



THE LAW OFFICES OF
JEFFERY J. McNAUGHT

October 14, 2014

Sent via messenger delivery

City Clerk
City of St. Paul
310 City Hall
15 Kellogg Blvd., West
Saint Paul, MN 55102

Attn: Sherri Moore, City Clerk

RECEIVED

OCT 15 2014

CITY CLERK

**Re: Minnesota Commercial Railway
Objection to Assessment**

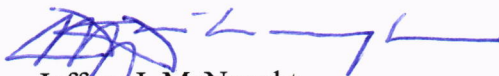
Dear Ms. Moore:

Please find attached the written objection of Minnesota Commercial Railway to the assessment which will be considered by the St. Paul City Council at its meeting on October 15, 2014, at 5:30 pm. This objection is submitted pursuant to Minn. Stat. § 429.061.

If you have any questions, please contact me.

Best regards,

THE LAW OFFICES OF JEFFERY J. McNAUGHT



Jeffery J. McNaught

JJM/lmm
Enclosure

Minnesota Commercial Railway

COMMERCIAL TRANSLOAD OF
MINNESOTA

John W. Gohmann, Chairman, President
14047 Petronella Drive, Suite 201
Libertyville, Ill. 60048
p. 847-549-0486, fax 847-549-0485
toll free: 888-489-2326
email: johngohmann@msn.com

October 13, 2014

Jeffrey McNaught, Attorney at Law
201 Ridgewood Avenue
Minneapolis, MN 55403

RE: Written Objection to Proposed Tax Assessments
By the St. Paul City Council

Dear Mr. McNaught

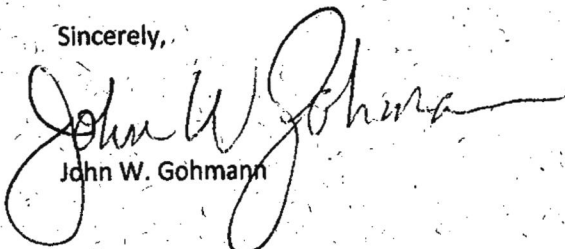
Attached is our letter protesting the proposed assessments covered in this letter.

As noted, the proposed reason for the assessment is vague, ambiguous and confusing, to say the least, and the purported purpose of lighting enhancements on University Avenue has no benefit whatsoever to our company.. in fact, the overall project has been negative.

Further, the notice seems to indicate that Minnesota Commercial may be responsible for certain property taxes at the Amtrak station on Tranfer Road, (not University Avenue).. The land for that property is owned by the St. Paul Port Authority and the building and trackage is owned by Amtrak..Further, Amtrak has ceased using this facility for intercity passenger service.. Its daily train now arrives and departs at the St. Paul Union Depot as of earlier this year.. Our predecessor sold this property, the Menards property, and all other properties name in these notices over 27 years ago. None of the properties receive rail service.. The Menards building entrance and exit is on Fairview Avenue.. Any proposed special assessments for any of these properties would be between the City and those property owners.

Rather than appear at an already crowded schedule of hearings regarding these assessments which is set for this Wednesday, the 15th, please make sure this is filed on our behalf and handle this matter on our behalf.

Sincerely,



John W. Gohmann

CHOICE INDUSTRIAL AND RELOAD SITES
Efficient, On Time Service Connecting Daily with All the Railroads of
the Twin Cities. Intermodal, Reload, and Trucking Provided by our
Subsidiary, Commercial Transload of Minnesota

Minnesota Commercial Railway

508 Cleveland Avenue North

St. Paul, MN 55114

October 12, 2014

City Clerk
City of St. Paul
310 City Hall
15 Kellogg Blvd., West
Saint Paul, MN 55102

Attn: Sherri Moore, City Clerk

Re: *Written Objection to Proposed Assessment*
Assessment #101000 - File #19082
Property #1 Identification No. 33-29-23-23-0005
Property #2 Identification No. 33-29-23-22-0027

Dear City Clerk:

On behalf of Minnesota Commercial Railway, which owns the properties identified above in St. Paul, Minnesota ("MCR"), I submit this objection to the proposed assessments identified in the notices attached hereto. Pursuant to Minn. Stat. § 429.061, MCR hereby gives written notice of its objection to the proposed assessment to be considered by the St. Paul City Council at its meeting on October 15, 2014. The total amount of the proposed assessments is \$23,230.12. The basis for MCR's objection is that the amount of the proposed assessment exceeds any special benefit that might inure to the property.

