



A Professional Corporation
140 South Dearborn Street, Suite 600
Chicago, IL 60603
www.ancelglink.com

Mary J. Dolan
mdolan@ancelglink.com
(P) 312.604.9164
(F) 312.782.0943

December 8, 2022

305763

Via E-Filing
Cynthia T. Brown
Chief of the Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. St. SW
Washington DC 20423

ENTERED
Office of Proceedings
December 8, 2022
Part of
Public Record

Re: STB Docket No. FD 36619
City of North Chicago's Opposition to 2nd & Main's December 1, 2022 "Motion to Reject the City's Response dated November 9, 2022"

Dear Chief Brown,

As the attached brief explains in detail, the City's November 9th filing was necessary to oppose a brief filed by 2nd & Main that sought to bar the City from replying to new issues raised in the first two response briefs filed by 2nd & Main. In its November 9th filing, the City also sought to respect the Board's time and bring an end to the back and forth between the parties by stating that it would not seek to file a reply to 2nd & Main's third response, but would instead let 2nd & Main have the last word. Here and in the attached brief, the City respectfully requests the Board to deny 2nd & Main's Motion to Reject the City's Response Dated November 9, 2022.

Sincerely yours,

Mary Jean Dolan

Cc: John Quinn/ JQuinn@grayslakelaw.com
Thomas F. McFarland / mcfarland@aol.com
Adam B. Simon/ asimon@ancelglink.com
Thomas G. DiCianni/ tdicianni@ancelglink.com

Enclosure
4870-8635-5522, v. 1

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. FD 36619

THE CITY OF NORTH CHICAGO'S OPPOSITION TO 2ND & MAIN'S DECEMBER 1, 2022
"MOTION TO REJECT THE CITY'S RESPONSE DATED NOVEMBER 9, 2022"

Thomas G. DiCianni
Illinois Bar ARDC #3127041
Adam B. Simon
Illinois Bar ARDC #6243892
Mary Jean Dolan
Illinois Bar ARDC #6188787
ANCEL GLINK, P.C.
140 S. Dearborn St. Suite 600
Chicago, IL 60603
312-782-7606
312-782-0943 (fax)
tdicianni@ancelglink.com
asimon@ancelglink.com
mdolan@ancelglink.com

Dated: December 8, 2022

THE CITY OF NORTH CHICAGO'S OPPOSITION TO 2ND & MAIN'S DECEMBER 1, 2022
"MOTION TO REJECT THE CITY'S RESPONSE DATED NOVEMBER 9, 2022"

It is surprising and ironic that on December 1, 2022, 2nd & Main filed a motion to bar the City from filing its November 9, 2022 Filing using the argument that the filings have to stop somewhere. In its November 9, 2022 Filing, the City took the high road and stated that it would not seek to file a "Third Reply" to 2nd & Main's Third Response because someone had to have the last word, and graciously allowed that person to be 2nd & Main.¹

¹ Summary of Filings in Case:

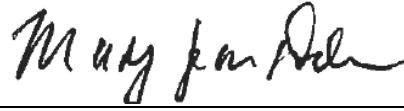
1. June 21, 2022: City's Petition for a Declaratory Judgment
2. August 22, 2022: 2nd & Main's response to the City's Petition ("**First Response**") (containing two new legal issues)
3. August 31, 2022: City's Reply to First Response ("**First Reply**") (addressing new legal issues in First Response)
4. September 16, 2022: 2nd & Main's response to First Reply ("**Second Response**") (raising two more new legal issues)
5. September 29, 2022: City's reply to Second Response ("**Second Reply**") (addressing new legal issues in Second Response)
6. October 17, 2022: 2nd & Main's brief opposing filing of the City's First Reply and Second Reply ("**2nd & Main's First Opposition Brief**")
7. October 17, 2022: 2nd & Main's response to the City's Second Reply ("**Third Response**")
8. November 9, 2022: City's brief opposing filing of Third Response and supporting allowing filing of its First Reply and Second Reply ("**City's November 9 Filing**")
9. November 9, 2022: Note that there is no "Third Reply" – the City does NOT file any reply to 2nd & Main's Second Response (acknowledging that filings have to end somewhere and letting 2nd & Main have the last word)
10. December 1, 2022: 2nd & Main's brief opposing filing of City's November 9 brief ("**2nd & Main's Second Opposition Brief**")

The main point of the November 9, 2022 Filing was to support the City's leave to file its First Reply and Second Reply, both of which addressed new legal issues raised by 2nd & Main in its Second Response and Third Response, respectively. These briefs are critically important to the Surface Transportation Board's full and complete understanding of this case. The November 9, 2022 filing also opposed 2nd & Main's filing of the Third Response because it did not deal with any new legal issues, but merely reiterated its earlier points.

In its November 9 Filing, the City also brought an end to the extensive back and forth in this case by stating that if the Board grants 2nd & Main leave to file its Third Response, the City agreed to let 2nd & Main's filing be the last word before the Board in this case. Given that generous gesture and deference to the Board's time, the Board should allow the November 9, 2022 Filing as a necessary response to 2nd & Main's Opposition Brief, which opposed the City's filing of the First Reply and Second Reply, both of which were essential to addressing new legal issues raised by 2nd & Main.

The City respectfully requests the Board to deny 2nd & Main's Motion to Reject the City's November 9 Filing and to grant leave to file that brief. Again, taking the high road, while the City takes great issue with 2nd & Main's unjust statements that it is trying to bully and harass 2nd & Main, the City does not join in 2nd & Main's request that this Board admonish the other party. The Board now has sufficient legal analysis from the parties to reach a conclusion on the City's Petition, and if the Board allows it, 2nd & Main will have had the final say with its Third Response. It should be content.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mary Jean Dolan". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Mary Jean Dolan

Thomas G. DiCianni
Illinois Bar ARDC #3127041
Adam B. Simon
Illinois Bar ARDC #6243892
Mary Jean Dolan
Illinois Bar ARDC #6188787
ANCEL GLINK, P.C.
140 S. Dearborn St. Suite 600
Chicago, IL 60603
312-782-7606
312-782-0943 (fax)
tdicianni@ancelglink.com
asimon@ancelglink.com
mdolan@ancelglink.com
Attorneys for the City of North Chicago

4895-8278-8673, v. 1

Certificate of Service

I, Mary Jean Dolan, certify that I served the foregoing **City of North Chicago, Illinois’ Opposition to 2nd & Main’s December 1, 2022 “Motion to Reject the City’s Response Dated November 9, 2022”** by emailing a copy of same on the 8th day of December 2022 to:

John W. Quinn
Churchill Quinn Richtman & Hamilton, Ltd.
2 S Whitney St.
Grayslake, IL 60030
JQuinn@grayslakelaw.com

Thomas F. McFarland
THOMAS F. MCFARLAND, P.C.
15607 Lourdes Dr.
Homer Glen, IL 60491
mcfarland@aol.com

A handwritten signature in black ink, appearing to read "Mary Jean Dolan", written over a horizontal line.

Mary Jean Dolan