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DDOT Used CSX Need for New Right of Way for Tunnel Expansion as Bargaining Chip for Series of Secret Agreements

C100 Takes Newly-Produced Documents to D.C. Circuit in Appeal to Halt Construction Approved Before Environmental Review

Litigation by the Committee of 100 on the Federal City (C100) has exposed backroom deals that locked DDOT into approving the CSX Virginia Avenue Tunnel expansion years before the project's environmental review. The newly-produced, 130,000+ page administrative record for the case reveals extensive behind-the-scenes negotiations in which the District Department of Transportation (DDOT) and other executive branch officials used the new right of way that CSX would need for its tunnel expansion as leverage for a series of bargains, hidden from public view.

As one example, on January 20, 2010, DDOT's head of Policy and Planning advised DDOT Director Gabe Klein that DDOT should determine "what leverage we have with the Virginia Avenue tunnel... and how we can use that [against CSX] for other acquisitions."

On May 27, 2010, Steven Seigel, Development Director for the Office of the Deputy Mayor for Planning and Economic Development, asked Klein, "Does DDOT need anything from CSX? They're asking for an easement from the District and it is really important to them. So, speak now." DDOT provided its wish list, including desired easements and land. Barely a month later, DDOT agreed to work on CSX's behalf to support the tunnel expansion.

In an August 2012 agreement, CSX made a "donation" of an unspecified amount to the District. That agreement has not yet been produced.

The Federal Highway Administration (FHWA), which was supposed to be the lead federal agency for the Environmental review process, had grave misgivings about the claims and language CSX's consultants were using in the Final Environmental Impact Statement, the administrative record shows. But instead of performing its own studies to verify or dispute the claims, FHWA advised CSX on how to change the language to avoid making the Environmental Impact Statement appear so biased in favor of the project.

The C100 has now brought these records to the attention of the D.C. Circuit, via an emergency appeal, and to the District Court, via a motion for reconsideration. The

DCSR is a coalition of citizens, organizations, and elected officials asking for accountability and oversight in ensuring the community's health, safety, and security in the Virginia Avenue Tunnel expansion project.



administrative record was not available to the C100 or the District Court when that court denied the C100's request for a preliminary injunction on April 7.

DCSafeRail supports and appreciates the dedicated efforts of the C100 to secure an honest review of the CSX expansion proposal and to bring to light an abuse of process and public trust that should deeply trouble anyone who values an open and transparent government.

The C100's Emergency Motion to the D.C. Circuit is available at <http://dcsaferail.org/wordpress/wp-content/uploads/2015/05/Filed-Motion-for-Stay-and-Reversal.pdf>

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