Introduction

Minn. Stat. § 429.061 permits a property owner who objects to a proposed assessment to submit its objection orally or in writing. Because representatives of MCR cannot be available to attend the October 15, 2014 meeting, this correspondence shall serve as MCR's written objection. MCR would like the opportunity to meet with city representatives to discuss its concerns regarding the proposed assessment, and would prefer to do so in lieu of the formal proceedings set forth by statute.

Minnesota law requires that, for an assessment to stand, the parcel of land subjected to the assessment must acquire a special benefit from the improvement. Moreover, the amount of the assessment may not exceed the benefit that inures to the property. Also, the assessment must be uniform upon the same class of property. MCR believes that the proposed assessment generates no benefit for the property.

MCR's Objection to the Proposed Assessment

MCR's objection to the proposed assessment, and its contention that the assessment provides no positive benefit to the property, is set forth below:

MCR operates approximately 150 miles of trackage serving the Twin Cities, with a few miles in St. Paul. MCR's primary customer base includes businesses in manufacturing, warehousing, lumber, grain and steel industries. MCR has an office and shop complex on Cleveland Avenue, approximately three blocks south of University Avenue, as well as trackage that leads to its shops and the Canadian Pacific mainline. MCR does not conduct retail or wholesale operations and it is not open to the general public. All of its property is classified as "Railroad Operating Property" under federal and state law. MCR is a federally authorized and licensed common carrier by rail. Almost all of its customers are well north of University Avenue in Roseville, Fridley, Lauderdale, New Brighton, Little Canada, White Bear Lake, Bayport, Hugo and other municipalities.

MCR received two notices from the St. Paul City Council entitled "Public Hearing Notice – Ratification of Assessment" for two of its parcels located in the Midway area of St. Paul. The Notices are attached hereto. The two property parcels to which the notices relate are identified as PID #33-29-23-23-0005 (Property #1) and PID #33-29-23-22-0027 (Property #2). On Property #1, the proposed assessment is \$21,087.12. On Property #2, the proposed assessment is \$2,143.00. The parcel locations and layouts are shown on the attached maps.

The notices do not elaborate on what is the purpose of the assessment, other than a terse statement indicating "Lighting (above standard)" and "Streetscape." Published news accounts suggest that the improvements are street lighting and streetscape improvements in connection with the Central Corridor light rail transit line.

MCR's only interface with the light rail system is a bridge over University Avenue, which carries MCR's rail system trackage. Neither of the properties being assessed require any access to the Central Corridor rail line. Moreover, MCR has neither customers on University Avenue nor a business presence on University Avenue. In fact, in order to accommodate the light rail system on University Avenue, MCR, on its own volition, cooperated with the light rail system contractors and the rail authority to allow widening of the bridge over which its tracks operate over University Avenue.

Accordingly, MCR receives no benefit from the project for which the assessment is proposed, and much less from the "improvement" itself. The lighting and overall operation of the light rail system on University has no positive commercial impact on Minnesota Commercial, in fact, it overall has been negative.

Potential Legal Issues

Under Minnesota law, only the Department of Revenue (MNDOR) only has the authority to assess "Railroad Operating Property." Minn. Stat. § 270.81 The City's proposed assessment raises issues as to whether the City may properly impose its assessment on the subject property, which is railroad operating property.

In addition, the proposed assessment may be a violation of the Railroad Revitalization and Regulatory Reform Act (4-R Act) (49 U.S.C. § 26c). The 4-R Act prohibits property taxes based on assessments that discriminate against transportation property in excess of that for all other commercial and industrial property in the same assessment jurisdiction. The Act also prohibits property taxes on transportation property at a higher rate than the tax rate generally applicable to commercial and industrial property in the same assessment jurisdiction. Finally, the Act prohibits the imposition of any other tax which results in discriminatory treatment of a common carrier by railroad. We are presently reviewing applicable law in connection with its application to this assessment.

