

BEFORE THE SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35042

U S RAIL CORPORATION EXEMPTION NOTICE

**MOTION TO STRIKE
PORTIONS OF THE AUGUST 17, 2007 US RAIL FILING,
OR, IN THE ALTERNATIVE,
FILE A LIMITED REBUTTAL**

SUSAN E. CHAMPION
Corporation Counsel
Law Department of the City of Paterson
155 Market Street
Paterson, NJ 07505
(973) 321-1366

By: Ben-David Seligman
Assistant Corporation Counsel

Dated: August 29, 2007

OVERVIEW OF MOTION

The City of Paterson, New Jersey submits this Motion to Strike Portions of the US Rail Filing of August 17, 2007 or, in the Alternative, File a Limited Rebuttal thereto. This Motion is necessitated by that filing's verifiably false statements and scandalous allegations. Though Paterson does not concede the correctness of the remainder of that filing, nonetheless only limited portions of the filing are sufficiently egregious to be stricken from the record by this Board.

ARGUMENT

I. THIS BOARD MAY STRIKE PERJURED TESTIMONY

This Board is empowered to "order that any redundant, irrelevant, immaterial, impertinent, or scandalous matter be stricken from any document." 49 CFR 1104.8. Though that provision does not expressly list perjury as grounds for striking a portion of a document, nonetheless under the heading "AUTHORITY" (printed below the provision) several statutes are set forth, including 18 USC 1621, which provides:

Whoever--

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

Given that one of the statutes expressly listed as “authority” for 49 CFR 1104.8 is the perjury statute, which includes even written statements, this Board should properly conclude that text can be struck in instances where this Board deems the text perjury.

II. THE STATE FILING OF US RAIL’S PRESIDENT DEMONSTRATES THAT US RAIL’S STB FILING IS KNOWINGLY FALSE

If a rail carrier’s notice of exemption knowingly conceals the existence of an eminent domain action pending against a proposed rail site, then the rail carrier’s exemption is to be revoked. See Jefferson Terminal, FD-33950 (served March 19, 2001). Here, in an apparent attempt to set out facts to distinguish the instant matter from Jefferson Terminal, the President of US Rail asserted that – at the time the US Rail exemption notice was filed – he and his company were ignorant of the pending eminent domain proceedings. See Verified Statement of US Rail President Gabriel Hall (August 17, 2007) (“Hall Statement”). More specifically, Mr. Hall testified that “[a]t no time prior to filing this Notice of Exemption [i.e., June 6, 2007] was US Rail aware of the pendency of the eminent domain action between the City of Paterson and Shannon G.” Id. at ¶ 3. That sworn assertion is verifiably false.

To wit, on May 22, 2007 Mr. Hall signed a fact certification on a caption reading “THE CITY OF PATERSON, by its DEPARTMENT OF COMMUNITY DEVELOPMENT, Plaintiffs, v. SHANNON G., LLC A NEW JERSEY LLC, Defendant[.]” See MA1¹ (Hall Certification (May 22, 2007) (“Hall Cert.”)). The date appears on the document twice: it is handwritten in the lower left of the certification, and

¹ References herein to the Motion Appendix submitted herewith designate page 1 as “MA1,” page 2 as “MA2,” and so on. References to the Opposition Appendix submitted on July 25, 2007 designate page 1 as “OA1,” page 2 as “OA2,” and so on.

also appears in the fax date-stamp at the lower right edge of the certification. See id. Mere inadvertence cannot rationally explain Mr. Hall's sworn assertion to this Board that he was ignorant of the Superior Court proceeding at the time of his STB filing, where Mr. Hall's signature appears on a fact-specific Superior Court pleading only 2 weeks before the date of the STB filing. Compare Hall Statement, ¶ 3 with MA1 (Hall Cert.).

Building upon the false premise, US Rail's August 17, 2007 Reply ("Reply"), states that "[a]t no point did the City inform US Rail of its condemnation efforts." See Reply, pg. 13, ¶1, 2nd sentence. The only plausible relevance of that statement is its implication that, due to US Rail's alleged lack of awareness, US Rail's failure to mention the condemnation in its June 6, 2007 verified notice is somehow excusable on grounds of ignorance! However, given the existence of Mr. Hall's pleading signed two weeks before US Rail's initial filing with this Board, the argument of corporate ignorance is flatly refuted by US Rail's own Superior Court filing.

In a different vein, a later passage in the Reply skirts the issue of actual knowledge, and makes the qualified assertion that US Rail "did not have any official notice of [the eminent domain] litigation at the time of its exemption filing." Id. at pg. 18, ¶ 2. 5th sentence (emphasis added). "Official notice" is immaterial, however, since as of at least two weeks before its filing (if not earlier) US Rail had actual knowledge of the eminent domain matter. See MA1 (Hall Cert.)

Accordingly, given the perjured assertion, as well as the arguments that gain relevance only when supported by the perjured assertion, the City of Paterson submits that this Board should strike the following:

- Hall Statement, ¶ 3, 1st and 2nd sentences

- Reply, pg. 13, ¶ 1, 2nd sentence.
- Reply, pg. 18, ¶ 2, 5th sentence.

III. US RAIL'S STATEMENTS AS TO SENSITIVE RECEPTORS ARE AT THE VERY LEAST RECKLESS AS TO TRUTH, AND CONTAIN A SCANDALOUS ATTACK ON CHARACTER

“Sensitive receptors” in the context of noise pollution issues are defined by example as “e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes” that are “in the project area.” See 49 CFR 1105.7(e)(6). Here, in an apparent attempt to minimize the perception of harm that a rock loading or solid waste loading operation would cause, US Rail falsely denies the existence of two sensitive receptors within approximately 200 feet of the project area: a senior residence, and a children’s athletic field.

A. As a Matter of Public Record, the Dr. Norman Cotton Homes are a Senior Residence whose Premises are just over 200 Feet from the Property in Question.

US Rail stated under oath that “[t]he senior citizen home mentioned by the City in its opposition papers is located 1400 feet and several blocks to the southwest of Shannon G.’s property, on the corner of Rosa Parks Boulevard and Governor Street, well beyond the 200 foot radius the City uses as the boundary for ‘sensitive receptors.’ ” See Hall Statement, ¶ 10; see also, similarly Reply, pg. 16, ¶ 2. Stemming from that verifiably false assertion are 1) an accusation that the City has intentionally misstated the location of that local landmark, see Reply, pg. 15, ¶ 2, and 2) a direct attack on character:

US Rail respectfully invites the Board to note the City's lack of candor in mischaracterizing the location of this senior citizen facility in relation to SG's land.

