WHEN DEAD SPACE BECAME USEFUL SPACE

Freeways in California — Airspace

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Beginning in the 1940s, California's urban areas were planning for and building new freeway systems to accommodate the rapidly increasing population, urban to suburban sprawl and changing commuter preferences from regional trolleys to personal cars. Early designs for the State of California freeway systems included maintaining the trolley system but within the median of the proposed new freeway corridors. Ultimately, the State freeways were constructed without a passenger rail component, in no small part to steadily declining ridership on public rail transportation. Some argue that this was a self-fulfilling prophecy. Nonetheless, the increasing vortex to design and build new freeways continued through the 1970s, 1980s and 1990s.

As the new freeways were being planned, the freeway designs changed from simply expanding the existing footprint of the at-grade streets and roadways, to the construction of superstructures built through large swaths of newly acquired land. The superstructure designs minimized at-grade freeway decks. The majority of the travelled roadway was either above grade or below grade. One of the main reasons for the reduction of the at-grade freeway decking was to minimize conflicts with existing railroad tracks and local streets. Avoiding relocation and rerouting of rail tracks and local streets was a high priority, because of

the high costs and inherent difficulty in changing railroad track alignments, diversion of street traffic and maintaining continuity within existing neighborhoods.

Dead Space

Beneath the elevated freeway structures were local agency-owned streets where shared ownership agreements defined the obligations between the local agencies and the State concerning duties of maintenance, traffic signalization controls and tort liabilities. In addition to the local streets, there were "dead spaces" beneath and adjacent to the freeway decks that were kept open to allow access for routine maintenance of the underdeck, bridges, surface drain systems and support columns. The underdeck spaces were most often irregular in height, shape and width and were not designed with secondary uses in mind, barring an occasional planned space for storing freeway maintenance equipment or even a field office.

Over time, as the dead spaces sat idle and unused, adjacent landowners, local public agencies and enterprising private developers inquired about the availability of the unused space for sale or lease. The State already had a separate Excess Land Department that identified, analyzed and approved properties for sale by public auction if the properties were found to be excess to the State's needs and were no longer needed for any public purpose. There also is a Property Management Department handling the rental of State-owned property until the properties can be used for a project or sold by the Excess Land Department.

The dead space below the freeway structures, however, could not be sold off as excess land because it was needed in perpetuity for operation of the freeway. In response to the persistent public and private interest in using the freeway's dead space, the State created the Airspace Department to review and analyze, on a case-by-case basis, the viability of allowing third parties to improve and use the State's airspace for short and long term leases.

The Airspace Department was tasked with evaluating the development and use proposals submitted by interested parties to determine viability and to identify any and all conflicts with the operation and maintenance of the freeway. The proposal review process required a prospective developer's prepayment of the Agency's anticipated costs for the review. Parcel maps, legal descriptions and often 3D surveys were some of the required information prepared by the State. The information was circulated through the various State departments for tentative approval of the prospective airspace lease. After clearance through the State departments and the applicant's proof of property insurance coverage, a lease proposal was prepared for review by the State's Legal Department, lease terms were formulated and agreed upon, staff recommendations were made, and only then could the proposal be submitted to the California Transportation Commission for approval.

With the success of the program in the early 1990s and demand for airspace leases steadily increasing in the cities of San Francisco and Los Angeles, the State took the next step by proactively identifying viable airspace sites for lease. Through this process, the State was able to lease airspace properties for parking, car wash, self-storage units, car dealership showroom and even a retail commercial shopping center. The Airspace Department successfully leased airspace property for terms up to 50 years, generating revenue from the previously untapped areas of State-owned property.

Program Setback and Reimagination

On January 17, 1994, the Northridge Earthquake caused an unexpected disruption to the Airspace Lease program. Several of the freeway superstructures were severely damaged by the magnitude 6.7 earthquake, causing collapsed bridges and critically damaging many bridge support columns. Direct airspace lease casualties of the earthquake included several of the self-storage businesses and commercial offices that used the freeway underdeck as the ceiling of their building units. A moratorium was placed on all new proposals and an immediate suspension of occupancy in the existing airspace lease areas was ordered until all of the freeway structures could be inspected for safety. After a few months, the State determined that most of freeway bridge columns in the State would require earthquake retrofitting and upgrades to modern safety standards. Some airspace leases were immediately terminated by "force majeure" clauses (circumstances beyond one's control), while other leases were subject to modification in scope and usable area.

Over the several years thereafter, the State retrofitted the bridges and support columns in all airspace lease locations and permitted some airspace lessees to return and fulfill their leases to term. Today, the airspace lease program still thrives after successfully transitioning with the times by promoting telecommunications site licensing in the airspace. ✪

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