

**LAW OFFICES OF LOUIS E. GITOMER, LLC**  
**600 BALTIMORE AVENUE, SUITE 301, TOWSON, MD 21204**  
**410-296-2250                      LOU@LGRAILLAW.COM**

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November 24, 2015

Ms. Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D. C. 20423

Re:    Docket No. FD 35817, *JGB Properties, LLC-Petition for Declaratory Order*

Dear Ms. Brown:

CSX Transportation, Inc. is efileing a Reply.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,

*Louis E. Gitomer*

Louis E. Gitomer  
Attorney for CSX Transportation, Inc.

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 35817

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JGB PROPERTIES, LLC—PETITION FOR DECLARATORY ORDER

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REPLY

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Kim Bongiovanni  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202  
(904) 359-1233

Louis E. Gitomer, Esq.  
Melanie B. Yasbin, Esq.  
Law Offices of Louis E. Gitomer  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(202) 466-6532

Attorneys for: CSX TRANSPORTATION, INC.

Dated: November 24, 2015

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REPLY

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CSX Transportation, Inc. (“CSXT”) shares the concerns expressed by Congressman John M. Katko in his letter filed on November 10, 2015 (the “Letter”). Contrary to the views apparently expressed to Congressman Katko by his constituent, JGB Properties, LLC, the facts of this proceeding clearly show that any delay in in this proceeding was caused by JGB’s failure to follow the rules of the Surface Transportation Board (the “Board”) and that the decision served by the Board in its adjudicatory capacity showed proper restraint in deciding only the issues necessary to resolve the issues raised by JGB.

As a preliminary matter, CSXT is still of the opinion that JGB was and is trying to use the Board’s preemption as a shield for JGB’s own actions in unlawfully removing the track and to circumvent the State Court decisions imposing liability on JGB.

This proceeding commenced on April 9, 2014 when JGB asked the STB to open a declaratory order proceeding. As permitted under the Board’s rules, CSXT and Ironwood L.L.C. (“Ironwood”) and Steelway Realty Corporation (“Steelway”) replied to JGB’s Petition. Contrary to the Board’s rules at 49 CFR 1104.13(c), on June 17, 2014, JGB filed a reply to a reply to provide a more complete record. As the moving party, JGB was required to provide a full record

in its initial pleading.<sup>1</sup> Less than two weeks later, CSXT, Ironwood, and Steelway replied again, as was their right under the Board's rules.

Then, on December 9, 2014, JGB filed another pleading claiming new information had come to light in October 2014 that a single length of track had been removed. CSXT, Ironwood, and Steelway properly replied again.

JGB continued filing impermissible pleadings with the STB on February 5, 2015 (another reply-to-reply to which CSXT, Ironwood, and Steelway replied).

Three times JGB filed impermissible pleadings generating delays in the Board's decision making process.

The Board served a final decision on May 22, 2015 denying that JGB was entitled to the protection of Federal preemption for its own actions in unlawfully removing the track and interfering with railroad operations in interstate commerce. The Board showed proper restraint in not addressing issues that were not necessary to its decision. JGB has again extended the completion of this proceeding by filing a meritless appeal.

Respectfully submitted,

*Louis E. Gitomer*

Kim Bongiovanni  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202  
(904) 359-1233

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Melanie B. Yasbin, Esq.  
Law Offices of Louis E. Gitomer  
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Attorneys for: CSX TRANSPORTATION, INC.

Dated: November 24, 2015

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<sup>1</sup> In the interest of developing a complete record, the Board accepted each of JGB's pleadings, although it would have been fully justified in rejecting them under 49 CFR 1104.13(c).

CERTIFICATE OF SERVICE

I hereby certify that I have caused the Reply in Docket No. FD 35817, *JGB Properties*,

*LLC-Petition for Declaratory Order* to be served electronically on:

Peter A. Pohl  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, DC 20036-3003

Karen A. Booth  
Thompson Hine LLP  
1919 M Street, N.W., Suite 700  
Washington, DC 20036

Congressman John Katko  
1123 Longworth House Office Building  
Washington, DC 20515

*Louis E. Gitomer*

Louis E. Gitomer  
November 24, 2015