

May 16, 2011

Ms. Marcia Moermond  
Legislative Hearing Officer - City of St. Paul  
310 CITY HALL  
15 W. Kellogg Blvd.  
St. Paul, MN 55102

RECEIVED  
MAY 16 2011  
CITY CLERK

RE: My Client: Richard H. Nicholson  
260 Summit Avenue, St. Paul, MN 55102-2121

SUBJECT: Correction Notice issued regarding 260 Summit Avenue  
File No.: 11-127250  
Hearing Date: May 17, 2011

Dear Ms. Moermond:

Our firm represents Richard H. Nicholson in regard to a Correction Notice he received dated April 18, 2011 and relating to the historic Walnut Street Stairway. Mr. Nicholson has been cited under the St. Paul Legislative Code for the failure to repair deficiencies on a wall which is appurtenant to the historic stairway. The City of St. Paul Department of Safety and Inspections is well aware of a long-standing disagreement between the City of St. Paul and my client as to responsibility for the repairs to this public improvement. See letter to Mayor Chris Coleman dated February 17, 2009 attached to Notice of Appeal and attached as Exhibit A to this letter.

This historic stairway and the wall which is appurtenant to and an integral part of its construction, is a dedicated public improvement located on a public easement. This is a matter which should be resolved by agreement between the City of St. Paul and my client, rather than the threat of criminal charges under the St. Paul Legislative Code.

The history of this public improvement dates back to the early part of the Twentieth Century. In 1891, James J. Hill built his historic mansion located at 240 Summit Avenue. Thereafter, in 1898 he purchased the adjacent property for his son Louis Hill. Prior to construction of a new home on the site, James J. Hill petitioned the City of St. Paul to vacate Walnut Street, which was originally platted to extend between Summit Avenue and Irvine Avenue.

On August 6, 1901, the Board of Alderman adopted a Resolution vacating Walnut Street, subject to conditions. The relevant portions of the Resolution read as follows:

There shall be and is granted and reserved to the public for all time and right to travel on foot upon and over the portion of said Walnut Street, 10 feet in width, extending along the Northeasterly line thereof, and that, the said Mary T. Hill and James J. Hill at their own cost and without any expense to the City immediately upon the passage of this resolution shall building a suitable stairway 10 feet in width to be used for the accommodation of foot passengers along the Northeasterly line of the present Walnut Street, between Summit Avenue and Irvine Avenue as afore said, the said stairway to be

constructed of stone, iron or such other suitable and durable material as the Commissioner of Public Works of the City of St. Paul shall direct and to be built according to a plan or design that are to be prepared and approved by said Commissioner.

Although the improvements were built at the sole cost of the Hill family, maintenance was reserved to the City of St. Paul. The Resolution provides:

“ . . . Said Mary T. Hill and James J. Hill shall file in the Office of the City Clerk the written acceptance hereof, to be approved by the Corporation Attorney including an agreement upon their part to keep and abide by all of the conditions and requirements herein contained, also including therein the **grant to said City for public use of the right to maintain said stairs on the Easterly 10 feet of said vacated street for foot travel thereon as provided . . .**” (emphasis added).

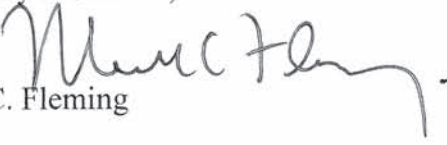
Thereafter, in an agreement dated August 23, 1901, James and Mary Hill consented to the terms of the Resolution, including the grant to the City of the right to maintain improvements construction on the Easterly 10 feet of the vacated street for the use of the public. As required by the City Resolution, Mr. Hill constructed the improvements, as approved by the Commissioner of Public Works to the City of St. Paul. A copy of the original Resolution vacating Walnut Street and the agreement of James and Mary Hill to the conditions of vacation is attached to this letter as Exhibit B.

