

**BEFORE THE SURFACE TRANSPORTATION BOARD
Washington, D.C.**

236286

Docket Number AB 167(SUB-NO. 1189X)

ENTERED
Office of Proceedings
July 7, 2014
Part of
Public Record

**CONSOLIDATED RAIL CORPORATION
-ABANDONMENT EXEMPTION-
IN HUDSON COUNTY, NJ**

**REPLY OF INTERVENORS:
212 Marin Boulevard, LLC
247 Manila Avenue, LLC
280 Erie Street, LLC
317 Jersey Avenue, LLC
354 Cole Street, LLC
389 Monmouth Street, LLC
415 Brunswick Street, LLC
446 Newark Avenue, LLC
NZ Funding, LLC**

Limited liability companies of New Jersey.

**TO MOTION FOR
SCHEDULING ORDER AND OTHER RELIEF.**

The eight intervenor-property owners ("LLCs") Reply to the June 17, 2014 Motion filed by Jersey City ("City"), stating their objections to each of the requests as specified in this Reply and its Exhibits.

Request for Scheduling Order

-Jurisdiction-

This request to resume proceedings is made in the context of a Decision by the Entire Board that is now four years old, but the basis for continuing the stay remains sound. On April 19, 2010 these proceedings were stayed "...while the United States District Court for the District of Columbia, acting as the Special Court, addresses the underlying question of the nature of the trackage sought to be

abandoned". STB Docket AB-167-1189-X, served April 20, 2010, Decision page 1.

Unfortunately, and due to the opposition of the City to a complete resolution of the question, the Special Court has still not fully addressed the nature of the trackage that Conrail seeks to abandon. The section lying to the east of the LLCs' properties, that is, to the east of Marin Boulevard, remains in dispute. Because only the United States District Court for the District of Columbia, sitting as the Special Court, (hereafter "Special Court") has jurisdiction to decide which Conrail properties are subject to the Board's jurisdiction, this Conrail abandonment cannot proceed unless and until that fundamental jurisdictional question is answered. Therefore, all of the City's requests are premature and this matter should abide a decision on the LLCs' petition in Finance Docket 35825.

Understanding why this fundamental question has not been answered is most revealing. The essential facts from the record are these:

1. On March 6, 2008 Conrail filed a combined notice of intent to initiate an exempt abandonment for two regulated lines of rail in the City. Those two lines were the Harsimus Branch (1.36+/- miles) and Hudson Street Industrial Track (0.72+/- miles). The notice stated: "Because of the proximity of the two lines, they are being included in the same application."
2. In a letter dated March 28, 2008 to the Section of Environmental Analysis, the City suggested that it would be "confusing" to deal with both lines of rail in the same proceeding and objected to including the Hudson Street Industrial Track (hereafter "'HSIT'"), suggesting that it should be the subject of a separate abandonment proceeding. The City adopted Conrail's position

that's HSIT was not connected to the Harsimus Branch. Conrail has never sought abandonment authority for any of the HSIT, but its present abandonment application includes a portion of it, mislabeled as a continuation of the Harsimus Branch.¹

3. On October 7, 2009 the City filed a complaint in the Special Court seeking a ruling that the "Harsimus Branch" was a regulated line of railroad, but only "between CP Waldo and Luis Munoz Marin Boulevard", and not for the rest of it lying to the east of Marin Boulevard. This Special Court proceeding concerned approximately 0.89 miles, significantly less than Conrail presently seeks to abandon. It did not include any portion of the Harsimus Branch that ran to the Hudson River, nor any of the HSIT.
4. On September 17, 2012 the Special Court granted permission to the LLCs as intervenors in the case, to file a motion for leave to file an amended pleading. On October 4, 2012 the LLCs filed that motion. Contained in their proposed amended complaint and pleadings was the claim that Conrail's petition for exempt abandonment did not correctly locate the portion of the Harsimus Branch to the east of Marin Boulevard that it sought to abandon, and, in fact,