Conclusion

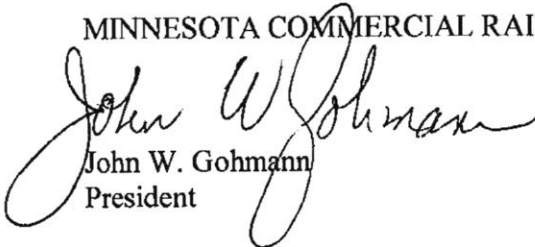
In light of the foregoing, MCR formally and respectfully requests that the city council, pursuant to Minn. Stat. § 429.061, subd. 2., withdraw the proposed assessments as to the MCR parcels.

MCR believes that a prudent evaluation of the project's allocation will show that the assessment is neither mathematically uniform nor equitably uniform. MCR does not believe that it is fair or permissible to impose on it the costs of an amenity that serves no benefit to its property.

MCR appreciates the council's consideration of its foregoing statement, and remains available at the city's convenience to discuss its concerns informally.

Respectfully submitted,

MINNESOTA COMMERCIAL RAILWAY



John W. Gohmann
President

Enclosures



Saint Paul City Council Public Hearing Notice Ratification of Assessment

OWNER OR TAXPAYER

Minnesota Commercial Railway
508 Cleveland Ave N
St Paul MN 55104-1804

COUNCIL DISTRICT #
PLANNING DISTRICT #
FILE #19082
ASSESSMENT #101000
PROPERTY ADDRESS
508 CLEVELAND AVE N
PARCEL ID
33-29-23-23-0005

PROPERTY TAX DESCRIPTION

SECTION 33 TOWN 29 RANGE 23 PART OF W 1/2 OF SEC 33 LYING E OF CLEVELAND AVE & S OF UNIV AVE & NLY OF C M STP & P RR R/W EX THEREFROM PARTS SOLD OR LEASED TO FOL: MIDWAY MOTOR LODGE, SPACE CENTER, DART TRANSIT, STATE SCALE TRACT IN DOC 1392163, SICKELS TRACT IN DOC 1596248 & BATHKE TRACT LYING S OF SD SICKELS TRACT (SUBJ TO ESMTS) IN SEC 33 TN 29 RN 23

THE TIME: Wednesday, October 15, 2014 at 5:30 PM
PUBLIC PLACE: City Council Chambers, 3rd Floor City Hall-Court House
HEARING Written or oral statements by any owner will be considered by the Council at this hearing.

PURPOSE To consider approval of the assessment for:
Light Rail Transit - University Avenue

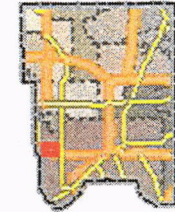
ASSESSMENT INFORMATION The proposed assessment for the above property is **\$21,087.12**. If the City Council approves the assessment you will have 30 days to pay without interest. Any unpaid balance will be collected with your property taxes over 20 year(s) at 4.2500% interest. The proposed roll for this project is available for review in the Real Estate Office, 25 W. 4th Street - 10th floor - City Hall Annex.

ASSESSMENT CALCULATION	Lighting (above standard) - R	492.00 X	2.43 / foot =	\$1,195.56
	Streetscape - R	492.00 X	40.43 / foot =	\$19,891.56

