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July 27, 2018

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Via Electronic Filing

Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street S.W.
Washington, D.C. 20024

ENTERED
Office of Proceedings
July 27, 2018
Part of
Public Record

Re: Docket No. FD 36187
Passaic Street Properties, LLC
Operation Exemption Pursuant to 49 C.F.R. §1150.31
Our File No. 04378-85178

Dear Ms. Brown:

This firm represents the applicant, Passaic Street Properties, LLC, a non-carrier (PSP) in the above captioned matter.

On July 18, 2018 the Board served a decision in this matter. Enclosed is a Request for Reconsideration and/or Clarification by the Petitioner, PSP.

By copy of this letter, I am simultaneously serving a copy of this letter and the enclosed documents by email and regular US mail to John D. Heffner, Esquire, attorney for NYGL, by email on the City of Garfield.

If you have any questions regarding this filing, please advise.

Sincerely,

FILED
July 27, 2018
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TRANSPORTATION BOARD

CAPEHART & SCATCHARD, P.A.

s/ John K. Fiorilla

John K. Fiorilla

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JKF:jkf
Enclosure

cc: Jay Pasternack, Esq. (w/enc. – via email)
Fadi Samaan (w/enc. – via email and Regular Mail)

Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
July 10, 2018
Page 2

John D. Heffner, Esq. (w/enc. – *via email and Regular Mail*)
Thomas J. Duch, Esq./City Manager, City of Garfield (w/encl. – *via email and Regular Mail*)

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Thomas J. Duch, Esq./City Manager
City of Garfield
111 Outwater Lane
Garfield NJ 07026-2694

**Before the
Surface Transportation Board**

FD - 36187

**PASSAIC STREET PROPERTIES, LLC
ACQUISITION OF NEW YORK & GREENWOOD LAKE RAILWAY,
INC.
OPERATION EXEMPTION
REQUEST FOR RECONSIDERATION AND/OR CLARIFICATION**

Submitted By:

John K. Fiorilla, Esq.
Capehart & Scatchard, P.A.
8000 Midlantic Drive, Suite 300S
Mount Laurel, N.J. 08054
(856) 914-2054
Attorneys for Passaic Street Properties, LLC

Dated: July 27, 2018

**Before the
Surface Transportation Board**

FD - 36187

**PASSAIC STREET PROPERTIES, LLC
ACQUISITION OF NEW YORK & GREENWOOD LAKE RAILWAY,
INC.
OPERATION EXEMPTION**

REQUEST FOR RECONSIDERATION AND/OR CLARIFICATION

The Board served its decision in this matter on July 18, 2018. The Board dismissed the petition of Passaic Street Properties LLC (hereinafter PSP) primarily on the basis that a Notice of Exemption was not the appropriate means to get the unique facts of the matter before the Board for the Board's consideration. The Board also took other actions regarding the filings of other parties in its decision.

In light of the facts that PSP purchased the property involved in this matter at public auction held by the Internal Revenue Service pursuant to the IRS's rules and regulations and since the Board has said that when another federal agency is involved that they will harmonize those rules with its rules and regulations, PSP requests that the Board reconsider and/or clarify its decision and advise if a Petition for Acquisition is the appropriate means to get the facts of this matter before the Board or if perhaps a petition pursuant to 49 CFR § 1117.1 (a petition for relief not otherwise covered) would be the appropriate means to address the Board so that the issues in this case can be addressed and resolved.

CONCLUSION

For the foregoing reason, PSP respectfully requests that the Board reconsider/and or clarify its decision and advise PSP the appropriate method to approach the Board so that both the time and expense of the Board, the Petitioner and other parties need not be wasted in choosing a method to bring the matter before the Board.

Thank you for your time and attention.

Respectfully Submitted,



Dated: July 27, 2018

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Attorney for Petitioner,