¹ Both the City and Conrail have found it convenient to maintain the fiction that the HSIT did not connect to the Harsimus Branch. Conrail has consistently maintained that none of these lines, which it sold to others without Board authorization, are regulated. The City chose not to address either a continuation of the Harsimus Branch to the Hudson River, or the HSIT which formerly served the Colgate Palmolive factory in Jersey City because it was only interested in subjecting the LLCs to regulation, but not other former Conrail lands. Yet the City argued in FD 34818 that Colgate freight passed over the LLCs' Embankment. From the start, the City, like Conrail, wanted to choose which properties were, or were not, to be regulated by the Board in order to suit its own ends. A detailed description of the lines and supporting Exhibits are contained in the LLCs' pending petition at Finance Docket 35825.

had identified a portion of the HSIT as being a segment of the Harsimus Branch, while omitting the remainder of the Harsimus Branch from its application.

5. In subsequent pleadings before the Special Court, the City objected to the filing of the LLCs' amended pleadings and their raising this STB jurisdictional dispute on the location of the Harsimus Branch or the HSIT. Conrail said that it would not oppose a motion by the City for summary judgment on the City's initial claim that only properties of the LLCs and Conrail to the west of Marin Boulevard were regulated lines of rail. The Special Court accepted the position of the City, and Conrail, that it should only address that which the City had initially asked be addressed, and thereby excluded the property to the east of Marin Boulevard from the Special Court proceedings. This left the LLCs' dispute as to Conrail's identification and location of rail lines in the present exempt abandonment now before the STB unresolved. Ultimately, the Court of Appeals also declined to address these issues, but specifically stated that the dispute was preserved for later resolution.
6. On December 11, 2013, the LLCs filed a motion to intervene in Conrail's present exempt abandonment proceedings. With that filing they declared their intention to raise the dispute as to the location (and identity) of the regulated lines of rail that they had attempted to dispute in the Special Court, and were then raising on appeal. See: Petition to Intervene, etc, paragraph 7 at pages 3-4.

These facts lead to the fundamental problem that the Board lacks the jurisdiction to resolve the nature and location of the lines of rail sought to be abandoned to the east of Marin Boulevard and must await a determination by the Special Court on this issue. In the interim, the Board is entirely correct in refusing to lift the stay it imposed in 2010. The Special Court has not resolved the underlying issue of the "nature of the trackage sought to be abandoned". As the Court of Appeals held in its first ruling in this long-standing dispute, the Board lacks jurisdiction on this specific issue. Conrail v STB, 571 F.3d 13 (D.C. Cir 2009)

OFA Issues

-Rail Service Precluded-

The LLCs agree with Conrail's reply that the City's need for further study is not credible, because "... The City... is expected to have intimate knowledge of the needs and desires of its business and citizens." Conrail reply, page 6. Conrail presents this objection as if there could be a question that an OFA by this governmental party is genuine and submitted in good faith. Exactly the opposite is the case. Over the past five years the City has done absolutely nothing to extend passenger light rail, reinstitute freight service, and make the financial commitments necessary to do so. It has not found one freight customer: not one in five years! It has not addressed the jurisdictional question for the trackage to the east of Marin Boulevard in five years. It has done nothing to study how it would go about reinstating rail freight service on the LLCs' properties, in five years. But the City now asks the Board for time, at some future date when the stay is lifted, to consider more study. These failures offer a compelling argument that the city has no

intention of proceeding with an OFA, but burdens the Board, and the LLCs, with sham arguments for scheduling orders, unfounded appeals, and ridiculous assertions of its intentions.