A copy of a survey prepared by Precision Surveys, Inc. dated April 22, 1997, which shows the location of the improvements, is attached to this letter as Exhibit C. In addition, we believe that it is generally agreed that the City has maintained and repaired the stairway and appurtenant wall since the time of its construction. See Walnut Street maintenance cost summary prepared by Kevin L. Nelson, City Bridge Inspector, covering the years 1990 – 2008 as attached to the letter directed to Mayor Chris Coleman dated February 17, 2009, as shown in attached Exhibit A.

The historical background and the available documents lead to the conclusion that the Hill Family built the improvements as required and thereafter dedicated the improvements to the public for the public use created in the original agreement between the Hills and the City of St. Paul. In light of this background, it is our contention that the City of St. Paul is responsible for repairs pertaining to these public improvements located on a dedicated pedestrian right of way.

Our position is based upon the original agreement, the historical maintenance of the stairway and further supported by the general principal of law that the City of St. Paul has a responsibility to repair and maintain a public improvement located upon an easement.

Respectfully submitted,

  
Michael C. Fleming

Encl.

Cc: Nicholson

St. Paul City Attorney

E X H I B I T     A

February 17, 2009

Honorable Chris Coleman  
Mayor – City of St. Paul  
15 W. Kellogg Blvd – Room 390  
St. Paul, MN 55102

COPY

RE: 260 Summit Avenue  
My Clients: Richard and Nancy Nicholson

Dear Mayor Coleman:

On behalf of my clients, I want to thank you and your staff for taking the time to meet with us to discuss responsibility for repairs to the historic Hill Stairway, which were completed in 2008.

We had hoped through these discussions to come to an agreement as to the manner in which repairs to the stairway and wall could be allocated between my clients and the City of St. Paul. It has not been possible to reach an agreement.

When Walnut Street was vacated on August 17, 1901, the City reserved a perpetual easement for the benefit of the public along the northeasterly ten feet of 260 Summit Avenue. The Hill family was required to build a “suitable stairway” for use **by the public** within the easement according to plans approved by the City of St. Paul at that time. Under basic principals of law, the City has the responsibility to repair and maintain a public improvement located upon an easement. It is hard to deny that the stairway is a “public improvement”, that the wall is an integral part of the stairway, and that it was approved as such by the City of St. Paul at the time it was constructed. Accordingly, the basic obligation to repair the wall and stairway should rest with the City.

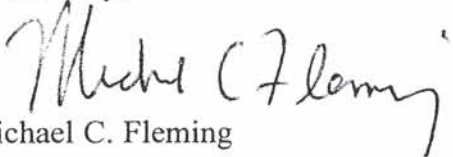
The City is taking the position that their obligation to repair and maintain this improvement is *limited solely to the step portion* of the stairway and not the wall. We do not believe this is a reasonable interpretation given the manner in which the improvement was constructed and historical facts which indicate that the City of St. Paul has maintained both the stairway and wall in the past. As an example of past City maintenance, we are attaching a summary of maintenance, prepared by St. Paul Public Works, which details City maintenance of the wall and stairway during the years 1990 - 2008.

Upon the recent collapse of the wall, Mr. Nicholson, responding to City letters threatening a citation, and in the interest of having the repairs completed to “dress up the City” prior to the arrival of the RNC, retained a contractor to make repairs to the stairway and wall under the assumption that there would be reasonable contribution by the City for the cost of repairs. The contractor, Mr. Nicholson’s architect, and staff from St. Paul Public Works worked together on this project. Mr. Nicholson acknowledges that the City contributed labor to the repairs, having a value of approximately \$47,000, including work for removal of debris from the collapsed wall and replacement of sidewalk. The total

cost of the repair work completed by the contractor (exclusive of City work) was \$182,687 and Mr. Nicholson assumed that the City would pay a greater portion of this work to the extent it was a benefit to the existing public improvement. The City continues to maintain that it has no responsibility for the wall and that the City is precluded from paying for the repair work under the theory that such payment, without prior legislative approval of the project, would infringe upon appropriate City legislative process.

