

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Assessment Appeal

First Baptist Church, et al.,

Court File No. 62-CV-16-6599

(Judge Richard H. Kyle, Jr.)

Appellants,

vs.

**SETTLEMENT AGREEMENT
AND RELEASE**

City of Saint Paul,

Respondent.

This Settlement Agreement and Release is made by and between Appellants First Baptist Church of St. Paul, Church of St. Pascal Baylon, Sewell Properties, LLC, Church of St. Mary, Bolander Properties (and affiliates), Center Ice MB, LLC (and affiliates), Dart Transit Properties (and affiliates), Dey Properties, Hillcrest Country Club, J. James Walsh, Kirtland Properties, LLC, Krinkie Properties, LLC, Le Auto, Lethert, Skwira, Schultz & Co., Lexington Convenience Properties, McCann Properties (and affiliates), Minnesota Commercial Railway (and affiliates), Mark Rutzick Properties, (and affiliates) Jim Rutzick Properties (and affiliates), Short and Miller St. Paul LLC, Soo Line Railroad dba Canadian Pacific, Thaemert Properties (and affiliates) and Town and Country Club and Respondent City of St. Paul.

WHEREAS, the above-listed Appellants filed an assessment appeal challenging their 2016 right-of-way street maintenance assessments for certain properties owned by them located in St. Paul alleging, *inter alia*, that the amount of the assessments were in excess of the special benefit to the properties;

WHEREAS, Respondent expressly denies Appellants' allegations and maintains that the assessments were lawful;

WHEREAS, the parties wish to settle and resolve all outstanding disputes and claims between them to avoid the uncertainties and costs associated with continued litigation of this matter by means of an 87.5% refund from the City as shown on the attached Exhibit A; and

WHEREAS, upon payment of the amounts shown on Exhibit A, the parties to this Settlement Agreement and Release have successfully conciliated all issues of dispute in the above-entitled matter.

NOW, THEREFORE, in consideration of the mutual promises established herein, the parties agree as follows:

1. Upon formal approval of the St. Paul City Council, the City of St. Paul will issue a total payment to the above-listed Appellants through their attorney, John G. Hoeschler, as shown on Exhibit A, in the amount of four hundred and nine thousand, four hundred and nine dollars and fifteen cents (\$409,409.15) in complete satisfaction of the 2016 right-of-way street maintenance assessment appeals that were not previously dismissed by the court on July 27, 2018, plus the costs shown on Exhibit A. Appellants dismissed in the July 27, 2018, Order as shown on Exhibit B shall remain in this lawsuit for purposes of appeal.

2. In consideration of the Exhibit A payment, the Exhibit A listed Appellants, by execution of this Settlement Agreement and Release, hereby fully and completely

release the City of St. Paul, and all of its past and present agents, officers and employees, predecessors, and successors in interest of the City of St. Paul in their official and individual capacities, of any and all claims for damages, costs and attorneys' fees which Appellants have or may have, whether presently known or unknown, arising in law or in equity, which were made, or which could have been made, in the above-entitled action. Appellants agree that upon execution of this Settlement Agreement and Release all such claims, differences, demands, rights, and causes of action, which Appellants now have or may have against the City of St. Paul for the 2016 Street ROW Assessments, and all of its past and present agents, officers, and employees, predecessors, and successors, and successors in interest of the City of St. Paul, in their official and individual capacities, whether currently known or unknown, arising in law or equity, which were made or which could have been made in the above-entitled action, are fully released, satisfied, discharged and settled. This means that Appellants release all employees of the City of St. Paul from any claims for damages, costs, interest, and attorney's fees with respect to 2016 Street ROW assessments known or unknown, that were or could have been brought in relation to the set of facts presented in the above-entitled assessment appeal.

3. Appellants agree that the terms of this Settlement Agreement and Release are binding on them and their personal representatives, heirs, successors and assigns.

4. Appellants understand and acknowledge that Respondent does not admit any wrongdoing, improper action or liability for any of Appellants' alleged claims.

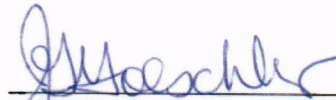
5. The parties agree that this Settlement Agreement and Release constitutes all of the agreements and understandings between them. There are no other written or oral agreements or understandings which modify the terms set forth in this Settlement Agreement and Release.

