

IMPORTANT NOTICE

November 12, 2003

Dear MBTA Subway Performer:

The MBTA has developed a new Subway Performers Program Policy, a copy of which is attached to this letter. **Please read this information carefully as it affects your ability to continue performing on MBTA property.** Transit Realty Associates, L.L.C. ("TRA") is the MBTA's designated representative managing the new Subway Performers Program Policy. Effective immediately TRA will be your contact for this program at the following location:

Transit Realty Associates, LLC
Jack Wolfson, Asset Manager
20 Winthrop Square, Floor 2
Boston, MA 02110
617/482-2525
M-F 8:30am-4:30pm

Effective December 1, 2003 the new Policy will go into effect. Subway Performers will be required to obtain a permit and carry a badge identifying you as a licensed Performer. In addition, approved locations for performances will be identified by signage. Performances in other areas will not be permitted. **If you wish to continue performing after December 1, 2003, you must obtain a new permit and badge prior to that date.**

To obtain a new permit and badge please follow these steps:

1. Obtain a passport sized photo.
2. Complete Permit application.
3. Bring completed permit application, photo, 2 forms of positive identification, one piece of mail with a cancellation date within the past 30 days showing current address, and a check or money order for \$25 to TRA at the above address during business hours.
4. Your permit and ID will be mailed to you within ten (10) days.

If you have any questions, contact Jack Wolfson at 617-482-2525 or email at jwolfson@transitrealty.com.

Sincerely,

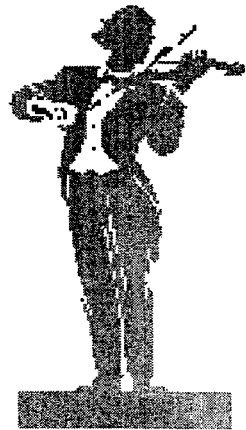
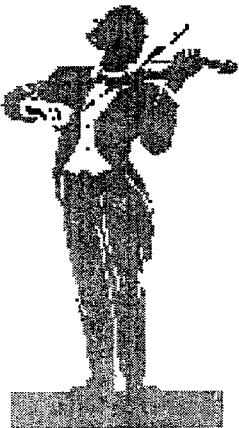
Transit Realty Associates, L.L.C.
as designated representative for the MBTA



Corna J. Moritz
Executive Director



MBTA
SUBWAY PERFORMERS
PROGRAM



MBTA Subway Performers Program

POLICY: The primary mission of the Massachusetts Bay Transportation Authority ("MBTA") is to provide safe, convenient, timely, cost effective and reliable public transportation services to over 1 million people daily. Any noise levels or activities that interfere with service announcements, train arrivals and departures, berth and platform locations, schedule changes, emergency announcements or security alerts will not be allowed. Similarly, passenger circulation routes and station "lines of sight" must remain clear and unobstructed. Controlling the activity of subway performers is an essential element in completing this mission.

PURPOSE: The purpose of this policy is to promote safety by establishing procedures that ensure a well-managed and coordinated Subway Performers Program.

SCOPE: The policy applies to all individuals applying for and being issued an MBTA Subway Performer Permit.