Id. at pg. 16, ¶ 2 (emphasis added); see also 49 CFR 1104.8 (authorizing the striking of "scandalous" statements).

To put such allegations to rest, the City invites the Board to first review public records and other information already referenced in the City's July 25, 2007 filing. The web site of the State of New Jersey Department of Community Affairs provides a Guide to Affordable Housing for Passaic County, which lists the "Dr. Norman Cotton Apts."² as housing exclusively for "sr/disabled" (i.e., senior citizens or the disabled), located at "163 Rosa Parks Blvd., Paterson, NJ" and operated by the "Paterson City Housing Authority." See <http://www.state.nj.us/dca/codes/affdhsgguide/pdf/passaic.pdf> (referenced in July 25, 2007 filing). The address "163 Rosa Parks Boulevard" is designated as Block 3210, Lot 1, a site on Rosa Parks Boulevard extending from the corner of Fulton Place one full block southwards to the corner of Harrison Place.³ See OA19 (200 foot map, with measurements indicated for each lot) (included in July 25, 2007 filing). That site is dominated by a tall brown building with a roughly-cruciform footprint and several open balconies on each floor. See Color Photographs (included in July 25, 2007 filing) (showing a tall brown building overlooking the proposed US Rail site).

Should the data already provided somehow be deemed insufficient proof of the whereabouts of the senior citizen residence, further confirmation is provided herewith.

² The facility is locally referred to as the "Dr. Norman F. Cotton Homes," "The Norman Cotton Apartments," or variations thereon.

³ On the east side of Rosa Parks Boulevard, "Fulton Street" and "Harrison Street" officially change their names to "Fulton Place" and "Harrison Place," respectively, though the change is not indicated on some maps.

An aerial photograph with a map overlay shows a building with a roughly-cruciform footprint on Rosa Parks Blvd., with lawns extending from Fulton Place southward to Harrison Place. See MA2 (map); see also Color Map 1 (submitted herewith as a separate file). The building in question is clearly the tallest in the area, since it is the only structure on the aerial map-photograph to cast an obvious shadow, which can easily be seen extending to the northeast. Id. The site is listed as tax-exempt public housing on the City's tax rolls. See MA3 (excerpt from tax rolls).⁴ Federal approval for the construction of subsidized housing "for the elderly citizens of your community" extending from Fulton Place one block southward to Harrison Place was first granted on April 17, 1962. See MA4 (Verified Statement on behalf of the Housing Authority) ("Housing Authority Statement"); MA5 (Approval Letter (April 17, 1962))⁵. As of the close of 2006, the Dr. Norman Cotton Homes housed 115 residents in 109 units, with 3 empty units to be filled from a waiting list. See MA4 (Housing Authority Statement); MA6 to MA8 (annual profile). The second floor of the structure houses a Catholic Family and Community Services program that provides day care for senior citizens whose working families cannot take care of them during business hours. See MA4 (Housing Authority Statement); MA9 to MA10 (newsletter excerpt, describing adult day care center); MA11 to MA13 (agreement excerpt, describing adult day care center). Most of the structure's dwelling units have open-air balconies, and the building is surrounded by well-tended lawns and gardens. See MA4 (Housing Authority Statement);

⁴ "Graham Avenue," is the former name of Rosa Parks Boulevard. The name "Graham Avenue" is still used for the southern portion of Rosa Parks Boulevard., and to this day the tax rolls (among other official records) still refer to entire length of the thoroughfare as "Graham Avenue."

⁵ The 1962 correspondence refers to Rosa Parks Blvd. by its former name, "Graham Avenue." See supra, n.4.

MA14 to MA17 (handicapped survey excerpt, describing and illustrating numerous aspects of site).

Given the public records and other factual sources set forth above, the City of Paterson respectfully submits that there is no genuine issue of fact that, as previously indicated on the 200 foot map (OA19), the site of the senior citizens residence known as the “Dr. Norman Cotton Homes” and also known as the “Dr. Norman Cotton Apartments” is located approximately 210 feet from the site of the proposed US Rail loading operation. Accordingly, the following false statements by US Rail, made with reckless disregard to the truth, should be stricken from that party’s August 17, 2007 filing:

- Hall Statement, ¶ 10, last sentence
- Reply, pg. 11, ¶ 1, 1st sentence.
- Reply, pg. 15, ¶ 2, 1st and 2nd sentence.
- Reply, pg. 16, ¶ 2, 1st and 2nd sentence.

B. US Rail’s Assertion that Putnam Oval is not a Youth Athletic Field has No Basis in Fact

Without citing to any evidentiary materials, US Rail deemed the City’s assertion that “there are nearby athletic fields where small children play” to be a “disturbing distortion[] of fact,” and in that vein US Rail asserted that Putnam Oval, at the corner of Lafayette St. and East 16th St. is “utilized by adult softball teams, not youth teams.” See Reply, pg. 11, ¶ 1, 1st sentence; id. at pg. 15, ¶ 2, 1st through 3rd sentences.

To put those allegations (like the allegations regarding the senior residence) to rest, the City first invites the Board to consider the obvious: a public softball field can be

used by any member of the public, young or old. Of course, school-age children have a summer vacation, and during that time they tend to have more time than adults have for games such as softball.

Should this Board somehow be unwilling to assume that Putnam Oval, like most public softball fields, is heavily used by children, confirmation of that reality is provided herewith. See MA18 (Verified Statement of Lucy “Cookie” Lowery, Paterson Division of Recreation) (“Recreation Statement.”) In the context of her 18 years of issuing permits for facilities including Putnam Oval, Ms. Lowery very recently reviewed her division’s logbook of permits issued for Putnam Oval in 2007. See id. Per the numerous entries in that 2007 logbook, though adult organizations such as the Unity League and the Salvation Army have made use of the field, nonetheless the great majority of those reserving the field are schools and youth programs, including the following:

- a City-sponsored Tee Ball league, which brings 50 to 100 children aged 5 to 8 years old to the field every Saturday from April through June;
- the City-sponsored Paterson Girls’ Softball League, which includes a division for girls as young as 8 to 10 years old;
- various local elementary schools, which use Putnam Oval for “field days” in the spring;
- Eastside High School, which utilizes the field for boys’ varsity and JV football practice, cheerleading practice, and girls’ varsity and JV softball games; and
- the Paterson Titans, a softball team in a league for 17 to 20 year olds.