6. Appellants, by execution hereof, acknowledge that this Settlement Agreement and Release has been read by their legal counsel, and that they understand and fully agree to each provision hereof.

7. This agreement may be executed in counterparts.

Dated: November 26, 2018

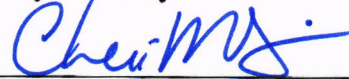
JOHN G. HOESCHLER, P.A.



John G. Hoeschler, #45810
800 Lone Oak Road
Eagan, MN 55121
jghoeschler@comcast.net
651-324-1694
Attorney for Appellants

Dated: 11/26/18

LYNDSEY M. OLSON
City Attorney



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15 West Kellogg Boulevard
Saint Paul, Minnesota 55102
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P: (651) 266-8768
F: (651) 266-8770
Attorneys for Respondent

Counterpart Signature Page for Individual Plaintiff (and affiliates, if any)

Taxpayer Property Address PIN Original Am't Settlement Am't

Signature of Authorized Rep.

Print Name and title

Date: December ____, 2018

Plaintiffs Who Filed Objections With the City Before 1st Council Hearing

SCHEDULE A				
Taxpayer	Property Address	PIN	Amount	87.5% of Amount
First Baptist Church of St. Paul				
First Baptist Church	499 Wacouta St.	312922410024	\$ 8,194.00	\$ 7,169.75
First Baptist Church	499 Wacouta St.	312922410182	\$ 10,171.12	\$ 8,899.73
First Baptist Church	499 Wacouta St.	312922410179	\$ -	\$ -
				\$ -
Church of St. Pascal Baylon				
Church of St. Pascal Baylon	1757 Conway St.	342922140046	\$ 6,693.03	\$ 5,856.40
Church of St. Pascal Baylon	510 White Bear Ave.	352922230088	\$ 2,644.70	\$ 2,314.11
Church of St. Pascal Baylon	0 White Bear Ave.	352922320072	\$ 1,481.48	\$ 1,296.30
				\$ -
Sewell Properties				
Sewell Properties, LLC	2274 University Ave. W.	322923120030	\$ 752.85	\$ 658.74
Sewell Properties, LLC	2288 University Ave. W.	322923120035	\$ 3,672.64	\$ 3,213.56
Sewell Properties, LLC	2288 Myrtle Ave	322923120036	\$ 998.00	\$ 873.25
Sewell Properties, LLC	0 Myrtle Ave	322923120041	\$ 2,395.20	\$ 2,095.80
				\$ -
Church of St. Mary				
Church of St. Mary	261 8th St. E	312922410216	\$ 6,844.40	\$ 5,988.85
Church of St. Mary	466 Wacouta St.	312922440003	\$ 3,200.48	\$ 2,800.42
				\$ -
Bolander Properties				
Bolander Real Estate LLC	0 Eustis Ave.	292923220008	\$ -	\$ -
Bolander Real Estate LLC	0 Unassigned	292923220014	\$ -	\$ -
Bolander Real Estate LLC	251 Starkey St	052822330046	\$ 4,689.47	\$ 4,103.29
				\$ -
				\$ -
Center Ice MB, LLC				
Upper Corner Venture	266 E. 7th St.	312922440040	\$ 964.00	\$ 843.50
Center Ice LLC	218 E 7th St.	312922440425	\$ 2,215.18	\$ 1,938.28

