overall, it is expected that between three and eight easements or property acquisition would be needed at every station, for station entrances and station-related facilities, such as above-ground ventilation structures. An emergency ventilation structure must be located at both ends of every station, and thus it is likely that at least one property will be acquired at each station end. In some cases, ventilation and cooling systems may be incorporated into the station entrance design, thereby reducing the number of properties affected. The precise location of these elements has not yet been identified for any of the station areas. Figures F-1 to F-18 in Appendix F illustrate the overall area in which some property acquisitions or easements could be required to accommodate entrances and other essential features. It is possible that some ancillary facilities could be located on side streets perpendicular to the proposed stations, requiring acquisition of properties in these areas as well.

Off-street entrances within buildings would typically require acquisition of ground-floor and basement-level space. In some cases, use of a ground-floor space in a small building could be impractical without acquisition of the entire building.

**SELECTION PROCESS FOR PROPERTIES TO BE ACQUIRED**

Project designs have not yet advanced enough to identify specific locations where property acquisition might be required. As part of the engineering process for the Second Avenue Subway, design procedures and criteria are being developed to guide the selection process for the new subway station entrances and ventilation structures. As the project design advances, appropriate locations for entrances will be determined.

Appropriate locations for off-street entrances—including locations within buildings and at wide sidewalks and plazas—will be identified through a comprehensive survey process during Preliminary Engineering and Final Design. Decisions about entrance locations and ventilation structures will take into account such design considerations as the location of the station platform and mezzanine beneath the street as well as the expected passenger flows at the station. Other factors to be included in determining if and where locations would be acquired include the need to relocate utilities, the layout of the buildings in the area, the uses and tenants within the buildings; and the environmental and community impacts of potential displacement. In selecting off-street properties, NYCT would seek to use existing public property, existing easements, and existing setbacks and plazas as a preferred alternative to displacing residents or businesses. Where private property must be acquired, the project would then seek to avoid displacement of schools, community facilities, and to minimize the number of businesses and residents displaced.

As described below in section C (“Compensation and Relocation Assistance”), MTA and NYCT would follow the requirements of federal and New York State law with respect to the acquisition of private property. As part of the acquisition process, public outreach would be conducted, and a public hearing would be held for the proposed acquisitions.
TYPES OF PROPERTIES THAT COULD BE AFFECTED

Because the project designs have not yet advanced enough to allow specific locations where property acquisition might be required to be identified, all properties that abut each proposed station are potential locations for station entrances at this time. As detailed in Chapter 6 (“Social and Economic Conditions”), at most of the 16 station areas, the buildings that front onto the station areas are residential, with ground-floor retail and commercial spaces. Buildings range from small walk-ups with correspondingly small retail spaces typically occupied by local services and restaurants, to large high-rise apartment buildings with larger retailers, such as grocery stores, large drug stores, and regional or national retail chains. In East Midtown (42nd Street Station) and Lower Manhattan (portions of the Seaport Station and Hanover Square Station), large office buildings front onto the station areas. In some locations, these have large ground-floor retail spaces; in others, the ground floor is occupied by the building entrance and lobby. More details on the specific uses located in each area that could be affected are provided in Chapter 6 of this SDEIS (“Social and Economic Conditions”), Appendix E (the Social and Economic Conditions Appendix), and Appendix F.

In most station areas, ground-floor spaces are occupied by small stores of 2,000 to 2,500 gross square feet, with fewer than 10 workers. Larger stores, such as supermarkets, may employ up to 200 people. Smaller residential buildings are typically walk-up buildings occupying a single (25’ x 100’) lot, with some 8 to 60 residents above a ground-floor storefront. The property acquisition and resulting displacement necessary to accommodate the subway’s new entrances and cooling and ventilation structures will be determined during Final Design. The relocation and compensation procedures to be followed for properties to be acquired are described below in section C.