Mr. Nicholson has made payment to the contractor for the recent repairs based upon his contractual payment obligation incurred as a result of initiating this project. This payment is not an acknowledgement of any responsibility for these or future repairs, or an assumption of the City's legal obligation to maintain and repair the stairway as a public improvement. Mr. Nicholson hereby places the City of St. Paul on notice that he reserves the right to seek contribution for his expenditure and that he will pay no additional costs related to the repair of the stairway unless there is either a reasonable agreement between the City and the Nicholsons regarding the appropriate allocation of costs, or court determination as to responsibility for maintaining this public improvement.

Yours truly,



Michael C. Fleming

MCF:kb

Cc: Client  
Lisa Veith - St. Paul City Attorney's Office  
Kevin Nelson - St. Paul Public Works

### Walnut Stairway Maintenance Cost Summary

Year	Maintenance Projects	Cleaning and Snow	Description of Work
1990	\$ 120,355	\$ 650	Repair of the upper stairway and wall at Summit, Repair of fencing at lower portion at Irvine
1991	\$ 7,992	\$ 650	Stairway tread repair
1992	\$ 346	\$ 650	Clean Stairway
1993	\$ 6,567	\$ 650	Graffiti lower portion at Irvine
1994	\$ 1,701	\$ 650	Brushing and Cleaning
1995	\$ 3,723	\$ 650	Graffiti mostly and cleaning
1996	\$ 2,051	\$ 650	Graffiti and masonry repair
1997	\$ 2,029	\$ 650	Graffiti and cleaning
1998	\$ 1,152	\$ 650	Graffiti and cleaning
1999	\$ 1,567	\$ 650	Graffiti
2000	\$ 806	\$ 650	Graffiti
2001	\$ 2,866	\$ 650	Graffiti and concrete stair tread repairs
2002	\$ 13,715	\$ 650	Graffiti, cleaning, brushing, erosion control, stair tread repairs
2003	\$ 1,533	\$ 650	Repairs and cleaning
2004	\$ 6,866	\$ 650	Stairway tread repair
2005	\$ -	\$ 650	No special work
2006	\$ 2,447	\$ 650	Brushing and Graffiti
2007	\$ -	\$ 650	No special work
2008	\$ 58,184	\$ 650	Remove masonry debris, Repair stair treads, replace sidewalk on Summit, reset stone curbing on Summit, overlay driveway apron.

\$ 233,900    \$ 12,350    Subtotal

\$246,250    Total Maintenance Costs 1990 - 2008 (in 2008\$)

\$ 12,961    Average Annual Maint in (2008\$)

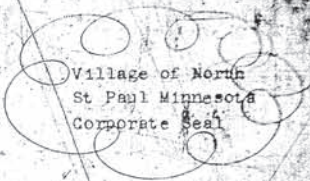
Note: All costs in 2008\$. Annual inflation computed at 2.79% based on billing wage rates.

prepared by Kevin L Nelson, PE  
November 26, 2008

I, John Schleck, the Village Recorder of the Village aforesaid do hereby certify that a resolution of which a copy is hereto attached was duly passed by the Council of said Village at a meeting duly called and held in said Village on the 4th day of September A.D. 1901, and I further certify that I have carefully and diligently compared the copy hereto attached with said original resolution which is now in my possession and official custody, and of record in my office, and that the same is a true and correct copy of said original resolution and of the whole thereof.

WITNESS: my hand at said Village of North St. Paul, this 5th day of September A.D. 1901.

John Schleck,  
Village Recorder,  
Village N. St. Paul,  
Minnesota.



Filed for Record on the 21st day of September A.D. 1901 at 2:50 o'clock P.M.

NO 268941.

Bd F. No 14199.