Plaintiffs Who Filed Objections With the City Before 1st Council Hearing

Center Ice LLC	229 E. 6th St.	312922440898	\$ 4,712.00	\$ 4,123.00
				\$ -
Dart Transit Properties				\$ -
475 Cleveland Assoc. LLC				\$ -
Dart Transit	475 Cleveland Ave. N.	322923410125	\$ 3,599.20	\$ 3,149.30
Midway Fuel	540 Cleveland Ave. N.	332923230008	\$ 1,197.60	\$ 1,047.90
Eaton Street LLC	543 Cleveland Ave. N.	322923140015	\$ 2,065.86	\$ 1,807.63
2085 Capp Road LLC	260 Eaton St.	082822120104	\$ 1,221.00	\$ 1,068.38
2085 Capp Road LLC	2185 Capp Road	292923410001	\$ 7,614.74	\$ 6,662.90
1047 Raymond LLC	2185 Capp Road	292923140015	\$ 5,330.24	\$ 4,663.96
802 Prior LLC	1043 Raymond	292923120055	\$ 1,097.80	\$ 960.58
Eaton Street LLC	802 Prior Ave. N.	282923340084	\$ 645.60	\$ 564.90
Eaton Street LLC	0 Chester St.	052822430004	\$ 577.94	\$ 505.70
Dart Transit	0 Lafayette Rd	080822120113	\$ 2,295.40	\$ 2,008.48
	770 Prior N.	282923340216	\$ 7,278.20	\$ 6,368.43
Dey Properties				\$ -
	525 Snelling N.	332923140052	\$ 3,165.94	\$ 2,770.20
Hillcrest Country Club				\$ -
Hillcrest Country Club		23-29-22-14-0002	\$ 43,804.34	\$ 38,328.80
Hillcrest Country Club		23-29-22-41-0001	\$ 17,317.86	\$ 15,153.13
Hillcrest Country Club		23-29-22-41-0002	\$ 4,543.46	\$ 3,975.53
		23-29-22-12-0003	\$ 746.20	\$ 652.93
J. James Walsh				\$ -
J. James Walsh	626 Armstrong	112823410135	\$ 5,141.38	\$ 4,498.71
J. James Walsh	646 Armstrong	112823410122	\$ 177.84	\$ 155.61
J. James Walsh	560 Randolph	122823320007	\$ 5,446.80	\$ 4,765.95
	565 Randolph	122823230116	\$ 534.00	\$ 467.25
Kirtland Properties LLC				\$ -
Kirtland Properties LLC	570 Hatch	252923230075	\$ 2,403.30	\$ 2,102.89
	582 Hatch	252923230076	\$ 652.50	\$ 570.94
Krinkie Company				\$ -
	1400 Concordia	342923340004	\$ 1,431.12	\$ 1,252.23
Le Auto				\$ -
	468 University Ave. W.	362923310033	\$ 1,516.84	\$ 1,327.24
Lethert, Skwira, Schultz & Co				\$ -
	170 7th Street E	312922440059	\$ 5,475.52	\$ 4,791.08
Lexington Convenience Prop.				\$ -
Lexington Convenience Prop.	390 Lexington	352923320149	\$ 1,394.60	\$ 1,220.28

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Lexington Convenience Prop.	Lexington Pkwy N	352923320150	\$ 518.96	\$ 454.09
	374 Lexington	352923320151	\$ 2,944.10	\$ 2,576.09
McCann Properties				\$ -
Charles & Caroline Mccann				\$ -
Mccann Developments	946 Raymond	292923420103	\$ 499.00	\$ 436.63
Mccann Developments	2292 University Ave W	322923120009	\$ 1,767.00	\$ 1,546.13
Mccann Developments	661 LaSalle St.	322923120022	\$ 3,642.70	\$ 3,187.36
Mccann Developments	2314 University Ave W	322923120040	\$ 1,147.20	\$ 1,003.80
Warehouse Rentals	2300 Myrtle Ave	322923120043	\$ 2,045.90	\$ 1,790.16
Update Company	2310 Capp Road	292923130057	\$ 1,896.20	\$ 1,659.18
Update Company	2380 Wycliff	292923130059	\$ 1,686.62	\$ 1,475.79
Update Company	970 Raymond	292923130060	\$ 2,355.28	\$ 2,060.87
Raymond Partners LLC	950 Raymond	292923420003	\$ 1,347.30	\$ 1,178.89
Midtown Commons	700 Raymond Ave	322923120045	\$ 4,650.68	\$ 4,069.35
Midtown Commons	2334 University Ave W	322923120038	\$ 1,195.00	\$ 1,045.63
Midtown Commons	2348 University Ave W	292923430081	\$ 896.25	\$ 784.22
	2324 University Ave W	322923120039	\$ 1,195.00	\$ 1,045.63
Minnesota Comm'l Railway				\$ -
Minnesota Comm'l Railway	2542 Como Ave.	20-29-23-23-0004	\$ 407.00	\$ 356.13
Minnesota Comm'l Railway	0 Berry St.	20-29-23-32-0004	\$ 399.20	\$ 349.30
Minnesota Comm'l Railway	0 Berry St.	20-29-23-32-0032	\$ 32.56	\$ 28.49
Minnesota Comm'l Railway	0 Kasota Ave.	20-29-23-33-0006	\$ 610.50	\$ 534.19
Minnesota Comm'l Railway	0 Doswell Ave.	20-29-23-33-0016	\$ 628.74	\$ 550.15
Minnesota Comm'l Railway	0 Pierce Butler Rt/Transfer R	28-29-23-32-0015	\$ 3,622.30	\$ 3,169.51
Minnesota Comm'l Railway	0 Capp Rd	28-29-23-32-0018	\$ 179.64	\$ 157.19
Minnesota Comm'l Railway	0 Ellis Ave	28-29-23-33-0006	\$ 169.66	\$ 148.45
Minnesota Comm'l Railway	2071 University Ave W	29-29-23-13-0015	\$ 1,404.15	\$ 1,228.63
Minnesota Comm'l Railway	508 No. Cleveland	32-29-23-14-0018	\$ 142.45	\$ 124.64
Minnesota Comm'l Railway	601 Prior Ave N.	33-20-23-22-0035	\$ 389.22	\$ 340.57
Minnesota Comm'l Railway	508 Cleveland Ave N	33-29-23-23-0005	\$ 2,002.44	\$ 1,752.14
Minnesota Comm'l Railway	522 Cleveland Ave No.	33-29-23-23-0010	\$ 337.81	\$ 295.58
	University Ave W	33-29-23-22-0027	\$ -	\$ -
Mark Rutzick Properties				\$ -
Rutzick Properties (Mark)				\$ -
Rutzick Properties (Mark)	185 Plato	06-28-22-43-0007	\$1,976.04	\$ 1,729.04
75 Plato LLC (Mark)	185 Plato	06-28-22-43-0006	\$ 2,365.26	\$ 2,069.60
	75 Plato Blvd W.	06-28-22-43-0002	\$ 7,355.26	\$ 6,435.85
Jim Rutzick Properties				\$ -