See id.; see also Color Photographs (depicting field) (submitted with July 25, 2007 filing); MA2 (aerial map-photo) (depicting softball field at northeast corner of the US

Rail site); Color Map 1 (likewise depicting softball field at northeast corner of the US Rail site).

The City therefore moves that pg. 11, ¶ 1, 1st sentence of the Reply, as well as pg. 15, ¶ 2, 1st through 3rd sentences, should be stricken. Indeed, is it even realistic to believe that any City softball field would not be used by children?

CONCLUSION

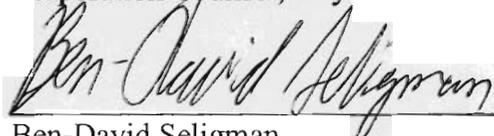
It is respectfully urged that the portions of US Rail's August 17, 2007 filing set forth above be stricken, namely:

- Hall Statement, ¶ 3, 1st and 2nd sentences
- Hall Statement, ¶ 10, last sentence
- Reply, pg. 11, ¶ 1, 1st sentence.
- Reply, pg. 13, ¶ 1, 2nd sentence.
- Reply, pg. 15, ¶ 2, 1st through 3rd sentences.
- Reply, pg. 16, ¶ 2, 1st and 2nd sentences.
- Reply, pg. 18, ¶ 2, 5th sentence.

In the alternative, it is respectfully urged that the argument and evidence set forth in this Motion be accepted as a limited rebuttal to US Rail's August 17, 2007 filing.

Respectfully submitted,

SUSAN E. CHAMPION
Corporation Counsel, City of Paterson



Dated: August 29, 2007

By: Ben-David Seligman
Assistant Corporation Counsel

**MOTION APPENDIX
FOLLOWS THIS SHEET**

DAVID M. DeCLEMENT, ESQ.
55 Simpson Avenue, PO Box 217
Pitman, New Jersey 08071
P (856) 582-6242 F (856) 582-6544
Attorney for the Defendant, Shannon G., LLC

THE CITY OF PATERSON, by its
DEPARTMENT OF COMMUNITY
DEVELOPMENT

Plaintiffs

v.

SHANNON G, LLC A New Jersey LLC

Defendants.

SUPERIOR COURT OF NEW JERSEY
PASSAIC COUNTY, CHANCERY DIVISION

DOCKET NO.: PAS-L-1799-07

Civil Action

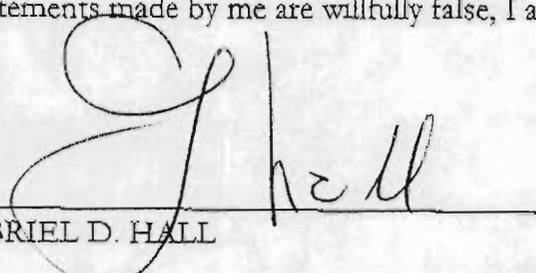
CERTIFICATION OF GABRIEL HALL

I, GABRIEL D. HALL, President/CEO of U.S. Rail 7846 Central Avenue, Toledo, Ohio,
being of full age and duly sworn according to law, and upon my oath depose and say:

1. I am personally familiar with the site in Patterson, New Jersey.
2. US Rail leases the property from Shannon G, LLC and we, US Rail, is in the process of finalizing our trackage rights agreement with the New York Susquehanna & Western Railroad as to this location which will be added to our national inventory of track.
3. US Rail is a federally chartered railroad providing freight service through the Northeast United States.
4. This site has been under development since the execution of the attached lease and upon completion will be a part of the interstate network of rail traffic.

I hereby certify that the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 5-22-07


GABRIEL D. HALL

MA1



MA2

000000	.0574	ROANOKE RAPIDS NC 257 GOVERNOR ST	2/8/0	120200					142.52 173.08
3209 22	30X100	1 SLEDGE ALBERTA 195 CRAIG ST ROANOKE RAPIDS NC 253-255 GOVERNOR ST	27870	122200	122200	122200			.00 178.15 216.35
3209 23	30X100 2 F	2 SLEDGE ALBERTA 195 CRAIG ST ROANOKE RAPIDS NC 251-253 GOVERNOR ST	27870 00660	143800 239900 383700	383700				.00 2375.40 2884.60
3209 24	30X100 2 F	2 INGRAM DAVID & MATTIE 249 GOVERNOR ST PATERSON NJ 249-251 GOVERNOR ST	07501	143800 288500 432300	432300				.00 2506.05 3043.25
3209 25	30X100 2 F	2 ROBINSON ALEXANDER 247 GOVERNOR ST PATERSON NJ 247-249 GOVERNOR ST	07501	143800 215200 359000	359000				.00 2506.05 3043.25
3209 26	30X100 2 F	2 GOMEZ AGUEDA 245 GOVERNOR STREET PATERSON NJ 245-247 GOVERNOR ST	07505 00660	143800 209300 353100	353100				.00 2316.01 2812.49
3209 27	18X75 1 CB	4A CRANDOL, CASSIUS & BELINDA H/W 72 E 34TH ST PATERSON NJ 243 GOVERNOR ST	07514 I-1	48000 27100 75100	75100				.00 201.91 245.19
3209 28	34X82 2 F	2 WRIGHT, NATHAN & THEODORE & DOLORES 189 GRAHAM AVE PATERSON NJ 187-189 GRAHAM AVE	07501 00672	135700 254800 390500	390500				.00 2375.40 2884.60
3209 29	37X86 2 F 26	2 CRANDOL, CASSIUS & BELINDA H/W 185 GRAHAM AVE PATERSON NJ 185-187 GRAHAM AVE	07501 01175	137400 272900 410300	410300				.00 2494.17 3028.83
3209 30	30X100 2 F	2 MELTON LULA 421 E 33RD ST PATERSON NJ 183-185 GRAHAM AVE	07504	136600 230800 367400	367400				.00 2244.75 2725.95
3209 31	50X150 2 F R236 HARRISON ST	2 HARRIS, MARGARET & ROLANDO H/W 179 ROSA PARKS BLVD PATERSON NJ 157-169 GRAHAM AVE	07501	156200 284200 440400	440400	S 1 02			250.00 3028.63 3577.87
3210 1	175X100 4 BAK PUBLIC HOUSING .4017	15C PATERSON HOUSING AUTHORITY, CITY OF 160 WARD ST PATERSON NJ 157-169 GRAHAM AVE	07505	371000 22608000 22979000	*EXEMPT*				.00 .00 .00
PAGE TOTALS				1725900	0		BLK 3210		
NJPT01.1				2394300		4120200	LOT 1		

MA3

VERIFIED STATEMENT

My name is Dale Jones, and I am Assistant Executive Director of the Housing Authority of the City of Paterson, an independent governmental agency. The Housing Authority administration office is located at 60 Van Houten Street, Paterson, NJ. As Assistant Executive Director, I am familiar with the history, location, layout, and operation of Paterson Housing Authority facilities.