WHEREAS, there was heretofore presented to the Board of Aldermen, one of the branches of the Common Council of the City of St. Paul, the Petition of Mary T. Hill and James J. Hill, who are the owners of the property abutting upon both sides of Walnut Street, between Summit Avenue and Irvine Avenue, in the City of St. Paul, praying for the vacation of that portion of said Walnut Street extending from the northwesterly line of Irvine Avenue to the southeasterly line of Summit Avenue, more particularly described and shown upon a plat annexed to said petition which said petition is duly verified as required by law and sets forth the facts as to the dedication and the present use of said street and the reasons for such vacation and showing among other things that the character of the ground included within the lines of said street between the points above indicated is such that the said street cannot be used for public travel except by pedestrians on the stairway maintained thereon; and

WHEREAS, The said Board of Aldermen deemed it expedient that the matter therein referred to should be proceeded with and ordered said petition and accompanying plat to be filed of record in the office of the City Clerk and ordered said Clerk to give notice, by publication, in the official paper of the city, to the effect that said petition had been filed and stating in brief its object, and that said petition and the subject matter thereof would be heard and considered by the Committee on Streets of said Board of Aldermen at its regular stated meeting, to be held on the first day of August, 1901, at four o'clock in the afternoon of that day, in the Council Chamber in said City of St. Paul, and thereupon said petition and plat were duly filed in the office of the City Clerk of said City of St. Paul, and said notice was duly given and published, and said petition and plat and other matters connected therewith were duly referred by said Board of Aldermen to said committee for hearing and investigation; and

WHEREAS, The said Committee on Streets of said Board of Aldermen did meet in the Council Chamber in said city on the day and at the hour above mentioned for the hearing thereof, and did investigate and consider the matter of said proposed vacation and there heard all testimony and evidence adduced on the part of the petitioners and other persons interested in the

... of said proposed vacation and took proof of the matters averred in said petition and being  
... opinion that the prayer of said petition should be granted, reported its conclusions to  
... Board of Aldermen, recommending the adoption of an appropriate resolution declaring said  
vacation.

NOW, THEREFORE, It is resolved by the Common Council of the City of St Paul, that all  
that part of Walnut Street in the said City of St Paul, extending from the southeasterly line  
of Summit Avenue to the northwesterly line of Irvine Avenue extended across said Walnut street,  
be and the same hereby is vacated, subject, however, to the following conditions.

(1) That there shall be and is granted and reserved to the public for all time the right  
to travel on foot upon and over the portion of said Walnut street, ten feet in width, extending  
along the northeasterly line thereof, and that wife said Mary T. Hill and James J. Hill at their  
own cost and without any expense to the city, immediately upon the passage of this resolution  
shall build a suitable stairway, ten feet in width, to be used for the accommodation of foot  
passengers along the northeasterly line of the present Walnut street, between Summit Avenue  
and Irvine Avenue, as aforesaid, the said stairway to be constructed of stone, iron or such other  
suitable and durable material as the Commissioner of Public Works of the City of St Paul shall  
direct and to be built according to a plan or design therefor to be prepared and approved by said  
Commissioner.

(2) Said petitioners shall pay into the treasury of the City of St Paul the sum of one  
Dollar, which is hereby fixed as the compensation to be paid by them to the city in consideration  
of said vacation.

(3) Said Mary T. Hill and James J. Hill shall file in the office of the City Clerk their  
written acceptance hereof, to be approved by the Corporation Attorney, including an agreement  
upon their part to keep and abide by all the conditions and requirements herein contained, also  
including therein the grant to said city for public use of the right to maintain said stairs on  
the easterly ten feet of said vacated street for foot travel thereon as herein provided.

Adopted by the Board of Aldermen, Aug. 5, 1901.

Adopted by the Assembly, Aug. 15, 1901.

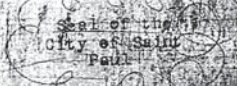
Approved Aug. 17, 1901.