GENERAL GUIDELINES

- The MBTA allows Performers to perform at designated Performance Areas throughout the transit systems (see attached list of station locations) on a daily basis ("Performance Areas"). Each Performer must cease performing and leave the station by 11:00 pm, or posted station closing time, if earlier. In addition, certain Performance Areas may be limited to certain hours.
- A sign on the wall that states that the Performance Location is reserved for Performers with an authorized MBTA permit identifies the designated Performance Areas. Performance Areas are available on a first-come, first-serve daily basis.
- Each Performer must obtain a photo permit from the MBTA for a fee of \$25.00 prior to any performances. Group Performers must apply individually. Each permit is good for twelve (12) months beginning on the date of issue. The permit expiration date is noted on the permit. In order to obtain a permit, each Performer must sign the MBTA Subway Performer Licensing Agreement and General Release. Each Performer applying for a permit must be at least 18 years of age. Each applicant must provide two forms of positive identification, one of which contains a recent photograph (e.g., drivers license, passport, or other government issued identification). Name and address shall be verified against the documentation shown by the individual submitting the application form. In addition to two recent forms of identification, the applicant must produce a piece of mail with a cancellation date within the past 30 days. The MBTA will mail the notification to this address, and the applicant may return to be issued a musician's photo identification permit. Applicants who are **not U.S. Citizens** must provide proof of legal residence or visitor status. Applicants **must first call #617-482-2525 to schedule** a time to apply for permit (no walk-ins). The MBTA's designated representative E-mail address is jwolfson@transitrealty.com.
- A penalty fee of \$25.00 will be charged on all requests for replacement of missing photo permits, and a thirty-day waiting period is required before replacement permit is issued.

- A Performer's permit cannot be used to gain access to a station in lieu of paying the appropriate fare.
- The use of amplifiers by Performers in the subway system is strictly prohibited.
- The MBTA reserves the right to limit or restrict the use of specific instruments / accoutrements.
- The MBTA prohibits trumpets or trumpet-like instruments, or other horn instruments, electric guitar/bass, drums, or any electric instruments, as they are no longer instruments suitable to the subway environment. Note: the use of a keyboard to simulate these instruments is prohibited.
- During the twelve-month permit period, any Performer whose performance is deemed of "no entertainment value" as supported by frequent complaints by passengers, other station non-MBTA personnel (e.g., vendors, cleaners), MBTA station and other employees, will be so informed in writing. The Performer will be given an opportunity to address performance issues. Should the complaints continue to be made concerning said individual, the permit will be rescinded and future permit requests will be denied.
- In the event that a Performer violates the terms of the agreement (e.g., blocks passenger flow, disturbs commuters, etc.) the Performer's permit may be rescinded immediately by an MBTA Official (e.g., MBTA Police Officer, Station Official, Manager). The permit will be confiscated at that time. The Performer must cease performance activity, give the permit to the requesting MBTA Official upon request, and leave the station. Failure to do so could be considered trespassing. Confiscated Performers permits will be forwarded to the administrator of the Performers' Program.
- At the end of the twelve-month period, each Performer is required to obtain a new permit according to the procedures outlined above. The MBTA makes no guarantee as to space and availability when renewing a permit.
- The Real Estate Department and its designated management representative controls the administrative activities for this program. Operations, the MBTA Police, the Safety Department, and other appropriate MBTA departments will monitor Performer activity in stations. From time to time, the MBTA, because of operational concerns, public safety concerns, emergencies or other contingencies, may require Performers to relocate or to evacuate the station, at which times Performers are required to follow MBTA orders pertaining to relocation or evacuation.

I have received a copy of this MBTA Subway Performers Program Policy.

PERFORMER:

Printed Name

Performer's Signature

Date: _____

Exhibit A

Subway Performers Program
Rules of Conduct Governing Performers' Performance

The continued success of the Subway Performers Program is dependent upon each Performer following the rules and regulations that have been established by the Massachusetts Bay Transportation Authority ("MBTA").