I have read page 16 of the August 17, 2007 filing of US Rail, as well as paragraph 10 of the Verified Statement of Gabriel Hall attached thereto. Those passages falsely deny the existence of a senior residence one block (e.g., just over 200 feet) from the proposed US Rail site.

The "Dr. Norman Cotton Homes" is a Federally authorized Paterson Housing Authority residence, exclusively for the elderly and disabled. See Plan Approval, Public Housing Administration (Apr. 16, 1962) (copy attached). It is located at 163 Rosa Parks Blvd. (formerly known as Graham Avenue) extending from Fulton Place to Harrison Place. See id. Our most recent annual profile indicates that it houses 115 residents in 109 units, with 3 empty units to be filled from a waiting list. See Development Profile (Dec. 2006) (copy attached).

In addition to housing its residents, the facility also serves as the home of the Paterson Adult Day Center, which is an adult day care center operated by Catholic Family & Community Services, providing care each week for 25 to 50 senior citizens who are unable to remain home alone. See Newsletter Article (Spring 2006) (copy attached); see also Excerpt from Current Agreement (May 22, 2007) (copy attached).

Physically, the building is surrounded by well-tended lawns and gardens. Most of the units have balconies, and the building's second floor offers residents a large open-air patio. See Excerpt from Handicapped Accessibility Survey (Apr. 27, 2007) (copy attached). The residents' ability to enjoy those outdoor facilities would be compromised by a decrease in air quality or an increase in ambient noise. Air quality is a particularly sensitive issue, since many of the seniors suffer from respiratory problems.

Pursuant to 28 USC 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

8-24-07


DALE JONES

MAY



PUBLIC HOUSING ADMINISTRATION

HOUSING AND HOME FINANCE AGENCY

**NEW YORK REGIONAL OFFICE
346 BROADWAY
NEW YORK 13, N.Y.**

**HOUSING AUTHORITY
CITY OF PATERSON**

RECEIVED
APR 18 1962

APR 17 1962

**In reply please refer to
NYRO:DEV:HG:NJ-21-7**

Housing Authority of the
City of Paterson
29 Harris Place
Paterson, New Jersey

Gentlemen:

We are pleased to inform you that tentative approval has been given to the site selected by your Authority for the construction of 110 dwelling units of Low-Rent Housing, to be designed for the elderly citizens of your community, and known as NJ-21-7, Paterson, New Jersey.

The proposed site consists of a plot of approximately 1.205 acres, bounded on the west side by Graham Avenue, north side by Fulton Place, and south side by Harrison Place.

A Tentative Site Approval is also your authorization to proceed immediately with the Survey Contract and the Survey; Appraisal Contract and Appraisals; Title Examination Contract and Title Examination; and Negotiators' Contracts, and when authorized, the obtaining of options on the site, all in accordance with Section 208 of the Low-Rent Housing Manual and intermediate clearance by this office.

It is also suggested that your Authority proceed immediately with the Boring Contract and obtain preliminary borings at the site.

The term "tentative approval" merely means that this office and your Authority have agreed upon the site to be presented in the Development Program. It does not bind this Agency to give final approval.

Sincerely yours,

HERMAN D. HILLMAN
Regional Director

MA5

*copy to
W. Swanson
4-18-62
New York
C. W. W. W. W.
get housing*

cc: John A. Swanson, Regional Engineer
Region I - Bureau of Public Works
4 Normanskill Blvd.
New York, New York

**PATERSON HOUSING AUTHORITY
DEVELOPMENT PROFILE
NJ 21-7 Dr. Norman Cotton Dev.**

1. PROPERTY BREAKDOWN

A. Property Totals:

Units: 112
Vacant Units: 3
Occupied Units: 109

Bedrooms	Units	Current Rent	Average Rent
0	0	0	
1	109	\$ 25,833.00	237.00
2	0	0	
3	0	0	
4	0	0	
5	0	0	
Total	109	\$ 25,833.00	237.00

2. HOUSEHOLD BREAKDOWN

	Total	Percent
A. Type of Household		
One Adult with Children	0	-
Two+ Adults with Children	0	-
Two+ Adults/No Children	6	6%
One Adult/No Children	103	94%
Total	109	100%
B. Lessee		
Female	69	63%
Male	40	37%
Total	109	100%
C. Race/Ethnicity		
Black	72	66%
Hispanic	36	33%
White	1	1%
Other	0	-
Total	109	100%
D. Disabled Residents		
	11	10%
E. Length of Tenancy		
Less than One Year	15	14%
One - Three Years	30	27%
Four - Six Years	21	19%
Seven - Ten Years	23	21%
Eleven - Fifteen Years	5	5%
Sixteen - Twenty Years	10	9%
Twenty One Years +	5	5%
Total	109	100%



**PATERSON HOUSING AUTHORITY
DEVELOPMENT PROFILE**

3. AGE GROUP BY DEVELOPMENT

AGE	TOTAL	MALE	FEMALE	PERCENT
0-5	0	0	0	-
6-10	0	0	0	-
11-17	0	0	0	-
18-20	0	0	0	-
21-25	0	0	0	-
26-30	0	0	0	-
31-35	0	0	0	-
36-40	0	0	0	-
41-50	1	0	1	1%
51-61	14	6	8	12%
62+	100	36	64	87%
TOTAL	115	42	73	100%

4. TOTAL POPULATION: Children: 0 Adults: 115

5. NUMBER OF HOUSEHOLDS BY FAMILY SIZE

Family Size:	Total:	Percent:
1	103	94%
2	6	6%
3	0	-
4	0	-
5	0	-
6	0	-
7	0	-
8+	0	-
Total:	109	100%

