



July 18, 2013

## **Final Determination Regarding Relocation of Retail Services in Berkeley, California**

In accordance with the procedures set forth at 39 C.F.R. 241.4(6), this is the final review determination of the Vice President, Facilities of the United States Postal Service ("Postal Service") with respect to the Postal Service's April 19, 2013 decision regarding relocation of retail services at the Berkeley Post Office located at 2000 Alston Way, Berkeley, CA ("Berkeley Post Office").

The Postal Service announced its decision to relocate retail services on April 19, 2013, and subsequently received requests for review from Congresswoman Barbara Lee, California State Senator Loni Hancock, California State Assemblymember Nancy Skinner, Mayor Tom Bates, Office of the City Attorney of Berkeley, The Berkeley Architectural Heritage Association, National Trust for Historic Preservation, National Post Office Collaborate, Ford & Huff Attorneys at Law, Save the Berkeley Post Office, the Gray Panthers of the East Bay, and approximately fifty postal customers (collectively referred to as "concerned parties"). In making this final determination, I have obtained the views of the Postal Service decision maker, reviewed relevant parts of the project file, and carefully considered all the concerns expressed in each of the concerned parties' requests for review of the relocation decision. While I am sympathetic to the concerns raised by the concerned parties, for the reasons set forth below, I will not set aside the Postal Service's April 19<sup>th</sup> decision.

The concerns raised by the concerned parties can be grouped into the following areas: (1) potential community impact based on historic significance and convenient location of present facility, (2) alleged failure to comply with certain federal statutes, regulations, executive orders, and an inter-agency agreement, along with apprehension about the future of the mural in the Berkeley Post Office, (3) the authority of the Postal Service to sell the property, and (4) alleged faulty financial analysis of the relocation. Each of these issues is addressed below:

1. Potential Community Impact. I understand and appreciate the comments expressing heartfelt attachment to the Berkeley Post Office building, based on its historic role, architecture, and artwork, and its employees as a part of the community. I also understand the desire to have a convenient location to access postal services, especially for senior citizens, persons with limited mobility, and

local businesses. While the Postal Service takes pride in its role in every community, its dire financial circumstances force us to pursue every opportunity to reduce costs and generate revenue, in particular at under-utilized locations, such as the Berkeley Post Office. Accordingly, the Postal Service will pursue relocation opportunities for the Berkeley Post Office, keeping convenience in mind, as well as a possible sale transaction that could include a lease-back of a portion of the premises to the Postal Service so as to allow existing Postal Service retail services to remain in place. The Postal Service will only consider relocation sites that are suitable for our customers and meet all postal operation needs. The goal is to identify a location as close to the current site as possible and within the same ZIP Code, where the Postal Service expects to continue to provide the same services during the same operating hours as it provides at the existing site. Additionally, the Postal Service has greatly expanded access to postal products and services in recent years. Almost 40 percent of our total retail revenue comes from this expanded access, including stamps in ATMs, supermarkets and drug stores and shipping services in office supply stores. Nearly all of the services available in the Berkeley Post Office are available online via usps.com. After issuing this final review determination, the Postal Service will undertake a site selection process that includes notice to officials and the public of potential alternative sites and solicitation of comments. The Postal Service expects the current employees will continue to be employed at the new site or in the down-sized existing location.

2. Compliance with Certain Federal Statutes, Regulations, Executive Orders and Inter-Agency Agreement; Concern for the Mural. Some concerned parties alleged that the Postal Service failed to comply with the National Environmental Policy Act and its corresponding federal regulations (collectively, "NEPA") and the National Historic Preservation Act and its corresponding federal regulations and Executive Orders (collectively, "NHPA"). Some concerned parties expressed related apprehension about the future of the mural located in the Berkeley Post Office and for the public's continued access to it. Regarding the NEPA, some alleged that NEPA required the Postal Service to prepare an environmental impact statement (EIS) prior to announcing its April 19<sup>th</sup> relocation decision. However, as that decision noted, the Postal Service has not yet identified the potential relocation site and thus it is premature to evaluate potential impacts. The Postal Service will comply with all applicable statutory and regulatory requirements under NEPA at the appropriate time. Regarding the NHPA, the Postal Service complies with Section 106 and will engage in the consultation process prior to any sale of the Berkeley Post Office. With respect to the mural located inside the building, the Postal Service will retain ownership of the mural regardless of any sale of the building itself. The Postal Service will enter into a written agreement with the new owner to ensure the preservation of, and public access to, the mural. A concerned party voiced their opinion that the U.S. Postal Service did not consult with the General Services Administration ("GSA") as set forth in an agreement between the two federal agencies. Circumstances have changed significantly since 1979 when that inter-agency agreement was made. The Postal Service works with GSA and will provide any