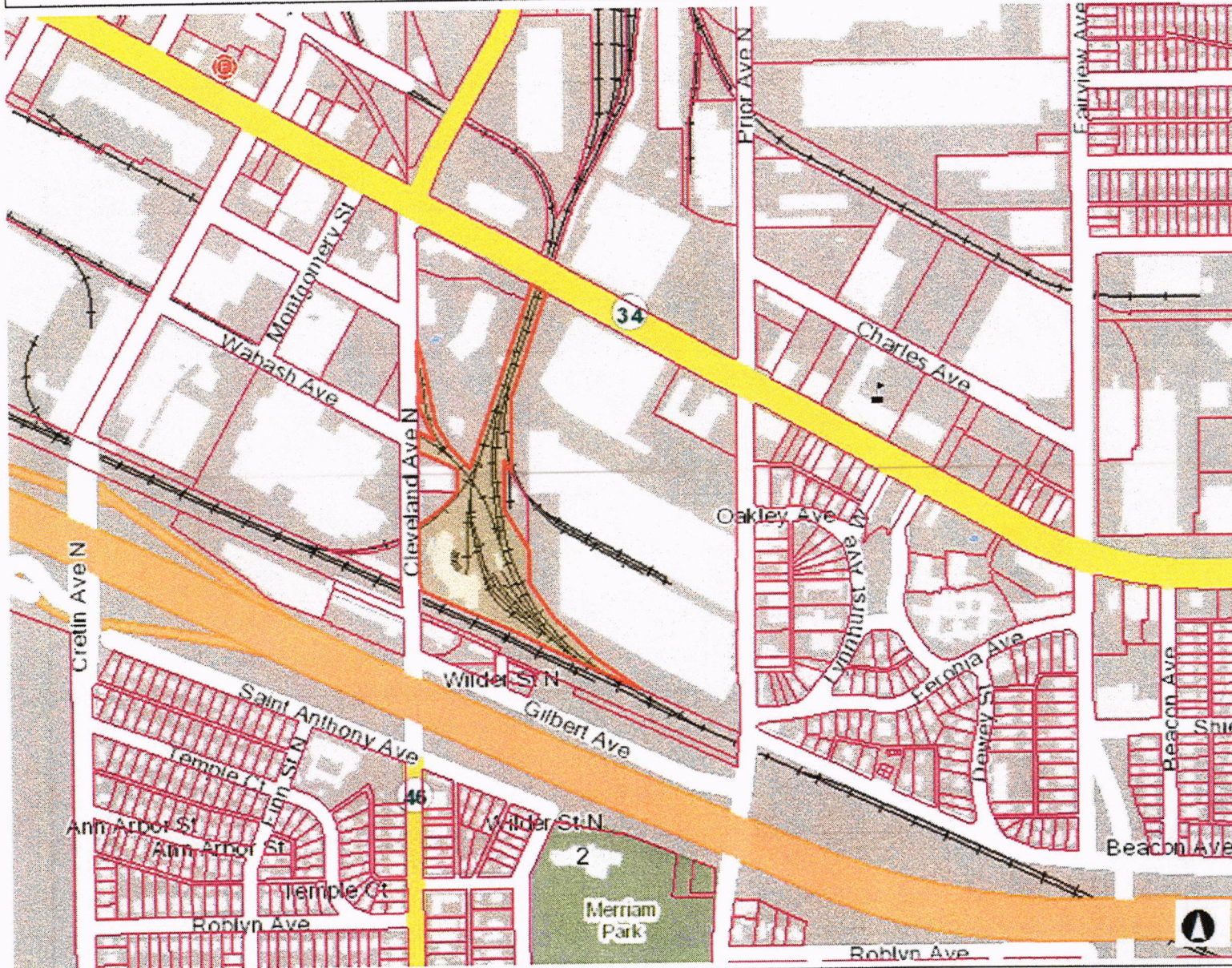
NOTE **THIS IS NOT A BILL.** YOU WILL RECEIVE AN INVOICE AFTER THE HEARING SPECIFYING THE AMOUNT APPROVED BY THE CITY COUNCIL WITH COMPLETE INSTRUCTIONS ON HOW TO PAY THIS ASSESSMENT.