Compelling as such arguments may be, the City's actual conduct conclusively ends all debate. The City has no intention, or ability, to proceed with an OFA. The City's June 17, 2014 motion must be viewed against the following facts:

- A. On April 11, 2012 the City readopted a comprehensive Redevelopment Plan for the former Conrail property east of Marin Boulevard. The plan is at odds and precludes use of that land under the City's proposed OFA.
- B. New Jersey Transit, the owner and operator of New Jersey's light rail systems, has yet to include the City's OFA proposal in its capital plan.
- C. New Jersey law prohibits the City from proceeding with its plans without explicit state approval of its agreements, none of which has been addressed over the last five years. N.J.S.A. 40:9C-1

The overarching reason why none of these steps have been taken over the past five years is that the governing body of the City has never authorized any action in furtherance of an OFA. The entire process from 2009 through to today has been *ultra vires*. Since the June 17, 2014 motion by the City for extraordinary relief to enable it to continue to pursue its OFA had never been presented to the appropriate authority for authorization, the City Council of Jersey City, the LLC's filed a petition on June 27, 2014 with the City Council. That petition speaks in detail to the

foregoing issues and contrasts the arguments of counsel made to the Board, with the reality of the City's contrary actions. **Exhibit A.**²

Unnecessary Proceedings

-Discovery-

The City, and its litigation allies, would extend these proceedings for yet another five years, all without any resolution. Among the things they have already proposed under their request for a Scheduling Order are extensive discovery concerning conspiracy theories, to which Conrail replies that there it is not now and never has been any conspiracy with the LLCs'. There is no shred of evidence of any of this, nor would it be relevant to these proceedings if there were. The vehemence directed to the LLCs by the City is the proximate result of the weaknesses in the City's positions and the LLCs' rightful efforts to point those out. The ultimate example of this is the often-cited "flip-flop" when the LLCs acknowledged in the District Court the true location of the Harsimus Branch when called upon by the Court to stipulate those facts that could be agreed upon as true. In the eyes of the City, veracity is a sin, even when it confirms the City's own argument.

-Voiding The LLC's Deeds-

This appears to be the remedy sought by the City to punish the LLCs, and Conrail, for their alleged conspiracy. It is certainly not necessary to protect interstate commerce or any pressing need for rail freight service. It would be a unique remedy, leading only to more litigation and delay. Like the City's other

² Exhibit A consists of the petition and a two-page cover letter. The six exhibits to the petition are all documents filed with the Board and identified in the body of the petition.

arguments, it is also inconsistent with the facts. In 2005 the LLCs filed a civil rights action in New Jersey state court against the City. Shortly thereafter, the City filed a counterclaim seeking to void the LLC's deeds under N.J.S.A. 48:12-125.1 and that matter has been stayed since then, continuing for six-month periods each. A copy of the latest order extending the stay is attached as **Exhibit B**. The City has opposed every effort by the LLCs to lift the stay on the grounds that the Board will resolve the issue by declaring the 2005 Conrail deeds to the LLC's to be void. The LLC's disagree with Conrail in its reply that this issue has been "fully briefed". To the contrary, the LLCs have been given no opportunity whatsoever at this point to address the issue and that matter should certainly not proceed as suggested.

It has been nine years since Conrail deeded a portion of the Harsimus Branch to the LLCs. Surely if no pressing need for interstate commerce has arisen during that time, none exists. The only reason that the City raises the issue again now is that the LLCs have identified the voiding of the deeds as a meritless threat – one that this Board would not seriously consider in these circumstances where there are other paths to full resolution.

Proposed Approach to Resolution

-Delay-

The Board should not allow itself to become complicit in endless delays in this matter, or in the further delay of state litigation involving the parties. Conspiracy, civil rights, and any other claims of that nature have nothing to do with the business of the Board, and should be allowed to proceed in other appropriate forms. A rejection of the City's present motion would advance that goal. The LLCs

have taken the extraordinary step of filing a petition with the City Council of Jersey City in the face of overwhelming evidence that the Board's jurisdiction is being abused. In light of the state statutory prohibition against the City undertaking the steps required to implement an OFA, the City should be given no deference in these matters without such specific state authority having been granted.

-Jurisdiction-

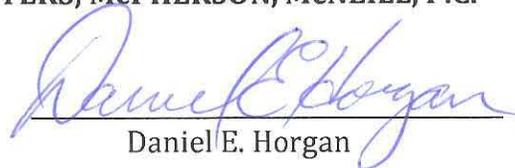
The LLCs have petitioned the Board in Finance Docket No. 35825 for relief that would address the fundamental jurisdictional bar to considering Conrail's present abandonment proceedings. It would moot that abandonment, and with it all of the City's arguments. Conrail has agreed that the LLCs' petition in FD 35825 should proceed first, and we respectfully suggest to the Board that this is the only proper course at this point. In light of the extended history of this matter, which began with a jurisdictional failure, it would be appropriate to address the jurisdictional issues first.