Plaintiffs Who Filed Objections With the City Before 1st Council Hearing

RRB Associates (Jim Rutzick)				\$	-
JSS Associates (Jim Rutzick)	975 Grand	02-28-23-31-0131	\$ 2,911.74	\$	2,547.77
	155 Wabasha St.	06-28-22-41-0045	\$ 7,415.14	\$	6,488.25
Short and Miller St Paul LLC				\$	-
	278 E. 7th St.	312922440038	\$ 2,602.80	\$	2,277.45
Soo Line Railroad dba Canadian Pacific				\$	-
			\$ 116,316.78	\$	101,777.18
				\$	-
Thaemert Properties				\$	-
Thaemert (White Castle)				\$	-
Craig Thaemert	1601 White Bear Ave.	222922110155	\$ 5,436.64	\$	4,757.06
Thaemert (Dairy Queen)	1567 White Bear Ave.	222922110156	\$ 1,160.24	\$	1,015.21
Alice Thaemert Trustee	1537 White Bear Ave.	222922140020	\$ 1,719.12	\$	1,504.23
Alice Thaemert Trustee	1529 White Bear Ave.	222922140021	\$ 2,056.64	\$	1,799.56
	0 Montana E.	222922140022	\$ 455.08	\$	398.20
Town & Country Club				\$	-
Town & Country Club				\$	-
Town & Country Club	336 Otis Avenue	322923340017	\$ 954.20	\$	834.93
Town & Country Club	294 Mississippi River Blvd	322923340018	\$ 4,394.20	\$	3,844.93
Town & Country Club	282 Otis Avenue	322923420001	\$ 60,790.34	\$	53,191.55
Town & Country Club	300 Mississippi River Blvd. N.	322923340013	\$ 12,939.92	\$	11,322.43
Town & Country Club	304 Pelham Blvd	322923310044	\$ 5,916.74	\$	5,177.15
Town & Country Club	2380 Beverly Road	322923310023	\$ 1,225.78	\$	1,072.56
	2400 Beverly Road	322923310022	\$ 5,487.56	\$	4,801.62
				\$	-
			\$ 467,896.17	\$	409,409.15

