

LAW OFFICE

**MCLEOD, WATKINSON & MILLER**

MICHAEL R. MCLEOD  
WAYNE R. WATKINSON  
MARC E. MILLER  
RICHARD T. ROSSIER  
CHARLES A. SPITULNIK  
RICHARD PASCO  
ALEX MENENDEZ  
ELIZABETH A. HAWS  
AMY B. JONES

ONE MASSACHUSETTS AVENUE, N.W.  
SUITE 800  
WASHINGTON, DC 20001-1401  
(202) 842-2345  
TELECOPY (202) 408-7763

ELIZABETH A. HAWS  
KATHRYN A. KLEIMAN\*  
OF COUNSEL  
(\*Admitted in Virginia only)

ROBERT RANDALL GREEN  
LAURA L. PHELPS  
DAVID R. GRAVES  
GOVERNMENT RELATIONS

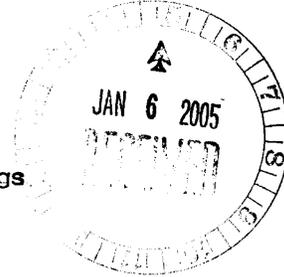
January 6, 2005

Hon. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423

Office of Proceedings

JAN 6 2005

Part of  
Public Record



Re: Docket No. AB 167 (Sub-No. 1094)A; *Chelsea Property Owners – Abandonment – Portion of the Consolidated Rail Corporation's West 30<sup>th</sup> Street Secondary Track in New York, NY*

Dear Sir:

I am enclosing an original and ten (10) copies each of

- 1) Motion of the City of New York, NY for Leave to File a Reply to Reply of 511 West 23<sup>rd</sup> Street Associates, LLC; and
- 2) Reply of the City of New York, NY, to (1) Motion of 511 West 23<sup>rd</sup> Street Associates, LLC for Leave to Intervene and (2) Reply of 511 West 23<sup>rd</sup> Street Associates, LLC to CITU Request in Support of Adverse Abandonment Proceeding

212 944

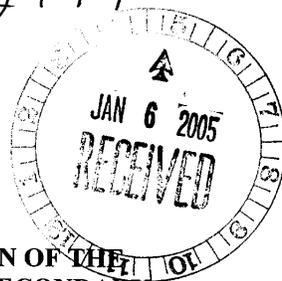
for filing in the above-referenced proceeding. An additional copy is enclosed for date stamp and return to our messenger. Please note that a 3.5" diskette is enclosed with this document.

Sincerely,

Charles A. Spitulnik

cc: All Parties of Record

212944



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**Docket No. AB 167 (Sub-No. 1094)A  
CHELSEA PROPERTY OWNERS -- ABANDONMENT -- PORTION OF THE  
CONSOLIDATED RAIL CORPORATION'S WEST 30TH STREET SECONDARY  
TRACK IN NEW YORK, NEW YORK**

**MOTION OF THE CITY OF NEW YORK, NY  
FOR LEAVE TO FILE A REPLY TO REPLY OF  
511 WEST 23<sup>rd</sup> STREET ASSOCIATES, LLC**

Communications with respect to this document should be addressed to:

CHARLES A. SPITULNIK  
ALEX MENENDEZ  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, NW  
Suite 800  
Washington, DC 20001  
(202) 842-2345

HOWARD FRIEDMAN  
JOSEPH T. GUNN  
New York City Law Department  
100 Church Street, Room 6-148  
New York, NY 10007  
(212) 788-0727

Counsel for the City of New York, NY

Dated: January 6, 2005

ENTERED  
Office of Public Hearings

JAN 6 2005

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Public Record

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**Docket No. AB 167 (Sub-No. 1094)A  
CHELSEA PROPERTY OWNERS -- ABANDONMENT -- PORTION OF THE  
CONSOLIDATED RAIL CORPORATION'S WEST 30TH STREET SECONDARY  
TRACK IN NEW YORK, NEW YORK**

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**MOTION OF THE CITY OF NEW YORK, NY  
FOR LEAVE TO FILE A REPLY TO REPLY OF  
511 WEST 23<sup>rd</sup> STREET ASSOCIATES, LLC**

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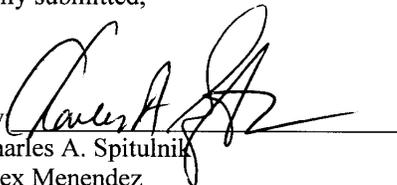
The City Of New York (the "City"), pursuant to 49 C.F.R. § 1117.1 respectfully requests leave to file a reply ("City's Reply") to the Reply to CITU Request in Further Support of Adverse Abandonment Proceeding ("*511 Reply*") filed by 511 West 23rd Street Associates LLC ("*511*"). The City's Reply is necessary because the *511 Reply* raises issues not previously addressed in this proceeding. Specifically, 511 raises issues relating to: 1) the application of the doctrine of collateral estoppel in this proceeding as it relates to prior decisions rendered in this case by the Interstate Commerce Commission ("I.C.C."), the Surface Transportation Board ("Board") and the United States Court of Appeals for the District of Columbia Circuit ("Court"); and 2) the argument that the CITU application should be rejected because of potential changes in the current railroad infrastructure that comprises the High Line.

Good cause exists for granting this Motion. The City's Reply to the *511 Reply* does not broaden the issue here but rather will lead to a decision based on a complete and accurate record with respect to the issues raised in this record. Permitting the City to reply to the *511 Reply* is consistent with the public interest and will not prejudice any party.