Respectfully submitted,

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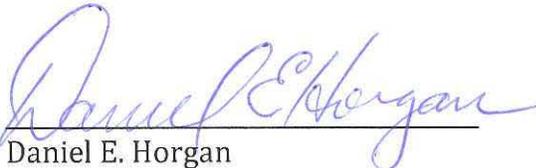

Daniel E. Horgan

Dated: July 7, 2014

CERTIFICATE OF SERVICE

I, Daniel E. Horgan, an attorney-at-law of New Jersey, New York, and the District of Columbia, hereby certify that on June 7, 2014, I caused service of this filing with the Surface Transportation Board to be made upon the Board by Electronic Filing and that all parties on the following service list were served by First Class Mail in accordance with the provisions of 49 C.F.R. §1104.12.

By:


Daniel E. Horgan

Dated: July 7, 2014

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EXHIBIT

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June 27, 2014

BY OVERNIGHT DELIVERY

Robert Byrne, City Clerk
City of Jersey City
280 Grove Street
Jersey City, NJ 07302

RE: PETITION TO CITY COUNCIL – 212 MARIN BLVD. LLC et al

Dear Mr. Byrne,

Enclosed are an original and fourteen copies of a petition from our nine clients to the City Council. We are providing the copies as a convenience to you to ease the process of distribution. Also enclosed is a DVD with the same material to facilitate electronic distribution and storage by your office.

We respectfully request that this petition be put on the agendas for the next City Council caucus and agenda, and that you list my name as a person wishing to address the Council on this matter at both the caucus and meeting.

Very truly yours,

WATERS, McPHERSON, McNEILL, P.C.

BY:



DANIEL E. HORGAN

**CC: Jeremy Farrell, Corp. Counsel
Charles Montagne, Esq.**

PETITION

Of

212 Marin Blvd. LLC,

247 Manila Avenue, LLC

280 Erie Street, LLC

317 Jersey Avenue, LLC

354 Cole Street, LLC

389 Monmouth Street, LLC

415 Brunswick Street, LLC

446 Newark Avenue, LLC

NZ Funding, LLC

Limited liability companies of New Jersey.

To

City Council of the City Of Jersey City

Petitioners are property owners in the City having an interest in an assemblage of property running along Sixth Street from Marin Boulevard to a point beyond Newark Avenue. The City has brought various claims against Petitioners' interests in several forms including the Surface Transportation Board (STB). The STB is a federal agency within the US Department of Transportation that regulates freight railroads.

On March 27, 2009 the City filed a formal notice of intent to file an Offer of Financial Assistance (OFA) to purchase the property and rights to operate a freight railroad in Jersey City running from Waldo Avenue below Dickinson high school to Washington Avenue on the waterfront. This route is approximately 1.3 miles in length and includes Petitioners' properties. It also includes properties still owned by Conrail and properties between Marin Boulevard and Washington Boulevard included within the Harsimus Cove Station Redevelopment Planned Area. None of the actions taken in 2009 received the required authorizations of the City Council. A copy of the City's Notice of Intent is attached as **Exhibit A**.

Conrail raised serious questions about the good faith of this commitment by the City, and questioned the City's willingness and ability to invest the very

substantial cost of restoring rail freight service to the waterfront. Conrail also questioned whether the City intended to use its most valuable waterfront property for railroad uses, or for more profitable high-density development.