SCHEDULE B

Institution Name	Primary Address	PINs	Assessment
Blessed Sacrament, Saint Paul	Church of the Blessed Sacrament 2119 Stillwater Ave Saint Paul, MN 55119	262922420197	\$ 2,682.13
		262922420001	\$ 190.00
Cathedral of Saint Paul	Cathedral of Saint Paul 239 Selby Ave Saint Paul, MN 55102	012823116028	\$ 5,022.38
		012823110031	\$ 223.85
		012823110057	\$ 1,804.67
		012823110056	\$ 755.75
		012823110034	\$ 921.08
Holy Childhood, Saint Paul	Church of the Holy Childhood 1435 Midway Pkwy Saint Paul, MN 55108	222923310173	\$ 3,954.03
Holy Spirit, Saint Paul	Church of the Holy Spirit 515 Albert St S Saint Paul, MN 55116	102823310024	\$ 3,263.30
		102823310020	\$ 2,937.70
Lumen Christi, Saint Paul	Lumen Christi Catholic Community 2055 Bohland Ave Saint Paul, MN 55116-1911	162823220101	\$ 3,876.99
		162823220102	\$ 2,530.80
		162823410002	\$ 4,888.35
Maternity of Mary, Saint Paul	Church of the Maternity of the Blessed Virgin 1414 Dale St N Saint Paul, MN 55117	242923320161	\$ 6,350.93
Nativity of Our Lord, Saint Paul	Church of the Nativity of Our Lord 1900 Wellesley Ave Saint Paul, MN 55105	092823210157	\$ 745.60
		092823210191	\$ 5,787.40
		092823210127	\$ 167.20
		092823210128	\$ 167.20
		092823210129	\$ 167.20
		092823210124	\$ 167.20
		092823210125	\$ 167.20
		092823210126	\$ 167.20
		Sacred Heart, Saint Paul	Church of the Sacred Heart 840 6th St E Saint Paul, MN 55106
332922220192	\$ 186.20		
332922220193	\$ 1,085.46		
Saint Agnes, Saint Paul	Church of Saint Agnes 535 Thomas Ave Saint Paul, MN 55103	362923220062	\$ 186.40
		362923220064	\$ 186.40

		362923220068	\$	186.40
		362923220069	\$	93.20
		362923220071	\$	296.40
		362923220073	\$	2,147.94
		362923220280	\$	847.80
		362923220282	\$	6,705.06
	Church of Saint Andrew Kim 1850 Mississippi River Blvd Saint Paul, MN 55116	212823230020	\$	205.04
Saint Andrew Kim, Saint Paul		212823230021	\$	163.40
		212823230022	\$	828.40
		212823310007	\$	1,126.10
		212823310021	\$	1,135.66
	Church of Saint Bernard 187 Geranium Ave W Saint Paul, MN 55117	252923110055	\$	3,180.60
Saint Bernard, Saint Paul		252923110054	\$	2,423.94
		252923110007	\$	278.74
		252923110095	\$	614.80
		252923110096	\$	186.40
		252923110111	\$	144.46
		252923110112	\$	219.02
		252923110113	\$	219.02
		252923110114	\$	623.26
	Church of Saint Casimir 934 Geranium Ave E Saint Paul, MN 55106	282922220052	\$	4,332.08
Saint Casimir, Saint Paul				
	Church of Saint Cecilia 2357 Bayless Pl Saint Paul, MN 55114	292923310020	\$	1,222.98
Saint Cecilia, Saint Paul				
	Church of Saint Columba 1327 Lafond Ave Saint Paul, MN 55104	342923120221	\$	4,030.29
Saint Columba, Saint Paul				
	Church of Saint Francis de Sales 650 Palace Ave Saint Paul, MN 55102	112823140144	\$	5,342.80
Saint Francis de Sales, Saint Paul				
	1095 DeSoto St Saint Paul, MN 55130	292922220170	\$	3,363.00
Saint Patrick, Saint Paul				
	Church of Saint Peter Claver 375 Oxford St N Saint Paul, MN 55104	352923320152	\$	3,069.01
Saint Peter Claver, Saint Paul				
		352923320052	\$	823.28
Saint Stanislaus, Saint Paul	398 Superior St Saint Paul, MN 55102	012823340112		
		012823340113		
		012823340229		
	1255 Maryland	242923430138	\$	372.80
		242923440196	\$	200.38

		242923430111	\$ 1,255.54
R&M Holdings (Bolander)	251 Starkey St.	52822330061	\$1,097.80
Bolander Real Estate LLC	226 Starkey St.	52822330062	\$7,989.38
Mb Properties LLC		312922440039	\$964.00
			\$ 110,189.85