6. TOTAL DEVELOPMENT INCOME: \$1,103,251.00
Average Household Income: \$6,414.25



**PATERSON HOUSING AUTHORITY
DEVELOPMENT PROFILE**

7. HOUSEHOLD INCOME BREAKDOWN

A. Income Ranges

	Total	Percent
\$1 - \$4,999	2	2%
\$5,000 - \$9,999	65	60%
\$10,000 - \$14,999	32	29%
\$15,000 - \$19,999	6	6%
\$20,000 - \$24,999	3	3%
\$25,000 +	1	1%
Total	109	100%

B. Primary Source of Income

1. Employment

\$0 - \$4,999	0	-
\$5,000 - \$9,999	1	20%
\$10,000 - \$16,999	4	80%
\$17,000 +	0	-
Total	5	100%

2. Welfare

\$0 - \$4,999	2	100%
\$5,000 - \$9,999	0	-
\$10,000 - \$16,999	0	-
\$17,000 +	0	-
Total	2	100%

3. Social Security

\$0 - \$4,999	55	38%
\$5,000 - \$9,999	60	41%
\$10,000 - \$16,999	30	21%
\$17,000 +	0	-
Total	145	100%

4. Unemployment

\$0 - \$4,999	0	-
\$5,000 - \$9,999	0	-
\$10,000 - \$16,999	0	-
\$17,000 +	0	-
Total	0	-

5. Other Income

\$0 - \$4,999	14	73%
\$5,000 - \$9,999	3	16%
\$10,000 - \$16,999	2	11%
\$17,000 +	0	-
Total	19	100%

6. No Income

Total	0	0
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The Paterson Housing Authority Newsletter



Discover Our Difference!



60 Van Houten Street—Paterson, NJ 07505 (973)345-5080 Vol. 7 Issue 2 April—May—June 2006
Please visit the PHA Website at patersonhousingauthority.com



Irma Gorham
PHA Executive Director

Asset Management - A New Way of Doing Business For Public Housing Agencies

The HUD Asset Management rule has provided the opportunity for the Paterson Housing Authority to rethink its approach to property management, which means reorganization and reassigning staff as part of the shift from a centralized to site-based accounting and management operation.

Yes, this approach is challenging and complex; however, at the end of the day it benefits the Authority in the best way and will ensure the accountability of administrative, management, and maintenance staff.

The greater benefit to this will be increased direct services for residents and overall improved property management. During this time of transition, the Authority will make every effort to provide needed assistance for families at the sites. As funding cuts and regulatory reforms continue, the Authority is strategically looking for new funding opportunities.

Get Fit, Stay Fit in 2006 - "Do it, move it, make it happen. No one ever sat their way to success" - Unknown

Just knowing that physical activity is good for us doesn't mean that we will be able to make it part of our daily routine . . . it's sometimes difficult to adopt new habits. Regular physical activity has many proven health benefits. Not only does exercise help you achieve and maintain a healthy body weight, it also reduces the risk of many diseases, promotes psychological well being, reduces stress, depression and anxiety, and helps you to feel better about yourself.

The ROSS Family Program, in conjunction with the Paterson YMCA, will remove the barriers to physical activity by bringing free fitness classes and health screenings directly to the Alexander Hamilton Development.



On Tuesday and Thursday evenings from 5:30 to 7:30 p.m., Aerobics Instructor Melody Jackson-Perry leads an intense high energy fitness class featuring dance, aerobics, yoga, stretching and toning at the Great Falls Academy (FYIC). Residents and their family and friends are raving about all the fun they are having as they **SHAPE UP FOR THE REST OF THEIR LIFE**. We invite you to take part in the fitness and fun.

To sign up for the program or for more information, please contact Ms. Shati Gerald-Program Coordinator at 973 225-5452.



Summer Day Camp Programs for PHA Youth

The Housing Authority is once again offering summer day camps for the children residing at Riverside Terrace Development, Alexander Hamilton Development, and the Sojourner Douglass Homes.

Calvary Baptist Community Center and the Paterson YMCA will provide one week off-site camperships for children residing at Riverside Terrace Development and Sojourner Douglass Homes. Catholic Family & Community Services and the Boys & Girls Club of Paterson will provide one week off-site camperships for children residing at Alexander Hamilton Development.

In addition, the Riverside Terrace Resident Council together with the Paterson Recreation Division will offer daily on-site camps for children residing at Riverside Terrace Development. Camps start the first week of July and will run through the fourth week of August. All camps are free of charge for Housing Authority youth. Please contact your site manager for more information.

YSB – Summer Camp

The City of Paterson Youth Services Bureau is sponsoring a Summer Camp Program for youth ages 6 through 13. The camp offers an array of recreational activities, computer instruction, day trips, meals, and much more. The program is free for youth in the community but space is limited. For more information call YSB at 973 321-1264.



Coming Soon! - Introducing the World of Computers

The ROSS Family Program invites all residents of Alexander Hamilton Development to learn and/or improve their basic computer skills through an eight (8) week computer training program on Monday and Wednesday evenings from 5:30 to 7:30 p.m. starting on July 10th and running through August 30th.

Classes will be held at the Great Falls Academy and conducted by the Passaic County Community College. The course will include basic computer literacy group instruction and individual mentoring covering Internet concepts, e-mail, software applications, and the Windows Operating System. Upon completion of the course, participants will receive a Certificate of Completion.

If you are interested, please contact Shati Gerald at 973 225-5452. Registration is required. Space is limited . . . Sign up today!

Paterson Adult Day Center . . . Thirty Years Later June 1976 – June 2006

The Paterson Adult Day Center located at 163 Rosa Parks Boulevard, sponsored by Catholic Family & Community Services and the Paterson Housing Authority, continues to provide a home away from home for older adults who live in the senior buildings and elsewhere in the City of Paterson.

From the time that the Center's bus picks them up in the morning, through activities, hot lunch and afternoon game time, the participants receive friendship, hope, encouragement, and professional assistance. They go home looking forward to the next day when they

will again join their Adult Day Center "Family". Congratulations to the Paterson Adult Day Center on their 30th Anniversary!

Books: A Treasure! Welcome to Summer Reading 2006



Reading is a four star guarantee for the best summer ever. Books take us away from daily concerns. They fly us to countries we may never see in person, show us many facets of wonder – in nature, in science, and in mankind's capacity for courage and kindness. They introduce us to friends we will have for life. Reading introduces us to a world of wonderful characters, people, and places.

This summer, the ROSS Family Program in collaboration with the Paterson Public Library, is launching a Summer Reading Club for children ages 10-13.