On April 22, 2009, special counsel for the City filed a reply and objection to Conrail's arguments in which he argued that the City should not be required to make a showing of a firm commitment to use the OFA property for rail freight service, should the City be permitted to acquire it. **Exhibit B**. At page 9 of that document the City argued: "... Light rail use of a corridor is a compelling public need. Conrail does not contest that the City seeks to acquire the corridor for light rail use. But passenger and freight traffic can move on the same line." A Verified Statement from the Mayor in which he stated that the "chief" interest is to facilitate renewed rail transportation use supported this formal submission to the STB. **Exhibit B, attachment, paragraph 1**. He stated: "we are particularly interested in the line from approximately Washington Street (intersection with existing passenger rail) to Waldo (where Conrail still operates and PATH facilities are located)." **Exhibit B, attachment, page 2, paragraph 2**. In committing the City to the OFA process and the significant financial and regulatory obligations involved, the Mayor testified as follows in his Verified Statement:

3. The City understands that to invoke the "OFA statute," City must be prepared to resume freight rail uses and to assume a freight rail common carrier obligation. Many governments own rail lines used for freight, operating same not directly but through contract operators who discharge the freight common carrier obligation for the government owner. Jersey City would almost certainly use this approach in order to ensure discharge of the common carrier obligation which we would be acquiring. It is my understanding that representatives of the City have already made preliminary contacts with CNJ and perhaps others in connection with immediately becoming the City's freight operator should the City

acquire this property pursuant to the OFA statute. **Exhibit B, attachment, page 3, paragraph 3.**

Two days later, on April 24, 2009, the City filed another Verified Statement, this one by its planning director, Robert Cotter, in further support of the City's obligations. **Exhibit C.** It also proposed that the City would connect with the existing Light Rail system beginning at Washington Street in downtown Jersey City and extend that system to an unspecified warehouse area in Secaucus for purposes of delivering freight to the waterfront by rail, potentially at night, somehow piggybacked onto the light rail system. Mr. Cotter's Verified Statement advised the STB: "... Jersey City has a bona fide interest in developing rail freight to relieve congestion, and in the use of the Harsimus Branch for that purpose, should we be permitted to acquire it." **Exhibit C, last page, paragraph 5.**

On May 26, 2009 the STB's Director of Proceedings issued a decision that delayed the submission of a formal offer to purchase the line by the City. **Exhibit D.** The May 26, 2009 STB decision advised concerning the OFA application process:

- The OFA process is designed for the purpose of providing continued rail service
- Any person who intends to file an OFA in this proceeding should address one or more of the following:
 - Whether there is a demonstrable commercial need for rail service as manifested by support from shippers or receivers on the line, or
 - As manifested by other evidence of immediate and significant commercial need
 - Whether there is community support for rail service
 - Whether rail service is operationally feasible

Thereafter, on April 20, 2010 the full Surface Transportation Board issued an *ex parte* decision staying the entire proceeding, including the OFA and has not lifted

that stay. Special counsel for the City has made numerous formal requests to the STB to lift the stay and proceed with the OFA process. **Exhibit E.**

The STB has not acted on any of those requests, including the most recent one filed June 17, 2014 in which special counsel for the City has argued that the STB order of May 26, 2009, discussed above, is "unusual" and "unprecedented." **Exhibit F.** Those statements seem to be motivated by recognition that the City cannot establish its entitlement to an order to purchase the rail line for freight service to the waterfront. Among the statements made to the STB on behalf of the City in the June 17, 2014 filing are the following:

- "It is unlikely that any person, private or public, would ever reliably make the showings the Board now purports to require as preconditions to making an OFA in two-year out-of-service abandonment proceedings, particularly on 10 days notice." **Exhibit F, page 21**
- "City makes no secret it wishes to retain this corridor for commuter rail, and that freight use would be permitted along with the passenger rail." **Exhibit F, page 20**
- "City has made no secret of its desire to invoke the OFA remedy in this proceeding." **Exhibit F, page 16**
- "If this Board is concerned about the expense of replacing rail structures illegally removed by Conrail, then all it need do is require Conrail (or the developer, which removed one structure¹) to restore all the bridges and trestles illegally removed from the Branch without prior authority of this agency." **Exhibit F, pages 20-21**

¹ The bridge over Marin Boulevard was removed by the Harsimus Cove developer at the urging of the JCRA. The remaining bridges were removed by Conrail at the insistence of the City Council and is well documented. This was done before Petitioners purchased the properties. Petitioners did remove one minor concrete trestle in the vicinity of Newark Avenue.