State of Minnesota, )  
County of Ramsey, ) ss.  
City of St Paul. )

I, Matt Jensen, City Clerk of the City of St Paul, Minnesota, do here  
by certify that I have compared the attached printed copy of B. F. #14199, being a resolution  
vacating all that part of Walnut Street in the City of St Paul, extending from the southeasterly  
line of Summit Ave. to the northwesterly line of Irvine Ave., extended across said Walnut Street  
with the original thereof on file in this office, and as adopted by the Board of Aldermen Aug.  
6th, 1901, and by the Assembly Aug. 15th, 1901, and as approved by the Mayor Aug. 17th, 1901, and  
I further certify that said copy is a true and correct copy of said original and the whole whereof

Witness the seal of the City of St Paul this 20th day of September A.D. 1901.

Matt Jensen,  
City Clerk.



St. P. No. 14199.

WHEREAS, There was heretofore presented to the Board of Aldermen, one of the branches of the Common Council of the City of St. Paul, the petition of Mary T. Hill and James J. Hill who are the owners of the property abutting upon both sides of Walnut Street between Summit Avenue and Irvine Avenue, in the City of St. Paul, praying for the vacation of that portion of said Walnut street extending from the northwesterly line of Irvine Avenue to the southeasterly line of Summit Avenue, more particularly described and shown upon a plat annexed to said petition, which said petition is duly verified as required by law and sets forth the facts as to the dedication and the present use of said street and the reasons for such vacation and showing among other things that the character of the ground included within the lines of said street between the points above indicated is such that the said street cannot be used for public travel except by pedestrians on the stairway maintained thereon; and

WHEREAS, The said Board of Aldermen deemed it expedient that the matter therein referred to should be proceeded with and ordered said petition and accompanying plat to be filed of record in the office of the City Clerk and ordered said Clerk to give notice, by publication, in the official paper of the city, to the effect that said petition had been filed and stating in brief its object, and that said petition and the subject matter thereof would be heard and considered by the Committee on Streets of said Board of Aldermen at its regular stated meeting to be held on the first day of August, 1901, at four o'clock in the afternoon of that day, at the Council Chamber in said City of St. Paul, and thereupon said petition and plat were duly filed in the office of the City Clerk of said City of St. Paul, and said notice was duly given and published, and said petition and plat and other matters connected therewith were duly referred by said Board of Aldermen to said committee for hearing and investigation; and

WHEREAS, The said Committee on Streets of said Board of Aldermen did meet at the Council Chamber in said city on the day and at the hour above mentioned for the hearing thereof, and did investigate and consider the matter of said proposed vacation and then and there heard all testimony and evidence adduced on the part of the petitioners and other persons interested in the matter of said proposed vacation and took proof of the matters averred in said petition and being of the opinion that the prayer of said petition should be granted, reported its conclusions to said Board of Aldermen, recommending the adoption of an appropriate resolution declaring said vacation.

NOW, THEREFORE, It is resolved by the Common Council of the City of St. Paul, that all that part of Walnut street in the said City of St. Paul, extending from the southeasterly line of Summit Avenue to the northwesterly line of Irvine Avenue extended across said Walnut street, be and the same hereby is vacated, subject, however, to the following conditions.

(1) That there shall be and is granted and reserved to the public for all time the right to travel on foot upon and over the portion of said Walnut street, ten feet in width, extending along the northeasterly line thereof, and that the said Mary T. Hill and James J. Hill at their own cost and without any expense to the city, immediately upon the passage of this resolution shall build a suitable stairway, ten feet in width, to be used for the accommodation of foot passengers along the northeasterly line of the present Walnut street, between Summit Avenue and Irvine Avenue, as aforesaid, the said stairway to be constructed of stone, iron or such other suitable and durable material as the Commissioner of Public Works of the City of St. Paul shall direct and to be built according to a plan or design therefor to be prepared and approved by said Commissioner.



(2) Said petitioners shall pay into the treasury of the City of St. Paul the sum of one dollar which is hereby fixed as the compensation to be paid by them to the city in consideration of said vacation.

(3) Said Mary T. Hill and Janet J. Hill shall file in the office of the City Clerk their written acceptance hereof, to be approved by the Corporation Attorney, including an agreement upon their part to keep and abide by all the conditions and requirements herein contained, also including therein the grant to said city for public use of the right to maintain said stairs on the easterly ten feet of said vacated street for foot travel thereon as herein provided.

