

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DISABLED IN ACTION OF	:	
PENNSYLVANIA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
SOUTHEASTERN PENNSYLVANIA	:	
TRANSPORTATION AUTHORITY	:	
and	:	
THE CITY OF PHILADELPHIA,	:	
	:	
Defendants	:	03-CV-1577

ORDER

AND NOW, on this 23rd day of December, 2004, upon consideration of the Motion to Dismiss and Motion to Strike Portions of the Plaintiff’s Third Amended Complaint filed by Southeastern Pennsylvania Transportation Authority (“SEPTA”) (Docket Nos. 32, 38, 53), the responses thereto (Docket No. 44, 53), the Stipulation and Order entered into by the parties on July 20, 2004 (Docket No. 36), and specifically considering only the pending complaint and legal memoranda filed in support and in opposition to the Motion to Dismiss and not the documents attached as exhibits to the legal memoranda, it is hereby ORDERED that the Motion to Dismiss and to Strike Portions of the Plaintiff’s Third Amended Complaint is GRANTED in part and DENIED in part.

SEPTA’s unopposed Motion to Strike the allegations in Plaintiff’s Third Amended Complaint relating to the alleged agreement to construct elevators at City Hall in lieu of construction of an elevator at the northwest corner of 15th and Market Streets is GRANTED. The Plaintiff is directed to excise these allegations in accord with the parties’ stipulated

agreement in this regard and to file a fourth amended complaint on or before January 18, 2005, without the stricken allegations.

Defendant SEPTA's Motion to Dismiss the "Key Station" allegations from the Plaintiff's Third Amended Complaint is DENIED without prejudice and SEPTA is directed to file an answer to Plaintiff's complaint within fifteen (15) days of the date of service upon SEPTA's counsel of Plaintiff's fourth amended complaint.

BY THE COURT:

GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE