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OFFICE OF OPEN RECORDS

**COMMONWEALTH COURT OF PENNSYLVANIA
DOCKETING STATEMENT
NOTICE OF APPEAL**

Counsel for Appellant(s) must complete this form and file it with the Prothonotary of the Commonwealth Court within 10 days of the date of the Notice of Docketing.

Failure to timely file a docketing statement, with required attachments and proof of service, may result in dismissal of the appeal.

Attach additional sheets if needed.

Case Caption: R.J. Corman et al. v. Luzerne Cnty. Redevelopment Auth. & Reading Blue Mountain and Northern R.R. Co.

Commonwealth Court Docket No.: 833 CD 2022

Required Attachments:

(1) Attach a copy of **all previous opinions, if any, and all pertinent orders in this case** (including, for example, the order and adjudication of the Zoning Hearing Board, or similar decision).

(2) Attach a **Statement of Issues** of no more than *two pages* in length, containing a summary sufficient to explain the case (*see* Order of September 15, 1999, 29 Pa. Bull. 5064, 210 Pa. Code §69.501), and indicating the relief requested. **NOTE: Information in the Statement of Issues is used to screen cases for the Court's Mediation Program and does not bind appellant. Any issue omitted will not constitute a waiver of the issue on appeal.**

(3) Attach a **proof of service** indicating service of the docketing statement, statement of issues, and all attachments on all other parties.

A. Timeliness of Appeal

(1) Date of judgment, order, or decree appealed: 7/7/2022

(2) Date notice of appeal filed: 8/5/2022

B. Appealability of Order

(1) Is the order appealed a final order? Yes No

(2) Is this matter disposed of as to all parties in the trial court? Yes No

If no, what is the status of this case as to the remaining parties?

(3) If the order is not a final order, pursuant to what Rule of Appellate Procedure is this order appealed, e.g., Pa.R.A.P. 311, 313, 341(c)? _____

Please explain: _____

C. Are there any related cases, including cross-appeals, pending in this Court or any other federal or state court? Yes No
If yes, please list the court, caption and docket number(s): _____

D. Was there a trial or hearing before the trial court? Yes No
If yes, have you made arrangements to have the testimony transcribed? Yes No

E. Have you paid the required deposit for the transcript? Yes No
If no, why not? There was no hearing.

F. Are there any real parties in interest not appearing in the trial court caption? Yes No
If yes, please list their names, and the names and addresses of their counsel, if any:

G. Have there been any previous efforts to settle this matter? Yes No
If yes, please explain: _____

H. Are you aware of any conflict of interest that may exist with respect to any party, lawyer, or issue in this case that may suggest the need for recusal by any judge of this court?
 Yes No
If yes, please explain: _____

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Joshua D. Bonn, Esquire

Signature: Joshua D. Bonn

Attorney No.: 93967 Date: 10/19/2022

Telephone No.: 717-236-3010 Ext. 129 Fax No.: 717-234-1925

Counsel for (Name of Party): R.J. Corman Railroad Company/Luzerne and Susquehanna Railway Co., Luzerne and Susquehanna Line, LLC

not possess such agreements, and (iii) does not operate the freight railroad subject to such agreements nor have lawful authority to do so, and therefore lack subject matter jurisdiction to compel public disclosure of such agreements?

Suggested Answer in the Affirmative.

B. Alternatively, did the trial court commit an error of law by determining that the railroad operating agreements were not exempt from public disclosure as confidential proprietary information under 65 P.S. § 67.708(b)(11)?

Suggested Answer in the Affirmative.

NAUMAN, SMITH, SHISSLER & HALL, LLP

By: /s/Joshua D. Bonn

Joshua D. Bonn, Esquire

Supreme Court ID#93967

Craig J. Staudenmaier, Esquire

Supreme Court ID#34996

200 North Third Street

Harrisburg, PA 17101

Telephone: (717) 236-3010

Counsel for Petitioner R.J. Corman

*Railroad Company/ Luzerne & Susquehanna
Line, LLC*

Date: October 19, 2022

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Joshua D. Bonn, Esquire

Signature: /s/Joshua D. Bonn

Name: Joshua D. Bonn

Attorney No. (if applicable): 93967

CERTIFICATE OF SERVICE

AND NOW, on the date stated below, I, Ijeoma N. Okereke an employee of the firm of Nauman, Smith, Shissler & Hall, LLP, hereby certify that I this day in conformance with Pa.R.A.P. 121, served the foregoing “*Docketing Statement and Statement of Issues*” by depositing a copy of the same in the United States Mail, first class, postage prepaid, at Harrisburg, Pennsylvania, addressed to the following:

Frank J. Tunis, Esquire
Tunis Law
R. 347 Main Street
Dickson City, PA 18519
*Counsel for Reading Blue Mountain
and Northern Railroad Company*

Commonwealth of Pennsylvania Office
of Open Records
333 Market Street. 16th Floor
Harrisburg, PA 17101

Joseph M. Blazosek, Esquire
Law Office of Joseph M. Blazosek
341 Wyoming Avenue
West Pittston, PA 18643
*Counsel for Luzerne County
Redevelopment Authority*

/s/Ijeoma N. Okereke
Ijeoma N. Okereke, Secretary

Date: October 19, 2022

**LUZERNE AND SUSQUEHANNA
RAILWAY COMPANY,**

PETITIONER,

v.

**READING BLUE MOUNTAIN AND
NORTHERN RAILROAD
COMPANY**

RESPONDENT,

**LUZERNE COUNTY
REDEVELOPMENT AUTHORITY,**

RESPONDENT.

**: IN THE COURT OF COMMON
: PLEAS OF LUZERNE COUNTY**

CIVIL DIVISION

NO. 09491 of 2020

ORDER

AND NOW, this 7th day of July, 2022, upon consideration

of Luzerne and Susquehanna Railway Company's Petition for Review, and any response thereto, it is hereby ORDERED, in accordance with the attached Findings of Fact and Conclusions for Law, it is hereby ORDERED as follows:

1. The Office of Open Records' Decision in docket number AP 2020-0242 dated September 18, 2020 is AFFIRMED IN PART and REVERSED IN PART;

2. This Court affirms the Office of Open Records' Hearing Officer's finding that the Luzerne County Redevelopment Authority was not duplicative and burdensome;

3. This Court reverses the Officer of Open Records' Hearing Officer's finding that the doctrine of collateral estoppel applies to the present case;

4. This Court finds that the requested documents constitute financial records as defined under the Right to Know Law and are therefore not exempt from disclosure;

5. This Court finds that Luzerne and Susquehanna Rail Company did not meet its burden of proving that the records are exempt from disclosure under the confidential proprietary information or trade secrets exemptions;

6. Accordingly, the Luzerne County Redevelopment Authority shall provide Reading Blue Mountain Northern Railroad Company with the requested records within thirty (30) days from the date of this Order;

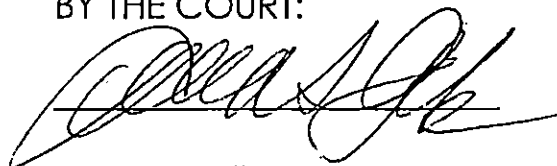
7. The Luzerne County Redevelopment Authority and Luzerne and Susquehanna may appropriately redact the requested records

if a privilege applies and supply a privilege log to Reading Blue Mountain Railway Company;

8. If Reading Blue Mountain and Northern Railroad Company believes that the redactions are not appropriate, a request for an in camera review of the requested records, redactions, and accompanying privilege log may be filed with this Court.

The Clerk of Judicial Records/Prothonotary is directed to serve notice of the entry of this Order pursuant to Pa.R.C.P. 236.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Lesa S. Gelb', written over a horizontal line.

Lesia S. Gelb, J.

Copies:

Garry S. Taroli, Esquire
John T. Zelinka, Esquire
Rosenn, Jenkins & Greenwald LLP
Cross Creek Pointe Business Center
1065 Highway 315, Suite 200
Wilkes-Barre, PA 18702

Commonwealth of Pennsylvania
Office of Open Records
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