

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of the)
 COUNCIL OF THE CITY OF RICHMOND, State)
 of California, for an order directing and)
 requiring the San Francisco-Oakland Termi-) Application No. 952.
 nal Railways to change its track on what)
 is known as the Subway on MacDonald Ave-)
 nue, in the City of Richmond.)
)

A P P E A R A N C E S

D. J. Hall for the City of Richmond,
 G. W. Mordecai for San Francisco-Oakland Terminal Railways,
 Geo. D. Squires for Southern Pacific Company.

O P I N I O N

GORDON, Commissioner.

This is an application by the Council of the City of Richmond for an order directing the San Francisco-Oakland Terminal Railways to move and relocate its track in the southerly half of what is known as the Subway under the Southern Pacific Company's tracks, in MacDonald Avenue, in the City of Richmond, a distance of three and seven-tenths (3.7) feet northerly, in order to make room for an elevated sidewalk on the south side of said subway. The San Francisco-Oakland Terminal Railways refuses to move its track or to permit the same to be moved.

A hearing was held on the question of this Commission's jurisdiction in this application in the office of the Commission in San Francisco on February 21, 1914, before Commissioner Tholen, at which hearing the City of Richmond and the San Francisco-Oakland Terminal Railways were represented. Both parties contended that the Commission had jurisdiction in the above entitled proceeding, and requested that it assume such jurisdiction and proceed to a hearing of the issues involved. A hearing was thereupon held in San Francisco on March 9, 1914, at which the interested parties were duly represented, and testimony was taken con-

cerning the matters contained in the application.

It appears that the northerly portion of said subway is occupied by a sidewalk and by a roadway for the general use of the public, and that the southerly portion is occupied by a track of the San Francisco-Oakland Terminal Railways. The center of the subway is taken up by the concrete piers and steel columns supporting the steel super-structure which carries the tracks of the Southern Pacific Company over this subway. The City Council of Richmond maintains that the said roadway, owing to the increase in traffic on said MacDonald Avenue, is no longer of sufficient width to accommodate the travel through said subway, and that it is the desire of the City, and necessity requires, that the sidewalk on the northerly side of the subway be removed, for the purpose of permitting all of the northerly side of the subway to be used for vehicles. It is proposed by the City that an elevated sidewalk be constructed along the south side of said subway, and that in order to construct said sidewalk and maintain the same, it will be necessary to move the railway tracks as heretofore indicated.

The railway company refuses to move its track as desired by the City, for the reason that if this sidewalk were constructed and the track moved, as proposed by the City, there would not remain sufficient clearance for the Company's cars and trains to pass through said subway, and there would be considerable danger to pedestrians on the sidewalk leaning over the railing of same, and to passengers leaning over the sides of the Company's cars. The Company further maintains that it is the possessor of franchises giving it the right to construct and maintain a single or double track street railroad through said subway, and to operate thereon passenger, mail, express and freight cars; and that it now avails itself of the privileges granted in said franchise, or intends in the future to so avail itself.

An investigation into the facts of the case develops that if the sidewalk were constructed as proposed by the City of Richmond, the side clearance between the Company's widest existing cars and the railing of the proposed sidewalk would be not more than twenty-five (25) inches, and that, if the Company should avail itself of its privilege to operate freight equipment through this subway, the clearance then would be not more than twenty-three (23) inches.

This Commission in its General Order No. 26, effective January 1, 1913, orders that in all construction there shall, after the date of the Order, be observed in this state, unless otherwise authorized or directed by this Commission, certain minimum clearances, and the particular paragraphs of this order pertaining to this matter read as follows:

"The minimum side clearance on each side of the center line of railroads and street railroads, for tunnels and bridges, shall be seven and one-half ($7\frac{1}{2}$) feet; for water stations, fuel stations, pole lines and all other side structures such clearance shall be eight (8) feet, except in case of double track electric railroads with center pole construction, when such minimum clearance shall be seven and one-half ($7\frac{1}{2}$) feet. For narrow gauge railroads and street railroads, the minimum clearance between the side of the widest car and any side structure, shall be thirty (30) inches;" and further,

"The minimum clearance between the center line of yard and industrial tracks of railroads and street railroads, and the sides—or nearest projection—of buildings and structures, including platforms of a height greater than four (4) feet above the top of rail, shall be eight and one-half ($8\frac{1}{2}$) feet;" and further,

"For narrow gauge railroads and street railroads the minimum clearance between the side of the widest car and any structure shall be, in the first case given above, forty-two (42) inches."

It appears, therefore, that the minimum side clearance in this case, as established by the Commission, on each side of the center line of the track, shall be eight (8) feet, and that the minimum clearance between the side of the

widest car and any side structure shall be thirty (30) inches. The last mentioned clearance is the minimum for "narrow gauge railroads and street railroads."

If the San Francisco-Oakland Terminal Railways, as they propose to do, operate through this subway, their standard Key Route cars or standard broad gauge freight cars, even a thirty-inch clearance would not be sufficient. As stated heretofore, operation with the Company's present widest car would result in a clearance of only twenty-five (25) inches, while a standard freight car would leave a clearance of only twenty-three (23) inches. The difference of five (5) or seven (7) inches, as the case may be, between the required minimum and the actual clearance, as it would exist were the sidewalk constructed as proposed, appears too great to be permitted by the Commission; and I believe that the Company's contentions as to the danger to pedestrians on the proposed sidewalk and to passengers on the cars are well founded.

The Commission's principal concern in matters of this kind is the adequate safeguarding, as far as it can be done, of human life and limb. In this case there is no question in my mind that the moving of this sidewalk from the north side of the subway to the southside, and the elevating of it in very close proximity to a track over which frequent and high-speed street car operation is being carried on, is a decided change from bad to worse. There would also be introduced another element of danger if this change were made. Pedestrians entering or leaving the subway in the west end of it would be compelled to cross the street railway track in order to reach the proposed sidewalk from the present sidewalk on the north side of the street. The question as to whether or not the City Council of Richmond has the right, under the terms of the Company's franchise, to intrude

upon the railroad's right of way in the south portion of this subway, appears to be irrelevant to the matter under consideration.

It is my opinion that the application should be denied on account of its serious violations of the Commission's clearance order, No. 26. I therefore submit the following order:

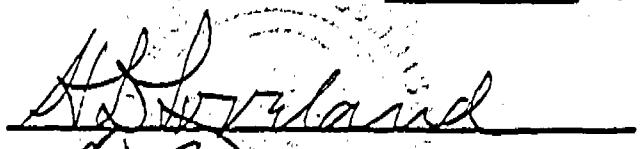
O R D E R

Council of the City of Richmond, State of California, having applied to this Commission for an order directing and requiring the San Francisco-Oakland Terminal Railways to change its track on what is known as the Subway on MacDonald Avenue, in the City of Richmond, and a hearing having been held, and being fully advised in the premises, the Commission hereby finds as a fact that the granting of this application would result in a serious violation of its General Order No. 26, covering the regulations governing clearances and construction at crossings of railroads, street railroads, telegraph, telephone, signal, trolley and power lines, with each other and with streets and public highways; also other overhead and side clearances of railroads, street railroads and wire lines; and that such granting of said application would further result in seriously endangering the life of pedestrians using said subway and passengers using said street cars; and

IT IS HEREBY ORDERED That said application be, and is hereby, denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 30th day of March, 1914.


Alfred J. Blair
Wm. J. Gordon
Max Shelton
Edwin O. Edgerton