

# **THE BROOKLYN HISTORIC RAILWAY ASSOCIATION**

**499 Van Brunt Street, Suite 3A, Brooklyn, N. Y. 11231**

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July 3, 2003

Mr. Wallace Davidowitz, Esq.  
Deputy General Counsel  
NYC Department of Transportation  
40 Worth Street  
New York, NY 10013

Dear Mr. Davidowitz:

I am in receipt of your letter dated June 27, 2003. Please find attached BHRA's spreadsheet for all items purchased under BHRA's now expired Materials Contract and subsequent Change of Work Orders with CDOT. As for the present location of these materials, BHRA was hoping you might be able to shed some light on this issue.

On May 27th, 28th and 29th, 2003, City DOT forces entered BHRA's premises without its authorization or consent and without any prior notice, and removed vast quantities of CDOT's, as well as BHRA's equipment and materials. CDOT executives were made aware of this activity via email from Bob Bergen, Esq. dated May 28, 2003. A response email issued by CDOT's Franco Esposito, Esq. at the end of the business day on May 29th, 2003, indicated that CDOT personnel would not be returning to the site on the following day. Further, CDOT's activities regarding the removal of BHRA's property were reported by the Brooklyn Heights Courier newspaper June 2, 2003 issue. This newspaper article included a photograph of CDOT heavy machinery and personnel removing project equipment, an activity, which by the way, was denied in the very same newspaper article by CDOT spokesperson Tom Cocola.

BHRA repeatedly requested of CDOT personnel at the incident site, Receipts for, and an immediate accounting of, all equipment being removed by CDOT's forces- a request which CDOT site personnel refused. BHRA staff then inquired of CDOT's heavy machine operator, if he knew where the equipment was being taken. His response was "my cousin's scrap yard in New Jersey". Given the circumstances, BHRA had no choice but to file a complaint Report with the New York City Police Department. A copy of the incident Information Slip is attached.

While CDOT site personnel refused to issue a Receipt or otherwise account for the materials they removed, BHRA did make an accounting after CDOT ceased its activities. According to the best of my knowledge, whatever equipment owned by CDOT not already installed into the project by BHRA, was in fact, removed by CDOT's forces during the period of May 27th- 29th, 2003. BHRA has no knowledge what so ever of how CDOT disposed of this equipment. However, since we are on the subject, BHRA demands access to, and the immediate return of, any and all of its equipment

illegally seized by CDOT's forces during the period of May 27th- 29th, 2003.

BHRA reserves to itself the right to make a claim against the City of New York and CDOT for the illegal taking of its equipment. If an arrest is made in this matter, BHRA intends to press charges. Further, for the record, BHRA strenuously objects to the Revocation of its CDOT Consent to construct, maintain and operate the electric trolley line in Red Hook, Brooklyn. BHRA is completely baffled by CDOT's actions, as we fully intended to continue on with the project. BHRA had made several public statements of this intention in the press, prior to CDOT's revocation.

Since no un-installed material or equipment belonging to CDOT is on BHRA's premises, CDOT's request to enter upon our premises and remove its materials is denied.

If you have any other questions regarding this matter, please feel free to contact either myself or Bob Bergen.

Very Truly Yours,

Bob Diamond  
President