Adopted by the Board of Aldermen, Aug. 6, 1901.

Adopted by the Assembly, Aug. 15, 1901.

Approved Aug. 17, 1901.

#### AFFIDAVIT OF PUBLICATION

State of Minnesota, )  
 ) ss.  
 County of Ramsey. )

William Koch being duly sworn, deposes and says that the annexed printed copy of notice of RESOLUTION OF VACATION was taken from the ST. PAUL GLOBE, a daily newspaper, which, during the whole time of the publication of said notice hereinafter stated, has been and is printed and published in the English language in the City of St. Paul, Ramsey County, and State of Minnesota, and published and generally circulated in said County for more than one year next preceding the date of the first publication hereinafter named, and during all said times was a newspaper as defined in Section 2, Chapter 33, of the General Laws of Minnesota for 1893, as amended by Section 1, Chapter 121, of the General Laws of Minnesota for 1895, and as amended by Chapter 285 of the General Laws of Minnesota for 1897, and that the publishers of the said paper have filed with the County Auditor of said Ramsey County an affidavit in all respects complying with the requirements of Section 2 of said Chapter 33 of the General Laws of 1893; that the said notice was duly printed and published as in the case of ordinances in said newspaper in the English language, for the period of one day on the 20th day of August 1901, on which day last mentioned it was first published, on which day last mentioned it was last published; upon which days and times of publication aforesaid the said newspaper was regularly printed and published; and that, during the whole time of the said publication, he was one of the printers and publishers of the said newspaper.

William Koch.

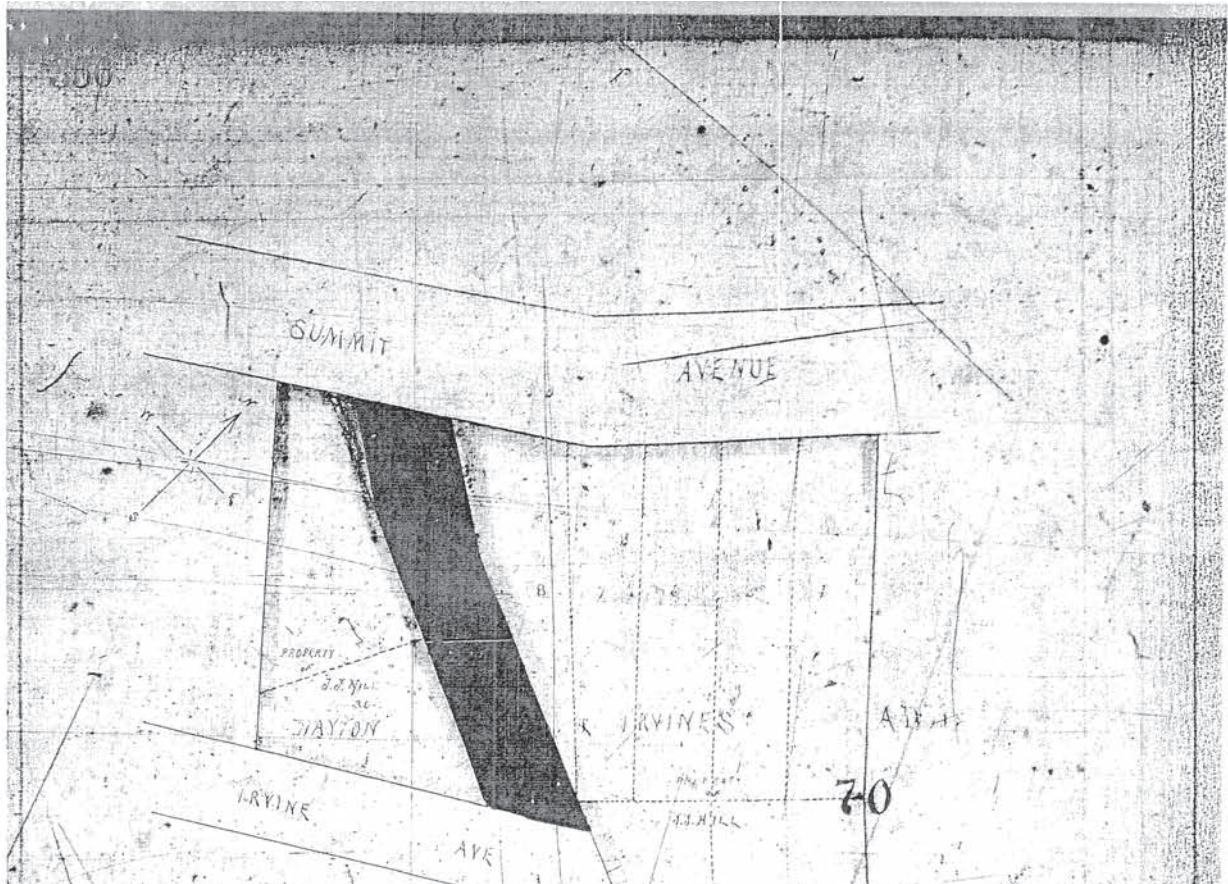
Subscribed and sworn to before me on  
 this 21st day of September 1901.