required inter-governmental notices at the appropriate time. Finally, a concerned party alleged that the Postal Service failed to follow 39 U.S.C. § 404(d), which sets forth factors that should be taken into consideration when determining whether to close or consolidate a post office. This concern is misplaced as the Berkeley Post Office's retail services are being relocated, not closed or consolidated, to a yet to be determined replacement facility in the same ZIP code.

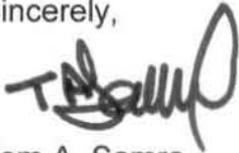
3. Authority to Sell. Some concerned parties feel that the Postal Service has no right or authority to sell a property that was built using taxpayer dollars. The April 19, 2013 decision and this final determination relate to the relocation of retail services from the current Berkeley Post Office. Nevertheless, the Berkeley Post Office is the property of the Postal Service by virtue of the provisions of the Postal Reorganization Act, Public Law 91-375, and as specifically noted in the Federal Register, Vol. 36, No. 173 at page 17920. By federal statute at 39 U.S.C. §401(5), the Postal Service has the power to acquire, sell, and otherwise dispose of its real property or any interest therein. The Postal Service acknowledges the history of the Berkeley Post Office, but given the Postal Service's financial status and operational needs, it is no longer practical to retain ownership of this property, particularly since the Postal Service operations only require approximately 4,000 square feet of the approximately 57,000 square feet of space in the building.
  
4. Financial Analysis. Several concerned parties questioned the financial advantage of selling the Berkeley Post Office and relocating to leased space with a rental burden, as well as the financial burden on mailers to commute to a different location to conduct their postal business. Some concerned parties suggested alternatives, including outleasing excess space and offering additional services, in order to increase postal revenue. However, the Postal Service's mission is to provide postal services in an efficient manner, and increasing its role as a landlord diverts from a proper focus on that core mission. In addition, the Postal Service is legally restrained from offering additional non-postal services. Several concerned parties also correctly noted that the Postal Service's current financial condition is due in large part to the Congressional mandate imposed in 2006 that requires the Postal Service to pre-fund retiree benefits, a burden that is not placed on other federal agencies. The concerned parties suggest that the Postal Service should have a one-year moratorium on the sale of postal assets in order to give Congress an opportunity to fix the underlying cause of the problem. Regrettably, legislation to relieve the Postal Service's financial burden has not been achieved after several Congressional sessions. The Postal Service's financial analysis regarding the Berkeley Post Office supports the relocation of retail services, with a potential sale of the property, as the best alternative.

While the Postal Service is sensitive to the concerns expressed and the impact of this decision on its customers, the Berkeley community, and the concerned parties, I am satisfied the April 19<sup>th</sup> relocation decision properly took into account community

input and is consistent with Postal Service objectives. Under the circumstances here, the Postal Service must make any feasible change to right-size its space, reduce costs, and potentially generate revenue. The Postal Service must, in order to be self-sustaining, make decisions that ensure it provides adequate and affordable postal services in a manner that is as efficient and economical as possible.

In reaching this decision, I considered all of the public input received, but the concerns expressed do not outweigh the dire financial circumstances facing the Postal Service. Accordingly, I conclude that there is no basis to set aside the April 19, 2013 decision regarding relocation of the Berkeley Post Office. This is the final determination of the Postal Service with respect to this matter, and there is no right to further administrative or judicial review of this decision.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom A. Samra', with a stylized flourish at the end.

Tom A. Samra  
Vice President