Invoice will be sent to the taxpayer

Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries



1,159.7 0 579.85 1,159.7 Feet

NAD_1983_HARN_Adj_MN_Ramsey_Feet
© Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Enter Map Description



Saint Paul City Council Public Hearing Notice Ratification of Assessment

OWNER OR TAXPAYER

**Minnesota Commercial Railway
508 Cleveland Ave N
St Paul MN 55104-1804**

**COUNCIL DISTRICT #
PLANNING DISTRICT #
FILE #19082
ASSESSMENT #101000
PROPERTY ADDRESS
UNIVERSITY AVE W
PARCEL ID
33-29-23-22-0027**

PROPERTY TAX DESCRIPTION

SECTION 33 TOWN 29 RANGE 23 EX PARTS DEEDED TO THE PORT AUTHORITY & LEASES TO NATIONAL RAILROAD CORP & PRUDENTIAL INS CO; THAT PART BLY OF TRANSFER ROAD & NLY OF UNIVERSITY AVE & WLY OF PART DEEDED TO MENARDS INC IN THE W 1/2 OF THE NW 1/4 (SUBJ TO HSMTS) OF SEC 33 TN 29 RN 23

THE TIME: Wednesday, October 15, 2014 at 5:30 PM
PUBLIC PLACE: City Council Chambers, 3rd Floor City Hall-Court House
HEARING Written or oral statements by any owner will be considered by the Council at this hearing.

PURPOSE To consider approval of the assessment for:
Light Rail Transit - University Avenue

ASSESSMENT INFORMATION The proposed assessment for the above property is \$2,143.00. If the City Council approves the assessment you will have 30 days to pay without interest. Any unpaid balance will be collected with your property taxes over 20 year(s) at 4.2500% interest. The proposed roll for this project is available for review in the Real Estate Office, 25 W. 4th Street - 10th floor - City Hall Annex.

ASSESSMENT CALCULATION	Lighting (above standard) - C	50.00 X	2.43 / foot =	\$121.50
	Streetscape - C	50.00 X	40.43 / foot =	\$2,021.50

NOTE **THIS IS NOT A BILL.** YOU WILL RECEIVE AN INVOICE AFTER THE HEARING SPECIFYING THE AMOUNT APPROVED BY THE CITY COUNCIL WITH COMPLETE INSTRUCTIONS ON HOW TO PAY THIS ASSESSMENT.

Invoice will be sent to the taxpayer

DEFERRED PAYMENTS Persons 65 and older or permanently disabled may qualify for deferred payment of special assessments with a term greater than 1 year. If it would be a hardship and you homestead this property, you may apply for deferred payment after the City Council approves the **RATIFICATION OF ASSESSMENTS**.

This is not a forgiveness of payment. It is a deferred payment plan in which interest continues to accrue. The deferred payment shall be for a period no longer than the term of the special assessment. Assessments with a term of 1 year are not eligible for deferral.

For more information on deferments, please call **651-266-8858**.

VIEW ASSESSMENTS To view assessments online visit our website at www.stpaul.gov/assessments. Properties can be looked up either by street address or by parcel identification number.

QUESTIONS Before the public hearing call 651-266-8858 and refer to the File # on page 1 of this notice. City staff will be available to answer any last minute questions located on the 10th floor of the City Hall Annex the same day as the hearing. After the public hearing call 651-266-8858 and refer to the Assessment # on page 1.