1. Each Performer must be neat in appearance and wear proper clothing, including shirt, pants and shoes, at all times while performing.
2. Each Performer must play in the proper location. Performers playing in non-authorized locations will have their permits revoked. If another Performer is already in the Performance Location reserved for Performers, the second arriving Performer must leave and go to another reserved unoccupied Performance Location in either that station or another station before beginning his/her performance. Only one Performer (lone performer or group) at a time is allowed in a designated Performance Location.
3. Each performer must keep the designated area clean and free of clutter. Each Performer must remove all trash from the performance area after the conclusion of each performance.
4. Each Performer is prohibited from impeding the safe flow of passengers entering, existing, or moving within the stations.
5. Each Performer must cease performing while station and/or train announcements are being made. Performers must be aware of noise level and activity in the station environment and not allow their performance to interfere with service announcements, train arrivals and departures, berth and platform locations, schedule changes, emergency announcements or security alerts.
6. Any noise levels or activity that interfere with passenger, vendor and/or employee comfort will not be allowed.
7. Each Performer must wear a Photo-ID as prescribed by the MBTA. Each permit must be clearly visible while the Performer is performing.
8. Each Performer may display and sell recordings of his/her own music while performing. The name of the Performer printed on the MBTA issued Photo-ID must be clearly printed on all items being sold.
9. Each Performer must refrain from active solicitation and harassment of customers.
10. Each Performer is strictly prohibited from playing his/her own music or the music of another artist on a "boom box" or other electronic device for the sole purpose of generating cash sales. This does not constitute a "musical performance" for which a permit is granted.
11. Each Performer is prohibited from using drums, trumpets or trumpet-like instruments, horn instruments, and electric guitars, or any electric instruments, as they are no longer instruments suitable to the subway environment. Note: the use of a keyboard to simulate these instruments or drum sounds is prohibited. In addition, the use of amplifiers by Performers in the subway system is strictly prohibited.
12. Performers are not allowed to use any MBTA power source.
13. Each Performer must follow the orders of MBTA station officials at all times, especially orders to relocate or evacuate the station.
14. Each Performer must cease performing and leave the station by 11:00 pm, or posted station closing time, if earlier. In addition, certain Performance Areas may be limited to certain hours. All musical instruments and other equipment must be removed from the station by that time.
15. Each Performer is strictly prohibited from using or carrying illegal drugs and/or alcohol while on MBTA property.

16. Each Performer is strictly prohibited from smoking while on MBTA property.
17. Each Performer is strictly prohibited from carrying or storing firearms while on MBTA property.
18. Group performances are limited to an appropriate number of Performers. The number of Performers to be determined by the MBTA.
19. In the event that a Performer's permit is rescinded, said Performer will be informed personally by an appropriate MBTA Official (e.g., MBTA Police Officer, Station Official, Manager) that his/her permit has been rescinded and that the permit will be confiscated at that time. Upon notification that a Performer permit has been rescinded said Performer must cease Performer activity, and give the permit to the requesting MBTA Official. Failure to do so could be considered trespassing. Confiscated Performers permits will be forwarded to the administrator of the Performers' Program.
20. IN AN EMERGENCY SITUATION REMEMBER TO: Remain calm, follow the directions of station officials and public address announcements, and notify an MBTA official or the MBTA Police of unusual behavior (617-222-1212).
21. Every individual performing on MBTA property must have a secondary means of government-issued positive identification on his or her person. This secondary I.D. must have a current picture (e.g., drivers license, passport, or other government-issued identification) in the event that an MBTA Station Official or Police Officer needs to verify the validity of that individual's Performer's photo identification badge.
22. All station Performers must be made aware that the MBTA Operations, Police and Safety Departments and other appropriate departments will monitor Performer activity in the stations. Such monitoring includes ensuring compliance with the MBTA's photo identification badge policy (i.e., that all Performers wear a badge that is clearly visible). Any Performer approached by an MBTA authorized employee shall, upon request, present his/her Performer photo identification badge and/or government-issued identification to the MBTA employee.
23. Any station Performer failing to produce his/her Performer photo identification badge and/or other government issued photo id upon request of an MBTA employee shall be asked to cease Performer activity and leave the station until such time that they have the proper Performer photo identification on their person.
24. The Authority prohibits the transport of flammable liquids and combustible gases (e.g., cans of gasoline/propane, powered generators, etc.) in stations and on revenue service vehicles.
25. Any violation of the above rules and regulations could seriously jeopardize a Performer's permit, including the rescinding of the permit and the denial of any future permit requests.
26. The MBTA reserves the right to amend, modify or supplement these rules at any time without notice.
27. I have received a copy of these rules and regulations, have read, understand, and agree to comply with the above rules and regulations while on MBTA property. Should I violate any of the Rules and Regulations, I understand that the MBTA may terminate my permit.