The last, preceding quotation recognizes that the STB order requires a showing by the City that the resumption of rail freight service is "operationally feasible" in light of the significant expense of replacing all of the bridges, tracks, switches, trestles, signals and other railroad infrastructure that was removed 20 to 30 years ago between Washington Boulevard and Waldo Avenue.

If Jersey City succeeds in its OFA, it will be because the City has committed tens of millions of dollars to rebuilding that infrastructure.² The City would also be required to reach a firm and binding agreement with New Jersey Transit for the extension of the light rail system from Washington Boulevard to at least somewhere in Secaucus, and a unique agreement for New Jersey Transit to share its light rail system with Jersey City's designated freight railroad operator, whoever that may be. It would also effectively void the latest version of the Harsimus Cove Station Redevelopment Plan adopted on April 11, 2012 by Ordinance no. 12-059 that, as Conrail predicted, provides for the redevelopment of the waterfront property involved at a residential density of 300 units per acre. Nowhere in that Redevelopment Plan does it provide for, nor allow, the rail freight trans-load facilities, nor light rail connections, proposed in City submissions for its OFA.

The June 17, 2014 submission by the City's special counsel proposes additional, but lesser and more immediate financial expenditures than replacing millions of dollars of railroad infrastructure. The City is arguing to the STB that fees should be waived, identified as a filing fee of \$1600 to file the OFA, and a more hefty fee of \$24,300 to request the Board to set terms and conditions for the OFA. **Exhibit F, page 22.** Beyond those fees, special counsel has represented that the City is

² Within the 1.3 mile route, approximately 1,500 feet is elevated and would cross seven City Streets. There is approximately 6,864 linear feet of track, supported by 100 year old structures, which would have to be electrified for light rail use that N.J. Transit is not planning to add. Added to the design, testing, construction and contingency and other soft costs would be the need for at least two years of operational subsidies as called for by STB's OFA regulations. 49 C.F.R. §1152.27. The complete vagueness of the undertaking is anathema to accurate estimates, but Petitioners believe that a fair estimate would exceed \$40 million.

prepared to spend at least \$50,000 on yet-to-be-hired consultants in order to prepare the OFA. He has represented to the STB:

"A municipality or other governmental entity in general addresses the kinds of issues raised by the Board's order with consultants. City estimates that it will cost at least \$50,000 and that it ordinarily would require some months to identify available experts, for then to study the situation, and then to prepare reports or studies formally to 'address' the issues presented by the Board." **Exhibit F, page 17.**

Coupled with filing fees, special counsel has told the STB that the City is willing to spend "at least" \$75,000, as a starter, without consideration of additional legal and other expenses, such as the cost associated with reaching a binding agreement with New Jersey Transit for a substantial expansion of the light rail (which would very likely supplant any other New Jersey Transit investment in Jersey City.)

All of these representations to the STB, as well as the March 27, 2009 filing of notice of intent to file an OFA have been made without the passage of supporting resolutions by the City Council, and are therefore not binding upon the City. If the City wishes to proceed, it must ratify the March 27, 2009 notice of intention to file an OFA, authorize continued pursuit of the OFA remedy, and appropriate the necessary funding. That funding would not only include the immediate \$75,000 needed for the next step in the STB process, but would also require the City to demonstrate to the STB that it is prepared to invest the tens of millions of dollars necessary to rebuild the rail line it wishes to own. A qualified, financially responsible operator would also be required as well as the necessary consultants identified to the STB by special counsel. All of these steps require consideration and formal action by the City Council. Up to this point all actions, including those requiring City Council action, have proceeded without the Council's authority.