H.P. Porter,

Notary Public,

Ramsey County, Minn.

Notarial Seal  
 Ramsey County  
 Minn.



Vacation of Walnut St.

Description of Land to Be Vacated

That portion of Lot 2, Blk 70, Dayton and Irvine Aves. in St. Paul, hereafter proposed to be Public Use Street purposes, which is described in Plat 215, Page 282. Also that portion of Walnut St. in Dayton and Irvine Aves. in St. Paul, lying between the Southeastern line of Summit Ave. and the Northwestern line of Irvine Ave. as extended across Walnut St. Except that portion of said plat as defined in Plat 215, 1891.

Surveyed By  
 Fowles & Fitz  
 Civil Engineers & Surveyors  
 ST. PAUL  
 June 6, 1901.

State of Minnesota,  
 County of Ramsey, ss.  
 City of St. Paul,

I, Matt Jensen, City Clerk of the City of St. Paul do hereby certify that I have compared the attached plat of that portion of Walnut St., extending from the Southeastern line of Summit Ave. to the Northwestern line of Irvine Ave., extended across said Walnut Street, with the original thereof as on file in this Office accompanying the petition, dated June 13th A.D. 1901, now on file in this Office, signed by Mary T. Hill and James J. Hill, asking for the vacation of that portion of Walnut Street in the said City of St. Paul extended from the Southeastern line of Summit Ave. to the Northwestern line of Irvine Ave., situated across said Walnut Street; as shown by said plat and indicated thereon. Said plat having been duly filed of record, and the City Clerk instructed to give the necessary publication notice by order of the Board of Aldermen of said City, under date of June 18th, 1901, and the City Clerk having been notified as ordered for a hearing of said petition for the purpose of

1901 at 4 o'clock P.M. before the Committee on Streets of said Body.

I further certify that said copy of said plat, is a true and correct copy of said original and the whole thereof.

WITNESS the seal of the City of St Paul this 20th day of Sept., A.D. 1901.

Matt Jensen,

City Clerk.

Seal of the  
City of Saint  
Paul

St Paul, Minn., August 16, 1901.

TO THE MAYOR AND COMMON COUNCIL OF THE CITY OF ST PAUL.

Gentlemen:-

We, Mary T. Hill and James J. Hill, of the City of St Paul, grantees named in that certain resolution known as Board File No. 14199, vacating upon our petition, that part of Walnut street, in the city of St Paul, extending from the southerly line of Summit avenue to the northwesterly line of Irvine avenue, extended across said Walnut street, in the city of St Paul, heretofore passed by the common council of said city and approved by the mayor on August 17, 1901, hereby accept all the provisions and conditions of said resolution, and agree to perform all the promises and comply with the conditions thereof.