The program will provide participants with an opportunity to improve their reading, analytical and comprehension skills, as well as have fun and explore new people, places and things.

The Summer Reading Club will be held on Mondays at the FYIC Building from July 10th through August 28th. Come enjoy a part of your summer with us; there will be books, prizes and so much more.

To sign up, please contact Shati Gerald at 973 225-5452.

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AGREEMENT
Between
THE HOUSING AUTHORITY OF THE CITY OF PATERSON
and

Catholic Family & Community Services, Inc.

THIS AGREEMENT, made this 22nd day of May 2007, by and between:

NAME : Catholic Family & Community Services, Inc.

LOCATED : 24 DeGrasse Street, Paterson, New Jersey 07505

and the Housing Authority of the City of Paterson (hereinafter identified as the Authority), located at 60 Van Houten Street, Paterson, New Jersey 07505.

WHEREAS, the Authority has received funds from the U. S. Department of Housing & Urban Development (hereinafter identified as HUD), and by action of the Board of Commissioners of the Authority has allocated fund to be used for social services and to be administered by the Authority; and

WHEREAS, Catholic Family & Community Services
(subsequently identified as the Recipient has submitted a request for \$ 71,643
for the project known as:

Project: Adult Day Care/In-Home Services/Mental Health

Account Title: CFCS/Social Services

Account Code: 07-4230-01

MA 11

IX. UNEXPENDED FUND BALANCES

The Recipient may incur costs only during the period set forth in Paragraph 1 of this Agreement. Expenditures made before or after these dates shall be disallowed. Funds obligated, but not disbursed at the end of the Agreement period and any unexpended fund balances remaining shall be returned to the Authority with the submission of the final report. The Authority, at its discretion, may authorize the Recipient to use the unexpended grant funds:

- a. for approved grant purposes after the end of the Agreement period if the project is a continuing activity and the Authority intends to enter into another Agreement for a period of time immediately following the Agreement period.

X. ASSIGNABILITY

The recipient shall not sub-contract any of the work or services covered by this Agreement, nor shall any interest in this Agreement be assigned or transferred, except as may be provided within the terms of this Agreement or with the express written approval of the Authority.

XI. DISCRIMINATION PROHIBITED

The Recipient shall not discriminate in the performance of this Agreement because of sex, race, creed, national origin, age or disabilities.

XII. AVAILABILITY OF FUNDS

The parties hereto recognize that this Grant Agreement, made on behalf of the Authority is dependent upon such funding appropriations as may be made by the Federal Government; the Authority shall not be held liable for any breach of this Agreement because of the absence of available funding appropriations.

- XIII.** All promotional materials, press releases, stationary, vehicles, signs and other similar public display connected with the administration or operation of this project must clearly acknowledge Authority support.

- XIV.** The Authority will not be obligated or liable hereunder to any party other than the Operating Agency.

XV. SCOPE OF SERVICES

1. To provide an Adult Day Care Center, based at Dr. Norman Cotton Homes, NJ21-7, for twenty-five (25) older adults daily, out of a client list of fifty (50) who have numerous physical and emotional limitations. The program will operate Monday through Friday from 8 a.m. to 4 p.m.
2. To provide In-Home Service to assist residents of senior housing in the PHA to maintain their independence and remain in their apartments by providing two (2) part time In-Home workers bi-weekly to assist sixty (60) residents in keeping their apartments clean, monitor physical well being, and encourage participation in social

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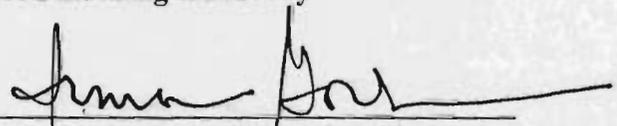
activities, assess the need for support services, and provide professional counseling for clients and their families.

3. To assist clients to maintain and retain as much independence as possible, by providing emotional support, encourage participation in social activities, assess the need for support services, and provide professional counseling for clients and their families.
4. To provide services including socialization, recreation, education, nutrition, transportation, supportive and family counseling, and medical monitoring, to prevent inappropriate/premature institutionalization or other placement for frail elderly residents of the PHA.
5. To provide transportation for Senior Citizens living in public housing throughout the city and the Paterson Hope '98 building located at 14 Van Houten Street, to the program's location. To provide a daily setting of socialization, meals and decision making, to encourage and motivate clients in the activities of daily living.
6. To provide on-site case management (screening, referrals and counseling services) to detect depression and reduce the severity of depressive symptoms and other mental illnesses to fifty (50) senior residents of the PHA.

The parties hereto acknowledge that this Grant Agreement numbered **PHA 07-01** consists of fourteen (14) pages numbered one through fourteen consecutively.

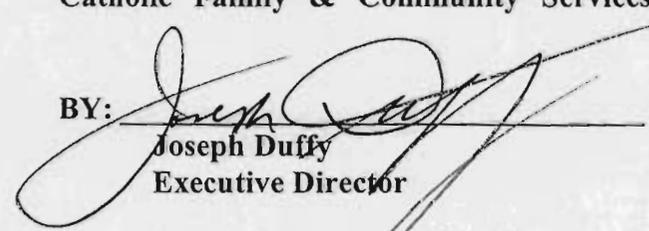
IN WITNESS WHEREOF, the Authority and the Recipient have executed this Agreement as of the date first above written.

Paterson Housing Authority

BY: 

**Irma Gorham, Executive Director
Paterson Housing Authority**

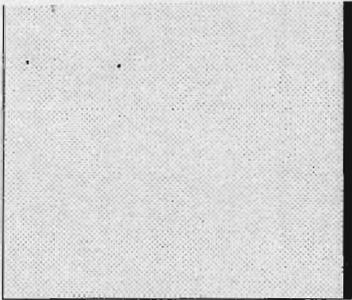
Catholic Family & Community Services Inc.

BY: 

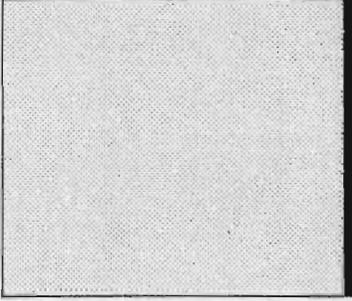
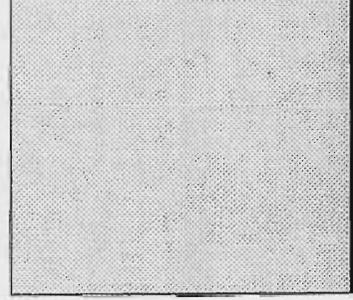
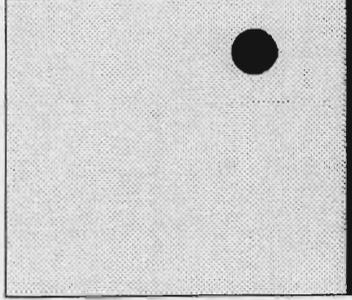
**Joseph Duffy
Executive Director**

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The aforementioned Agreement has been reviewed and approved as to form.