Initials: _____

MBTA Subway Performer Permit Application

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number - Home : _____ Business: _____

Date of Birth: _____

U.S. Citizen: Yes _____ No _____ If No, clarify: _____

All applicants must provide two forms of positive identification, one of which contains a recent photograph (e.g., drivers license, passport, or other government issued identification). Name and address shall be verified against the documentation shown by the individual submitting the application form. In addition to two recent forms of identification, the applicant must produce a piece of mail with a cancellation date within the past 30 days. The MBTA will mail the notification to this address, and the applicant may return to be issued a musician's photo identification permit.

Applicants who are not U.S. Citizens, must provide proof of legal residence or visitor status.

Musical instrument(s) intended for use: _____

Musical background (e.g., training and playing experience): _____

General musical repertoire (jazz, classical, folk, country, blues, etc.): _____

References (must provide two; personal or business):

Name: _____ Telephone No. _____

Address: _____

Name: _____ Telephone No. _____

Address: _____

Applicant Signature: _____ Date: _____

For Office Use Only
Date permit issued: _____
Date permit denied: _____

MBTA Subway Performer Permit

The Massachusetts Bay Transportation Authority ("MBTA"), a body politic and corporate and political subdivision of the Commonwealth of Massachusetts, with a usual place of business at 10 Park Plaza, Boston, Massachusetts, grants permission to _____ ("PERFORMER"), with a usual place of business/residence at _____, Massachusetts, to enter upon MBTA property at designated locations, which are identified by a sign on the wall that states that the Location is reserved for Performers with an authorized MBTA permit ("Performance Area"). Note: Performance Area locations are available on a first-come, first-serve daily basis for the period of time commencing _____ through _____ for the sole purpose of _____.

By acceptance of this PERMIT, the PERFORMER agrees to indemnify and save harmless the MBTA from and against any and all liabilities, losses, damages, costs, expenses, including reasonable attorney's fees and expenses, and all causes of action suits, claims, demands or judgments of any nature whatsoever ("CLAIMS") that is or may be attributed to the actions of the PERFORMER, its officers, employees or agents, while upon the Performance Areas at designated Performance Areas, which are identified by a sign on the wall that states that the Performance Location is reserved for performers with an authorized MBTA permit. During the term of this PERMIT, the PERFORMER accepts the Performance Areas in as-is condition. In addition, the PERFORMER shall save the MBTA harmless from any claims against the MBTA from its employees, officers or agents for injuries (including death) suffered by them because of the condition of the Performance Areas.

Performer agrees to abide by the "Rules of Conduct" attached as Exhibit A. Failure to abide by Rules of Conduct may result in revocation or suspension of this permit, at the sole discretion of the MBTA.

By acceptance of this PERMIT, the PERFORMER agrees to restore the Performance Area to the condition that it was in at the time of the commencement of the performance.

The MBTA shall not be liable to the PERFORMER for merchandise, equipment of personal property arising out of the PERMIT hereby granted, or for damages suffered by PERFORMER while on the Performance Areas. The PERMIT at all times will remain the property of the MBTA.

I have read the above PERMIT and I agree, by signing below, that in consideration of the Massachusetts Bay Transportation Authority granting permission, I am hereby assuming all risk of injury to myself (including death) and all loss of or damage to my property resulting from being upon or about the Performance Areas on behalf of myself, my executor or administrator or assigns and heirs at law and next of kin, hereby release and forever discharge the MBTA, its successors and assigns from any and all claims, demands, damages, actions, and causes of action which might in any way arise out of injury to me (including death) or loss of or damage to my property resulting from being upon or about said Performance Areas, whether due in whole or in part to the acts or omissions, negligent or otherwise, of the officers, agents, servants, licenses or invitees of the MBTA or otherwise.

**MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY**

PERFORMER

Printed Name

Printed Name

Signature of MBTA Designated Representative

Performer's Signature

Date: _____

Note: regular permits printed on gold paper, special permits printed on pink paper.