

BEFORE THE
ILLINOIS COMMERCE COMMISSION

SPRINGFIELD TOWNSHIP, SANGAMON COUNTY,)
ILLINOIS)

Petitioner,)

v.)

T99-0085

MIDLAND AND ILLINOIS RAILROAD, a corporation and)
STATE OF ILLINOIS, acting through Illinois Department)
of Transportation,)

Respondents.)

Petition of Springfield Township, Sangamon County,)
Illinois for an order of the Illinois Commerce Commission)
directing the installation of grade crossing protection)
devices at Midland and Illinois Railroad grade crossing)
at Taintor Road (East of Peoria Road) situated in)
Sangamon County, Illinois, and for such other appropriate)
relief as the Commission may deem necessary.)

CHIEF CLERK'S OFFICE

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ILLINOIS COMMERCE COMMISSION

PETITION FOR INTERVENTION

NOW COMES the Intervenor, CITY OF SPRINGFIELD, by and through its attorneys, Robert M. Rogers, Corporation Counsel, and Marilyn Thomas, Assistant Corporation Counsel, and pursuant to 735 ILCS 5/2-408 of the Illinois Rules of Civil Procedure, moves to intervene in the Petition captioned, "**Petition of Springfield Township, Sangamon County, Illinois for an order of the Illinois Commerce Commission directing the installation of grade crossing protection devices at Midland and Illinois Railroad grade crossing at Taintor Road (East of Peoria Road) situated in Sangamon County, Illinois, and for such other appropriate relief as the Commission may deem necessary,**" T-99-085. In support of its motion, the City states as follows:

1. That the Commerce Commission may, in its discretion, grant a petition to intervene. That the petition must:

- a) Be made in a timely manner. *Moore v. McDaniel*, 48 Ill. App. 3d 152, 5 Ill. Dec. 911, 362 N.E.2d at 389 (1977);

- b) Allege and establish an injury to an enforceable right of interest of the intervenor and that such right or interest be more than a general interest. *Village of Lake Bluff v. North Chicago*, 224 Ill. App. 3d 866, 166 Ill. Dec. 844, 586 N.E.2d at 804-805 (1992); and
- c) Must establish that the intervention will not unduly delay or unfairly prejudice the adjudication of the rights of the original parties. 735 ILCS 5/2-408(e), *Moore v. McDaniel*, supra, 362 N.E.2d 389-390.

2. That the City was contacted on September 14, 1999, by Attorney Mike Myers, attorney for Petitioner regarding said hearing on September 16, 1999.

3. That the City is involved in planning and approval of the development named Lincolnwood Estates, whose interests are represented by Petitioners. Said development is adjacent to the crossing at issue.

4. That the location of Lincolnwood Estates is within the City of Springfield.

5. That Section 153.57(k) of the 1988 City of Springfield, Code of Ordinances, as amended, requires that all areas of development containing 70 or more single family lots (or equivalent population) shall be served by two functioning points of access. Petitioner's development contains over 70 or more single family lots or the equivalent population, and Petitioner intends Taintor Road to serve as the second point of access. This point of access is also the point at which Petitioner seeks to require the installation of grade crossing protection devices. The City has an interest in the compliance of its own ordinances, and an interest upon the crossings adjacent to the property in its jurisdiction.

6. That the proposed Taintor Road extension is within the mile and one-half jurisdiction of the City, and thus, subject to City subdivision ordinances, and the City has an interest in the proper development and planning within the community, as well as with future development.

7. That the City of Springfield is concerned with the safety of individuals traveling through this crossing and has an interest in ensuring that proper safety measures are taken at the grade crossing at Taintor Road, (east of Peoria Road).

8. That the City has more than a general interest in this matter since the increased development and traffic on Taintor Road at the grade crossing will impact upon the safety of residents within the community.

9. That the granting of the Petition to Intervene will not unduly delay or unfairly prejudice the proceedings involving the original parties.

WHEREFORE, the Intervenor, City of Springfield, respectfully requests that the Illinois Commerce Commission grant its Petition to Intervene in the above-captioned case.

Respectfully submitted,
CITY OF SPRINGFIELD,
Intervenor

By: Marilyn Thomas
Marilyn Thomas
One of its Attorneys

VERIFICATION

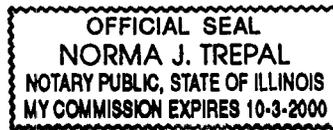
STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

I, MARILYN THOMAS, being sworn, state that I am one of the attorneys for Intervenor, City of Springfield, and am authorized to make this Affidavit. I have read the foregoing Petition for Intervention and have knowledge that the facts stated are true in substance and in fact.

Marilyn Thomas
Marilyn Thomas
One of its Attorneys

SUBSCRIBED AND SWORN TO before me this
14th day of September 1999.

Norma J. Trepal
Notary Public



Robert M. Rogers, Corporation Counsel
Marilyn Thomas #6226230
Attorneys for Intervenor City of Springfield
Room 100 Municipal Center West
300 South Seventh Street
Springfield, Illinois 62701-1680
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T99-0085

**PROOF OF SERVICE
PETITION FOR INTERVENTION**

THE UNDERSIGNED hereby certifies that on September 14, 1999, under penalties as provided by law pursuant to 735 ILCS 5/1-109, the foregoing **PETITION FOR INTERVENTION** was served by placing in a sealed envelope with first-class postage affixed thereto and depositing said envelope in a United States mailbox in Springfield, Illinois, addressed to:

Mr. Michael A. Myers
Sorling, Northrup, Hanna,
Cullen & Cochran, Ltd.,
Suite 800 Illinois Building,
P.O. Box 5131
Springfield, IL 62705
Fax: (217) 522-3173

Mr. James Slifer, Director
Division of Highways
Illinois Department of Transportation
2300 South Dirksen Parkway
Springfield, IL 62764
Fax: (217) 782-3971

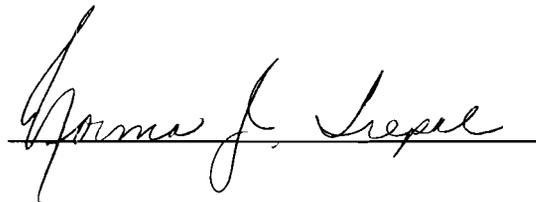
Mr. Philip L. Koeberlein, P.E.
Sangamon County Highway Engineer
3303 Terminal Avenue
Springfield, IL 62707
Fax: (217) 753-7999

Mr. Martin J. Ushman
Springfield Township Supervisor
1633 Tozer Road
Springfield, IL 62707
Fax: (217) 522-7981

Mr. David Lehman
Springfield Township Clerk
2954 Tozer Road
Springfield, IL 62707
Fax: (217) 522-7981

Mr. Joe Chernis, Jr.
Springfield Township Highway Commissioner
2437 Sandhill Road
Springfield, IL 62707
Fax: (217) 522-7981

Norma J. Graves
City Clerk
City of Springfield
106 Municipal Center West
300 South Seventh Street
Springfield, IL 62701
Fax: (217) 789-2144

A handwritten signature in cursive script, reading "Norma J. Graves", is written over a horizontal line.

Robert M. Rogers, Corporation Counsel
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