

STATEMENT OF ALAN WEINSTEIN
Staff Attorney, STB Office of Proceedings

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, NY

Good Morning Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

The decision submitted for your consideration involves a request to extend the period for submitting Offers of Financial Assistance (OFAs) and a request to continue this proceeding in abeyance for an additional 90 days. In this proceeding, Chelsea Property Owners sought the adverse abandonment of the Highline, an elevated track in Manhattan owned by the Consolidated Rail Corporation (Conrail). In 1992, the Interstate Commerce Commission (ICC) authorized the abandonment, on the condition that Chelsea Property Owners indemnify Conrail for all demolition costs in excess of \$7 million.

In August 2002, Chelsea Property Owners submitted a proposed Settlement Agreement and asked the Board to find that it satisfies the indemnity condition. In October 2003, the City of New York and Chelsea Property Owners jointly requested that the Board hold this proceeding in abeyance to permit the parties to engage in settlement negotiations that could lead to the execution of a trail use agreement. This request was granted, and two subsequent requests to extend the negotiation period have also been granted.

In April 2004, the Forty Plus Foundation and Manhattan Central Railway Systems (Manhattan Central) jointly filed a notice of intent to file an OFA to acquire the Highline and asked for additional time to file an OFA. Conrail, Chelsea Property Owners, and the City filed replies opposing the request of Forty Plus and Manhattan Central. In July 2004, the City filed a request that this proceeding be held in abeyance through the end of September 2004. The City states that dramatic progress has been made in the negotiations among the various parties but that additional time is needed to resolve outstanding issues. Friends of the High Line, Conrail, CSXT and Chelsea Property Owners support the City’s request for an extension.

The draft decision before you denies the request of Forty Plus and Manhattan Central to extend the period for submitting OFAs. The time to file OFAs in this proceeding expired in 1992. In 2001, in another proceeding, the Idaho Northern case, the Board denied a petition to reopen an abandonment exemption to permit the filing of an OFA 4.5 years after its due date.

Even in the absence of the opportunity to file an OFA, however, Forty Plus and Manhattan Central remain free to negotiate for the line’s sale outside of the OFA process.

The draft decision grants the City's request to continue this proceeding in abeyance through September 30, 2004. Because the Board favors the private resolution of disputes wherever possible, we recommend encouraging the parties to negotiate a settlement here.

We would be happy to address any questions you might have.

Thank you.