In addition to its 16 new subway stations, the project would improve the existing 63rd Street Line station at Lexington Avenue/63rd Street by creating a new Third Avenue entrance to that station. At that intersection, stairs have already been constructed in the northwest, southwest, and northeast corners of the intersection that could be opened for the project. It is possible that a new entrance would also be created at the southeast corner of the intersection, potentially within ground-floor retail space at that intersection.

ACQUISITION OF PERMANENT BELOW-GROUND EASEMENTS

Permanent, below-ground easements for underground tunnels, support structures, and a storage yard would also need to be acquired, but these would be well below the existing buildings on those properties and would not significantly affect any existing building occupants after construction. Below-ground easements would be required along Second Avenue north of 125th Street (for the new underground storage yard), on the blocks between First and Third Avenues from 125th to 123rd Street (for the curved tunnel), on the blocks on the west side of Second Avenue between 65th and 63rd Streets and on the east side of Second Avenue between 63rd and 61st Street (for curved tunnel connections to the 63rd Street Line), and beneath the public property of Sara D. Roosevelt Park on the Lower East Side.

EFFECTS OF RELOCATION

It is anticipated that most of the displaced businesses would be successful in locating suitable alternative space. (Relocation assistance to be provided under federal and state law is described below in section C.) Considering the limited number of potential displaced tenants and businesses, and the amount of space these tenants may require, and comparing that with the large ample inventory of vacant office and retail, warehouse, and industrial space in Manhattan (as
well as industrial space in other boroughs), it is likely that suitable relocation opportunities would be available, despite the fluctuations of the marketplace and space availability. On the whole, smaller businesses may find relocation more problematic, as a result of business disturbance and difficulties inherent in setting up a new operation, from establishing a new clientele to publicizing a new telephone number. Larger businesses, particularly those associated with national or regional chains, may find less difficulty in relocating due to corporate support that may be available in addition to the relocation assistance that MTA/NYCT will provide. In addition, the condition of particular sectors of the real estate market at the time of construction cannot be forecasted; if market conditions are “tight” (i.e., new space is difficult to find), alternative locations may not be available in the right spot at the right time. If the market is slack in a given sector, new space will become easier to find.

Larger restaurants are particularly sensitive to the effects of relocation, since their business depends, in part, on pedestrian traffic flows, neighborhood demographics, and repeat clientele—all of which are highly sensitive to the location of the business. A restaurant that relocates near its original location is more likely to retain its existing customer base. On the other hand, a restaurant that relocates far from the existing location enters a new market and must establish a new clientele. Smaller fast-food restaurants, which are more dependent on pedestrian flows, would need to relocate to high-traffic areas. And while the operation of the subway may generate substantial new pedestrian traffic for these types of restaurants along Second Avenue, those that are permanently displaced would not be able to benefit from the proposed project.

Residential displacement creates a different set of issues. While the relocation assistance and payments that MTA/NYCT would make available to the displaced residents would ameliorate the financial burdens of displacement, the larger issues for all displaced individuals and families are likely to be related to social issues, such as the possibility of relocating children to new schools, establishing new friendships, and proximity to work. Relocation alternatives are likely to be available within the neighborhood of the affected property or elsewhere in New York City.

C. 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 seven 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”). 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”) with regard to 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 would 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 given 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 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. More specific information on the entitlements provided by the Uniform Act is provided in Appendix F (as well as on the internet at www.fhwa.dot.gov/realestate/index.htm).
D. SUMMARY OF SIGNIFICANT ADVERSE IMPACTS AND MITIGATION MEASURES

- Temporary short-term and longer-term displacement of residents and businesses during construction because of impaired access to buildings or to ensure public safety.
- Permanent displacement of businesses to allow use of property for shaft sites and staging.
- Permanent displacement of residents and businesses resulting from property acquisitions for station entrances and ancillary facilities.
- Compensation for property based on fair market or fair rental value and, in the case of partial takings, diminution (if any) to the value of the remaining property in accordance with the New York State Eminent Domain Procedure Law.
- Provision of relocation services, moving payments, replacement housing payments, and other allowable payments related to commercial and residential moving costs and displacement in accordance with the Uniform Act.