In anticipation of a favorable ruling on this motion, the City is including the City's Reply in the document titled "Reply of the City of New York, NY, to (1) Motion of 511 West 23<sup>rd</sup> Street Associates LLC for Leave to Intervene and to (2) Reply of 511 West 23<sup>rd</sup> Street Associates, LLC to CITU Request in Support of Adverse Abandonment Proceeding" being submitted today.

WHEREFORE, the City Of New York respectfully requests the Board to grant it leave to file the City's Reply herein.

Respectfully submitted,

By 

Charles A. Spitulnik  
Alex Menendez  
McLeod, Watkinson & Miller  
One Massachusetts Avenue, N.W.  
Suite 800  
Washington, D.C. 20001  
Tel. (202) 842-2345  
Fax (202) 408-7763  
Email. [cspitulnik@mwmlaw.com](mailto:cspitulnik@mwmlaw.com)

Howard Friedman  
Joseph T. Gunn  
New York City Law Department  
100 Church Street, Room 6-148  
New York, NY 10007  
Tel. (212) 788-0727  
Fax (212) 788-0902  
Email. [hfriedman@law.nyc.gov](mailto:hfriedman@law.nyc.gov)  
Email. [jgunn@law.nyc.gov](mailto:jgunn@law.nyc.gov)

Counsel for the City of New York

Dated: January 6, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of January, 2005, a copy of the foregoing MOTION OF THE CITY OF NEW YORK, NY FOR LEAVE TO FILE A REPLY TO REPLY OF THE 511 WEST 23<sup>rd</sup> STREET ASSOCIATES, LLC was served by first class mail, postage prepaid, upon:

Counsel	Represents
Elizabeth Bradford New York Convention Center Development Corporation 655 West 34 <sup>th</sup> Street New York, NY 10001-1188	NYCCDC
John F. Guinan New York Department of Transportation Albany, NY 12232	NYDOT
Robert M. Jenkins Mayer Brown Rowe & Maw 1909 K Street NW Washington, D.C. 20006-1101	Conrail
Adrian Steel, Jr. Mayer Brown Rowe & Maw 1909 K Street NW Washington, D.C. 20006-1101	Conrail
Dennis G. Lyons Arnold & Porter 555 Twelfth Street NW, Suite 940 Washington, D.C. 20004-1206	CSX and CSXT
Anthony P. Semancik Metropolitan Transportation Authority 347 Madison Avenue New York, NY 10017-3706	MTA
Carolyn F. Corwin Kimberly K. Egan Covington & Burling 1201 Pennsylvania Avenue, N.W. Washington, D.C. 20004	Friends of the High Line

John Broadley  
John Broadley & Associates, PC  
1054 31<sup>st</sup> Street, N.W. - Suite 200  
Washington, D.C. 20007

CPO

Charles Chotkowski  
P. O. Box 320079  
Fairfield, CT 06825-0079

Charles Chotkowski

Frederic Bell  
AIA New York Chapter  
200 Lexington Avenue  
New York, NY 10016

American Institute of  
Architects New York  
Chapter I

Andrew Berman  
232 East 11<sup>th</sup> Street  
New York, NY 10003

Greenwich Village  
Society for Historic  
Preservation

Jeffrey R. Ciabotti  
1100 Seventeenth Street, NW, 10<sup>th</sup> Floor  
Washington, DC 20036

Rails to Trails  
Conservancy

Mary Habstritt  
40 West 77<sup>th</sup> Street, #17B  
New York, NY 10024

Society for Industrial  
Archeology

Walter Mankoff  
City of New York  
330 West 42<sup>nd</sup> Street, 26<sup>th</sup> Floor  
New York, NY 10036

Manhattan  
Community Board  
No. 4

Kimberly Miller  
457 Madison Avenue  
New York, NY 10022

Municipal Art Society

Hon. Jerrold Nadler  
U.S. House of Representatives  
Washington, DC 20515

Congress of the U.S.

Tomislav R. Neuman  
Manhattan Central Railway System LLC  
7 Monmouth Road, Suite #1  
Oakhurst, NJ 07755-1656

Forty Plus Foundation

Christine C. Quinn  
Council of City of New York 3<sup>rd</sup> District  
224 West 3<sup>rd</sup> Street, Suite 1206  
New York, NY 10001

Council of City of  
New York 3<sup>rd</sup> District

Frank Emile III Sanchis  
457 Madison Avenue  
New York, NY 10022

Municipal Art Society  
of New York

Susan Sands  
325 Bleecker Street  
New York, NY 10014

Friends of the High  
Line

Ethel Sheffer  
232 East 11<sup>th</sup> Street  
New York, NY 10003

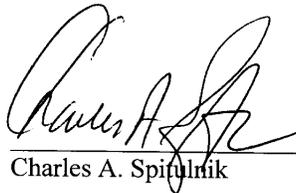
New York Metro  
Charter

Anne-Brigitte Sirois  
Real Estate Brokerage and Consulting  
404 Park Avenue South  
New York, NY 10016-8403

Lerner Group Inc.

Mary Gabrielle Sprague  
Arnold & Porter  
555 12<sup>th</sup> Street, NW, Suite 940  
Washington, DC 20004-1206

CSX Corporation  
CSX Transportation



Charles A. Spifulnik