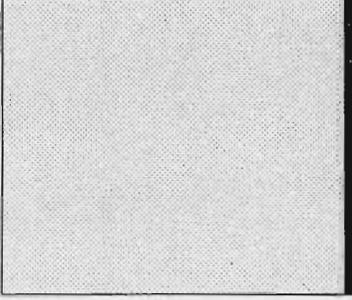
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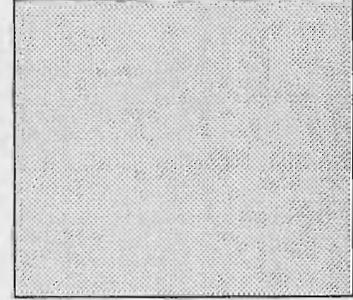
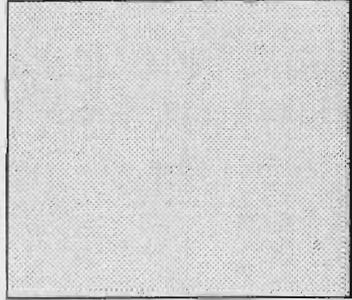
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HANDICAPPED ACCESSIBILITY SURVEY FOR NJ21-7, DR. NORMAN COTTON

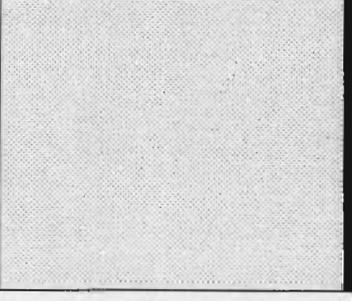
SUBMITTED TO:
**HOUSING AUTHORITY OF
THE CITY OF PATERSON**



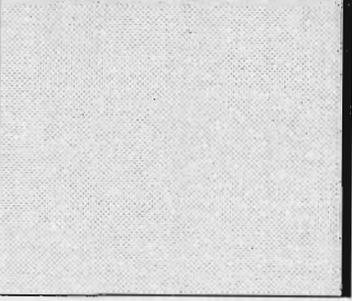
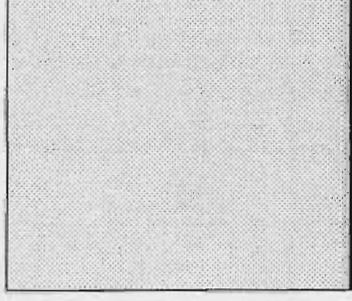
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SUBMITTED BY:
EL TALLER COLABORATIVO, P.C.
APRIL 27, 1990

1.0 INTRODUCTION

The Dr. Norman Cotton development is an existing housing project which was built prior to the implementation of requirements for accessibility by the handicapped. This development is a senior citizen site.

This project is composed of a single building. The high rise structure has two elevators. The Community room is located on the cellar floor while the laundry room is located on the first floor. The site can be described as generally being flat.

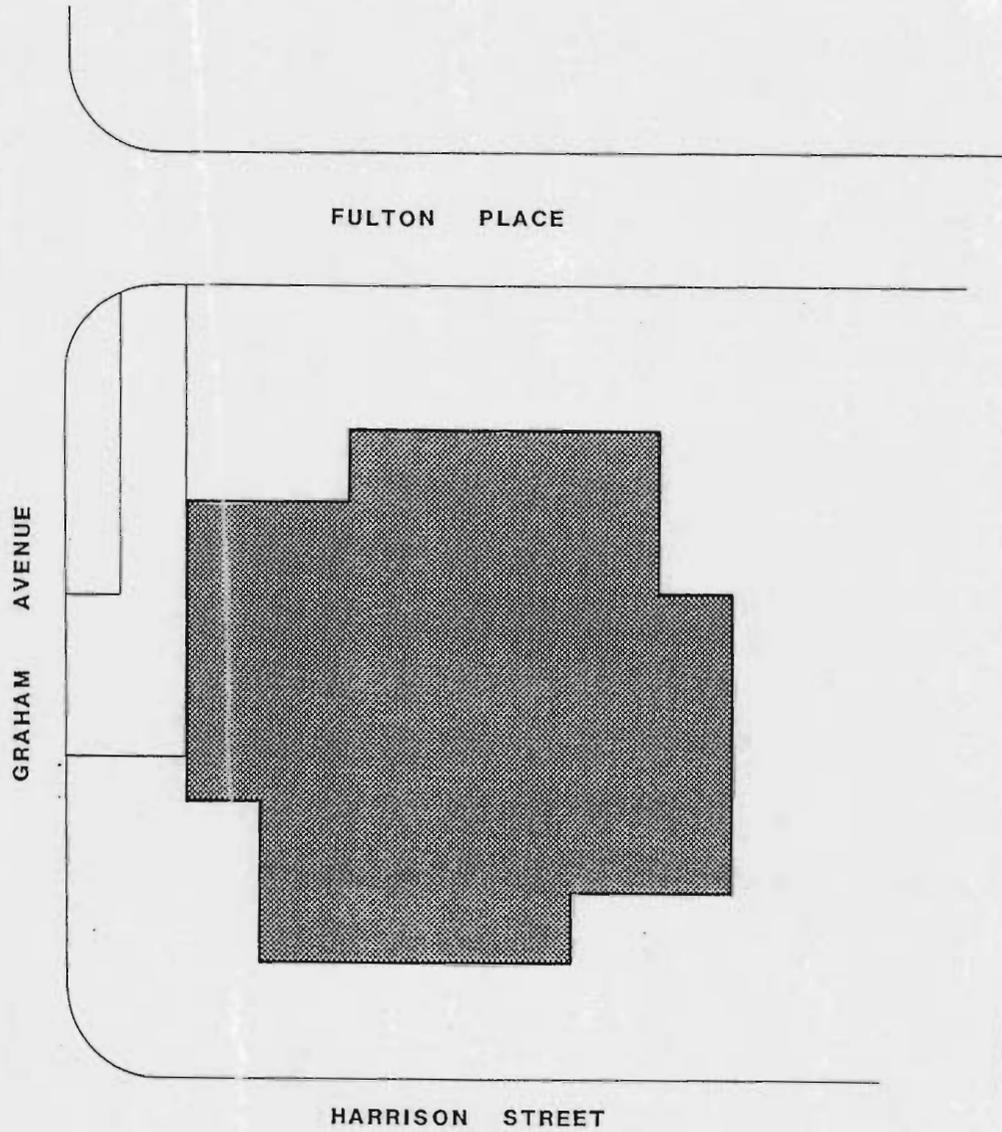
2.0 PROJECT STATISTICS

There are a total of 112 dwelling units in one building at this project site. The total resident population is 116. Ninety four of the residents are at least 62 years old. There are 12 disabled residents at this site. Given the concentration of the elderly and disabled, it is not difficult to justify the need for handicapped accessibility improvements.

