

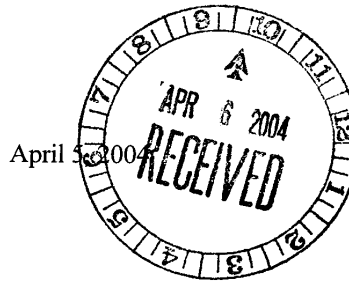
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Representing clients with vigor and integrity.



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Vernon A. Williams, Office of the Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

FEDERAL EXPRESS

Re: In the Matter of Morristown & Erie Railway Company
Reply to Petition of Five New Jersey Municipalities to Reopen
Finance Docket No. 34054
SUPPLEMENT TO FILED PAPERS OF MORRISTOWN & ERIE RAILWAY
ON APRIL 1, 2004

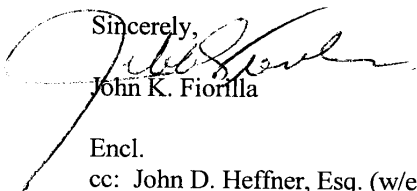
Dear Mr. Williams:

This firm represents the Respondent Morristown & Erie Railway Company of Morristown, New Jersey (M&E"). On March 31, 2004, M&E filed a copy of a transcript it had just received from the Superior Court of N.J. which it had indicated it would file upon receipt in its filings of January 22, 2004 in this matter.

Inadvertently page 58 of that transcript was not copied and filed. We therefore enclose an original and ten copies of page 58 of the Superior Court's opinion dated December 5, 2003 and recently received by our office from the Court.

Also enclosed is one additional copy to be stamped filed and returned to me in the self-addressed stamped envelope enclosed. Your prompt attention to this matter is kindly appreciated.

Sincerely,


John K. Fiorilla

Encl.

cc: John D. Heffner, Esq. (w/encl.)
Kraig M. Dowd, Esq. (w/enc.)
Scott N. Stone, Esq. (w/encl.)
Jonathan M. Broder, Esq. (w/encl.)
Gordon R. Fuller, COO, M&E Railway- (w/enc.)
Nathan R. Fenno, Esq. (w/encl)

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION : UNION COUNTY
DOCKET NO. L-2302-03
A.D. Docket No.

THE BOROUGH OF KENILWORTH,
et al.

Plaintiffs,

v.

THE COUNTY OF UNION and THE
MORRISTOWN AND ERIE RAILWAY, INC.
et al.

Defendants.

Transcript of
MOTION

PLACE: Union County Courthouse
2 Broad Street
Elizabeth, New Jersey, 07207

DATE: December 5, 2003

BEFORE:

HONORABLE EDWARD W. BEGLIN, JR., A.J.S.C.

TRANSCRIPT ORDERED BY:

PETER J. FABRIELE, ESQ. (Watson, Stevens. Fiorilla
& Rutter)

FREDERICK D. WOLFF, III, C.S.R.
Official Court Reporter
Union County Courthouse
2 Broad Street
Elizabeth, N.J., 07207

APPEARANCES:

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Attorney for Kenilworth.

KATHLEEN ESTABROOK, ESQ.
Appearing for Springfield.

BARRY OSMUN, ESQ.
Appearing for Summit.

JOHN DE MASSI, ESQ.
Appearing for Roselle.

VINCENT LOUGHLIN, ESQ.
Appearing for Roselle Park.

JOHN K. FIORILLA, appearing for the.
-and-

PETER J. FABRIELE, ESQ. (Watson, Stevens,
Fiorilla & Rutter, LLP)
Attorneys for Morristown & Eries Railway,
Inc.

ALEXANDER BOOTH, ESQ. Union County Counsel,
appearing for Union County. His associate.
Kraig Dow, also appearing for Union County.

1 put into this case, frankly a lot of Contracts 101, but
2 it doesn't belong in the case, and there's nothing
3 within the failure of performance, anything within that
4 area that presents a viable cause of action.

5 And finally, what the County has done here
6 under state law appears to be a proper governmental
7 function attributable to county government. I will
8 grant the motion and dismiss all counts of both amended
9 pleadings with the exception of that which brings into
10 question whether or not the county complied with the
11 requirements of the Open Public Meetings Act, I will
12 direct the county to file its answer as to that within
13 the next 15 days. I will give the parties a very
14 limited period of 30 days to discover that issue, and I
15 will trigger the start of that 30 day period today.

16 I can't imagine it requiring more time than
17 that. The railroad is out in all respects. I don't
18 find anything in these pleadings that preserves or sets
19 forth a separate cause of action against it.

20 Mr. Booth, I think I should receive one order
21 to that effect rather than a separate order from you
22 and Mr. Fiorilla, rather than doctor up the order that
23 came in with the motion. Okay? I thank you all.

24 MR. BOOTH: Clarification, I understood you
25 to say conflict of interest counts would also remain?