

EASTERN PENNSYLVANIA FREIGHT SUMMIT

Introduction & Changing Rules of the Game: One quick case study

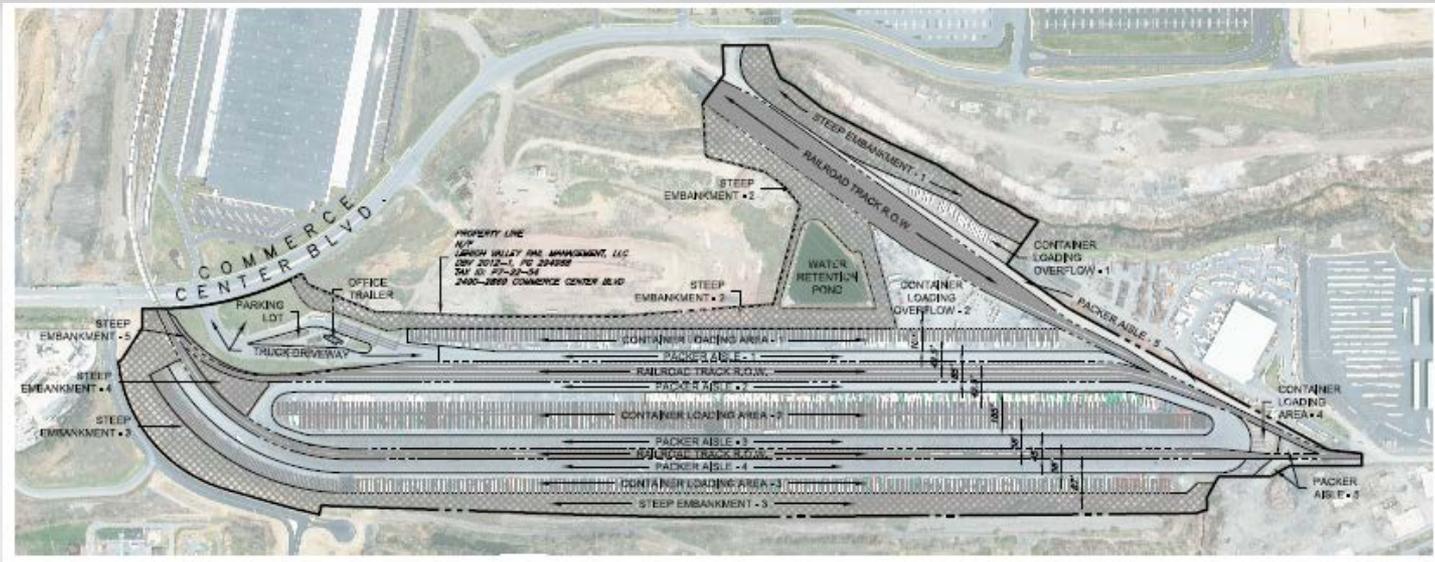


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Lehigh Valley Rail Management vs. Northampton County Board of Assessment Appeals, Pa. Cmwlth. Ct. 2018, 2531 C.D. 2015

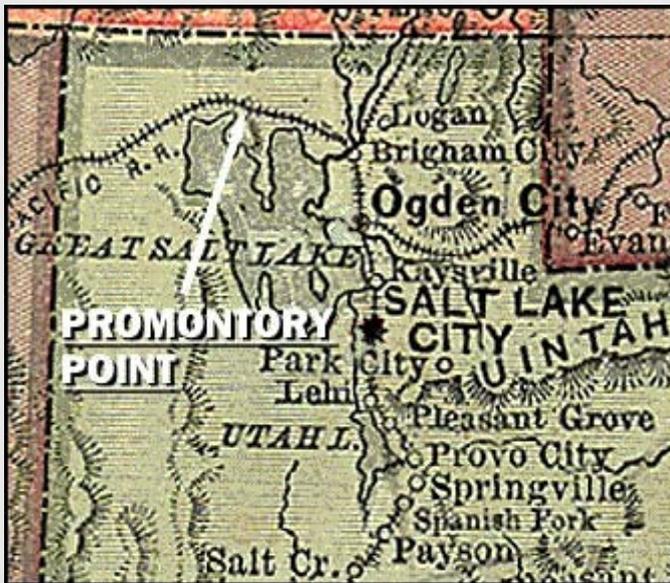
- A specialty tax assessment case which develops a modern approach to rail right-of-way and indirectly, multimodal freight transportation, and marketplace and technical realities. Pennsylvania has property tax exemptions for “Public Utility Realty” (“PURTA”, defined by statute)
- Several years ago, Northampton County unexpectedly removed PURTA exemption status for much of LVRM’s intermodal facility in Bethlehem.

- With involvement by PA Department of Revenue, County took the view that railroad right-of-way (and thereby exempt under PURTA) was limited to “the rails and the areas in between”.
- Resulted in increased tax obligation.
- No recognition of operational need for engineered aisles for packers, container car storage, or operations areas.



- LVRM appealed assessment determination, lost; appealed to trial court, and lost again (CSX decision from Delaware County).
- After CSX decision, Court allowed LVRM to present additional testimony on intermodal transit and nature of the technology; LVRM invoked statutory construction laws and history of intermodal transit in an additional trial hearing to establish that the largest area of intermodal facility as necessary under PURTA statute.

- Taxing authority cited 19th Century cases to support narrow definition of railroad right-of-way as exempt “public utility realty”.
- Among others, 1869 case cited by County to support “traditional” limited government view of railroad right-of-way.



1869 was the same year that the Golden Spike was driven at Promontory Point, Utah.

Law was not keeping up with technology but Commonwealth Court took a more expansive view.

- Commonwealth Court held that intermodal facilities were akin to railroad “switching yards”.
- A very scholarly and historical review is contained in the LVRM opinion.
- Moral of the Story: Industry needs to be proactive; legislature, local government, industry representatives must be educated on changing face of freight transportation.
- Latest Commonwealth Court opinion in LVRM vs. Northampton County Assessment is a worthwhile read – thought provoking.

WITH A TIP OF THE HAT TO THE VISIONARIES, ENGINEERS, AND LABORERS WHO MADE CROSS-COUNTRY TRANSPORTATION A REALITY



COMPLETION OF THE PACIFIC RAILROAD—MEETING OF LOCOMOTIVES OF THE UNION AND CENTRAL PACIFIC LINES; THE ENGINEERS SHAKE HANDS.