Off-street parking was designed into the original project concept. There are 31 off-street parking spaces.

HUD requirements dictate that 6 dwelling units and parking spaces be made available to the handicapped.

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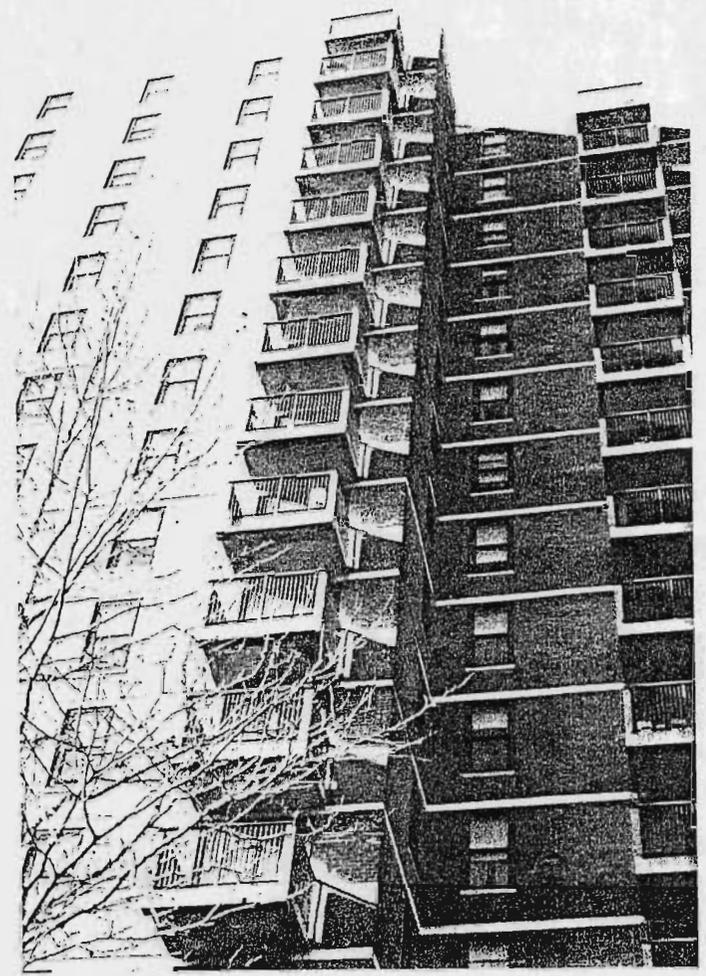


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EXHIBIT 9-1

PHOTO # 9-1: MOST APARTMENTS
HAVE BALCONY.



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PHOTO # 9-2 : FIFTEEN STORY SENIOR
CITIZEN APARTMENT HOUSE.

VERIFIED STATEMENT

My name is Lucy "Cookie" Lowery, and I am the Coordinator of Special Projects & Permits for the City of Paterson Division of Recreation, 810 Broadway, Paterson, NJ. I am responsible for permits issued for use of City facilities such as the Putnam Oval softball field. I have been handling such permits for approximately 18 years, and have been employed by the Division of Recreation for approximately 22 years.

I have read pages 16 and 17 of the August 17, 2007 filing of US Rail. That passage is false as to its assertion that Putnam Oval is not a youth softball field. That passage can also be construed to falsely imply that the field would have only "limited" exposure to any rock-loading or waste-loading activities at the proposed US Rail site.

Putnam Oval is a heavily-used regulation softball field located on the southwest corner of Lafayette Street and East 16th Street. It is also suitable for a variety of other athletic activities, such as football practice. It is officially open 7 days a week, from March through November, and is unofficially used even during the remaining months of the year. Though adults participating in the Unity softball league and the Salvation Army softball league use Putnam Oval, most of those obtaining permits to use Putnam Oval are schools and youth organizations.

Children aged 5 to 8 years old participate in a City-sponsored Tee Ball league there, bringing 50 to 100 children there every Saturday from April through June. The City-sponsored Paterson Girls' Softball League, including divisions for as young as 8 to 10 year olds, plays there. Various elementary schools use the area for "field days" in spring. Eastside High School utilizes the field for boys' varsity and JV football practice, cheerleading practice, and girls' varsity and JV softball games. The Paterson Titans, a softball team in a league for 17 to 20 year olds, play there.

Furthermore, because Putnam Oval is an unenclosed outdoor facility, and because the proposed US Rail facility is just beyond Putnam Oval's outfield wall, accordingly the noise and dust of rock loading, or the odors of solid waste loading, could not be ignored. This is especially so because of the special need for air during strenuous athletic activities such as running the base paths.

Pursuant to 28 USC 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

8-23-07


LUCY LOWERY

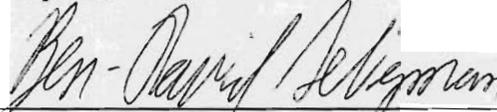


CERTIFICATION OF SERVICE

I, Ben-David Seligman, certify that copies of all documents submitted to the Board via electronic filing have been sent via electronic mail to John D. Heffner, counsel for US Rail (j.heffner@verizon.net), G. Paul Moates, counsel for NYS&W (pmoates@sidley.com), and Deputy Attorney General Kevin P. Auerbacher, counsel for the New Jersey Department of Environmental Protection (Kevin.Auerbacher@dol.lps.state.nj.us and Michele.McGahey@dol.lps.state.nj.us).

SUSAN E. CHAMPION
Corporation Counsel

August 29, 2007



By: BEN-DAVID SELIGMAN
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