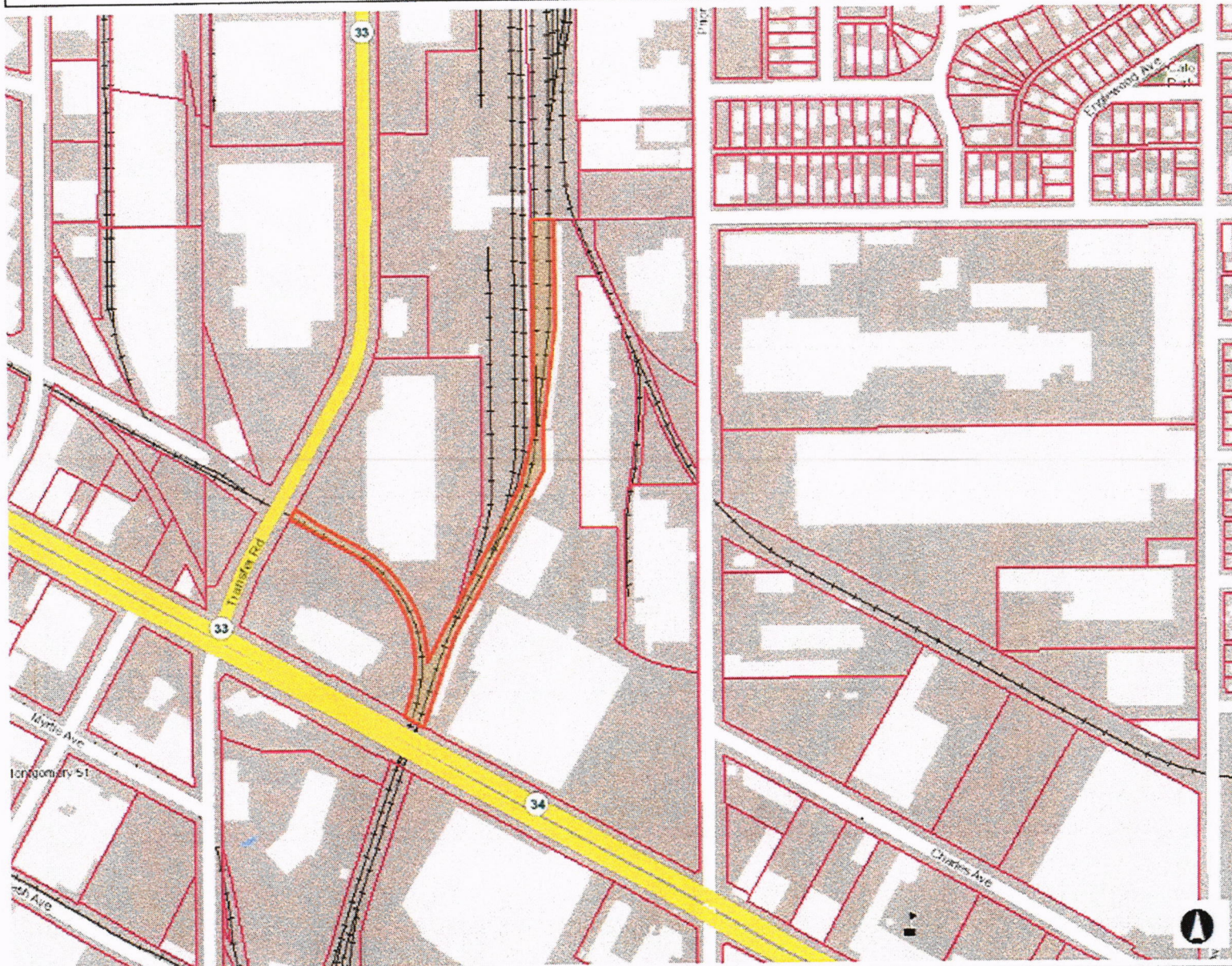
Tenemos a su disposición servicios de intérpretes gratuitos 651-266-8858. Adeegyada tarjumaada oo lacag la'aan ah ayaad helaysaa 651-266-8858. Yog koj xav tau tus neeg pab txhais lus dawb 651-266-8858.

APPEAL City Council decisions are subject to appeal in the Ramsey County District Court. You must file a notice stating the grounds for the appeal with the City Clerk within 20 days after the order adopting the assessment. You must file the same notice with the Clerk of District Court within 10 days after filing with the City Clerk.

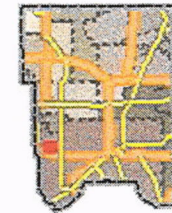
NOTE: Failure to file the required notices within the times specified shall forever prohibit an appeal from the assessment.

Section 64.06 of the Saint Paul Administrative Code requires regular assessment payments to be made even if an assessment is under appeal. If the appeal is successful, the payments including interest will be refunded.

**NOTICE SENT BY THE OFFICE OF FINANCIAL SERVICES
REAL ESTATE SECTION
25 W. 4TH ST.
1000 CITY HALL ANNEX
SAINT PAUL, MN 55102-1660**



Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries

Notes

Enter Map Description

773.1 0 386.57 773.1 Feet

NAD_1983_HARN_Adj_MN_Ramsey_Feet
© Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION