



CITY OF PHILADELPHIA

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September 27, 2004

Robert T. Sullivan
Regional Vice President, Public Affairs
CSX Transportation
2001 Market Street, 8th Floor
Two Commerce Square
Philadelphia, PA 19103

RE: Schuylkill River Park and CSX

Dear Mr. Sullivan:

On May 21, 2004, after several months of discussions and negotiations, this office wrote counsel for CSXT outlining the City's proposed terms of agreement to construct safe grade entrances to Schuylkill River Park across CSXT tracks at Locust Street and Race Street in the City of Philadelphia. The City did not receive a response until your letter of September 23, 2004, in which CSXT states that it will not consent to the construction of safe grade crossings at Locust Street and Race Street and that CSXT intends to erect a fence in the public streets at those locations.

Contrary to CSXT assertions, the City is under no contractual obligation to erect a fence across the public right-of-way at these locations. Further, as to your statement that the PUC "ruled against" the City on this issue, the record reveals that the PUC specifically denied CSXT's request that the PUC issue an order requiring the City to construct above-grade crossings.

As stated in the City's December 29, 2003, letter to CSXT, the proposed fence is located on the property of the City of Philadelphia. Any actions to close the fence openings at Locust and Race Streets would require CSXT to enter City property. Again, the City expressly denies CSXT the right to do so. Entry onto the City's property to extend the fence would constitute trespassing.

CSXT has acknowledged the potential danger that its trains pose; yet, CSXT persists in opposing City efforts to make the crossings safer. Additionally, CSXT continues to create an attractive nuisance by parking its trains across the public streets that provide access to the Park.

It is our understanding that this practice has increased since our last meeting and is now compounded by the parking in a residential neighborhood of rail cars containing malodorous trash. We are especially concerned since this neighborhood has been an active proponent for safe grade crossings and could view this action as punitive. It is in the best interest of our citizens, and CSXT, not to allow this situation to languish.

The City of Philadelphia has made every effort to work with CSXT in creating safer signalized crossings for the citizens of and visitors to the City of Philadelphia. CSXT refused to respond for four months, and the City is unable to begin construction absent CSXT's consent. CSXT is maintaining potentially hazardous conditions for the public.

It was the City's understanding that CSXT needed additional time to complete engineering studies to ascertain CSXT's ability to respond effectively to the City's concerns. The City remains interested in meeting with CSXT to work toward safe grade crossings; however, such a meeting would prove productive only if CSXT first provides the City with copies of its study reports and indicates its willingness to discuss them at such a meeting.

Please contact me as soon as possible if CSXT is willing to schedule a meeting in a final attempt to bring this matter to a negotiated resolution.

Sincerely,



Romulo L. Diaz, Jr.

Chair, Regulatory and Government Law

cc: Pedro A. Ramos, City Solicitor
Leonard M. Klehr
Benjamin Dunlap, Jr.
William Pinamont