State law prohibits the City Council from making agreements or appropriating money for rail freight or mass transportation purposes, or expanding any existing route, without the agreement of the New Jersey Department of

Transportation. **N.J.S.A. 40:9 C-1**. The OFA is a prime example of such a prohibited agreement. Continued pursuit of the OFA is a violation of state law. Before the City Council could take any further action in support of the OFA it would be required to select a qualified rail operator and have its agreement to subsidize that operator approved by the state. According to STB filings made by Conrail in relation to the City's OFA process, the operator identified by the former Mayor in his Verified Statement, CNJ Rail, has no funds, no railroad assets, and conducts no railroad operations. CNJ has also filed a notice of intent to file an OFA in these proceedings, presumably at the instance of special counsel for the City, as both notices were filed contemporaneously with the STB. CNJ's notice of intent indicates that it lacks the financing to undertake the operation and will have to seek it elsewhere.

The July 17, 2014 STB filing by special counsel for the City abuses the City's stature and credibility by making improper allegations of conspiracy and criminal conduct against Petitioners and Conrail. Under a heading of "Procedural Implications" special counsel raises civil claims raised elsewhere by the Petitioners against Conrail in an attempt to insert the City into that dispute and bring it before the STB. Claiming that petitioners and Conrail are engaged in a "civil conspiracy", it inserts a footnote with an outrageous and legally incorrect claim that "The conspiracy is also criminal in nature." **Exhibit F, page 14, footnote**. The filing of this claim with a Federal agency constitutes a threat on behalf of the City against Petitioners and Conrail. Falsely reporting a claim of criminal conduct against an adversary in a civil matter for purposes of advancing the interests of a client (here, the City) amounts to an attempt at extortion.

In light of these facts petitioners respectfully ask that the following steps be taken on behalf of the City of Jersey City, through deliberate and effective action by the City Council:

1. Prompt withdrawal of the March 27, 2009 notice of intention to file an OFA by the City of Jersey City.

2. Specific withdrawal of the June 17, 2014 submission on behalf of the City to the STB.
3. Review and consideration of the City's participation in any proceedings before the STB involving Petitioners.

Respectfully submitted to the City Council by petitioners through their undersigned attorneys who request an opportunity to discuss these issues with the City Council and respond to any questions.

DATED: JUNE 27, 2014

For Petitioners:

A handwritten signature in cursive script, reading "Daniel E. Horgan". The signature is written in black ink and is positioned above the typed name and contact information.

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EXHIBIT

“B”

Prepared and filed by the court.

COPY

FILED

JUN 30 2014

PETER F. BARISO, JR., A.J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – HUDSON COUNTY
DOCKET NO. HUD-L-4908-05

212 MARIN BOULEVARD, LLC,
247 MANILA AVENUE, LLC,
280 ERIE STREET, LLC,
317 JERSEY AVENUE, LLC,
354 COLE STREET, LLC,
389 MONMOUTH STREET, LLC,
415 BRUNSWICK STREET, LLC, and
446 NEWARK AVENUE, LLC,

Civil Action

ORDER

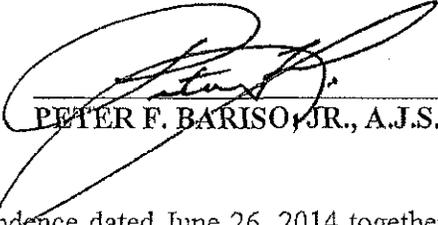
Plaintiffs,

v.

CITY OF JERSEY CITY, JOANNE
MONAHAN, Assistant Corporation Counsel;
And THE PLANNING BOARD OF THE CITY
OF JERSEY CITY,

Defendants.

On the court's own motion, it is on this 30th day of June, 2014, ORDERED that this matter is stayed until December 31, 2014, pending the final resolution of the Federal Court litigation. Plaintiff's attorney to serve a copy of this Order upon all parties within seven (7) days of the date of this Order.


PETER F. BARISO, JR., A.J.S.C.

The Court has reviewed correspondence dated June 26, 2014 together with attachments form Plaintiff. Until the Surface Transportation Board (STB) decides the pending matters involving the Embankment and appeals of its decision are exhausted in the Federal Courts, the State Court actions will remain stayed for the reasons previously stated by the Court.