

307128

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS

2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820
FACSIMILE: (202) 663-7849

ENTERED
Office of Proceedings
September 14, 2023
Part of
Public Record

WILLIAM A. MULLINS

(202) 663-7823 (Direct Dial)
E-Mail: wmullins@bakerandmiller.com

September 14, 2023

VIA E-FILING

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: STB Docket No. 36710 – Richmond Waterfront Industrial Park, LLC – Petition
for Declaratory Order

Dear Ms. Brown:

The Philadelphia Belt Line Railroad Company (“PBL”) submits this letter to inform the Board of the September 13, 2023 decision of the Pennsylvania Superior Court (“Court”) relevant to the above-captioned proceeding (“Decision”). The Decision provides further justification for PBL’s position that the the Board dismiss Richmond Waterfront Industrial Park, LLC (“RWIP”) Petition for Declaratory Order (“Petition”) or hold the Petition in abeyance.

On July 28, 2023, RWIP filed in the above-referenced proceeding a Petition for Declaratory Order requesting a declaration by the Board that a purported railroad easement (“Easement”) traversing RWIP’s property is not, and has not ever been, subject to the Board’s jurisdiction and that such a declaration would be helpful, both for judicial economy and efficiency, to the Pennsylvania Superior Court. In the same filing, to support RWIP’s request for the Board to initiate such a proceeding, RWIP noted it had previously filed with the Superior Court, on July 24, 2023, an Application to Stay asking to stay further action so that RWIP could ask this Board to issue a declaratory order. On September 13, 2023, the Application to Stay was denied. See Attached Order.

Given the Superior Court’s recent decision to deny RWIP’s request to stay the proceeding, the Superior Court proceeding will move forward as scheduled. As a result, and currently, there is no reason for the Board to waste time and resources and initiate a declaratory order proceeding. The Court ruling should provide guidance to the parties as to the next steps.

BAKER & MILLER PLLC

September 14, 2023

Page 2

Accordingly, PBL reiterates its request that the Board deny RWIP's Petition, or alternatively, hold the Petition in abeyance pending the ruling of the Superior Court.

If there are any questions about this matter, please contact me directly, either by telephone: (202) 663-7823 or by e-mail: wmullins@bakerandmiller.com.

Respectfully,

/s/ William A. Mullins

William A. Mullins

Attorney for The Philadelphia Belt Line
Railroad Company

cc: Parties of Record
Attachment

RICHMOND WATERFRONT
INDUSTRIAL PARK, LLC

Appellant

v.

PHILADELPHIA BELT LINE RAILROAD
COMPANY

: IN THE SUPERIOR COURT OF
: PENNSYLVANIA

:
: Philadelphia County Civil
: Division
: 02872 March 2022

:
:
:
: No. 1172 EDA 2023
:

ORDER

Upon consideration of the July 24, 2023, Application to Stay filed by Appellant, Richmond Waterfront Industrial Park, LLC, and the response thereto, the Application to Stay is **DENIED**.

PER CURIAM