Jas. J. Hill.

Mary T. Hill.

The foregoing acceptance is hereby approved as to form and execution.

Arthur J. Stobbert,

Asst Corporation Attorney.

Dated at St Paul, Minnesota,

August... 1901.

THIS AGREEMENT, Made and entered into this 23rd day of August, A.D. 1901, by and between Mary T. Hill and James J. Hill, of the City of St Paul, Ramsey County, Minnesota, parties of the first part, and the City of St Paul, a municipal corporation, party of the second part,

WITNESSETH, That

WHEREAS, In and by the terms of that certain resolution heretofore passed by the common council of the City of St Paul, which said resolution is known as Board File No. 14199, approved August 17, 1901, the party of the second part hereto, did, upon the petition of the parties of the first part hereto, vacate all that part of Walnut street, in the city of St Paul, extending from the southerly line of Summit avenue to the northwesterly line of Irvine avenue, extended across said Walnut street, which said vacation by said party of the second part, was granted upon the following conditions, to-wit:

1st. That there shall be, and is, granted and reserved to the public, for all time, the right to travel on foot, upon and over the portion of said Walnut street, ten (10) feet in width, extending along the northeasterly line thereof, and that the said Mary T. Hill and James J. Hill, at their own cost, and without any expense to the City, immediately upon the passage of this resolution, shall build a suitable stairway, ten (10) feet in width, to be used for the

238  
tion of foot passengers, along the northeasterly line of the present Walnut street between Summit  
avenue and Irvine avenue, as aforesaid; the said stairway to be constructed of stone, iron, or  
such other suitable and durable material as the commissioner of public works of the City of St.  
Paul shall direct, and to be built according to a plan or design therefor to be prepared and  
approved by said commissioner.

2nd. Said petitioners shall pay into the treasury of the City of St Paul, the sum of one dollar  
(\$1.00), which is hereby fixed as the compensation to be paid by them to the City in considera-  
tion of said vacation.

3rd. Said Mary T. Hill and James J. Hill shall file in the office of the city clerk, their  
written acceptance hereof, to be approved by the corporation attorney, including an agreement  
upon their part, to keep and abide by all the conditions and requirements herein contained; also  
included therein the grant to said City, for public use, of the right to maintain said stairs on  
the easterly ten (10) feet of said vacated street, for foot travel thereon, as herein provided."

And the said Mary T. Hill and James J. Hill having heretofore filed in the office of the city  
clerk their written acceptance of the terms and conditions of said resolution, which said accept-  
ance has been approved by the corporation attorney of the party of the second part hereto.

NOW, THEREFORE, In consideration of the premises and of the vacation of said part of  
Walnut street, as hereinbefore described, the said parties of the first part hereby promise and  
agree, to and with the said party of the second part, to immediately construct and build, at  
their own proper cost, and without any expense to the City, a suitable stairway, ten (10) feet  
in width, to be used for the accommodation of foot passengers, along the northeasterly line of  
Walnut street, between Summit avenue and Irvine avenue, as aforesaid; said stairway to be con-  
structed of stone, iron, or such other suitable and durable material as the commissioner of pub-  
lic works of the city of St Paul, shall direct, and in accordance with a plan or design therefor,  
to be prepared and approved by the said commissioner of public works.

The parties of the first part hereto, expressly promise and agree, to and with the said  
party of the second part, to keep and abide by all the conditions and requirements contained  
in said resolution hereinbefore referred to, and known as Board File 14199; and said parties of  
the first part also agree to, and hereby grant unto the said party of the second part, the right  
to maintain said stairs on the easterly ten (10) feet of said vacated street, for the use of the  
public, for foot travel thereon, and to keep open and reserve unto the public, for all time,  
the right to travel on foot, upon and over the portion of said Walnut street, ten (10) feet in  
width, extending along the northeasterly line thereof.

IN WITNESS WHEREOF, The parties hereto have caused these presents to be executed, and their  
seals to be affixed, the day and year first above written.

SIGNED, SEALED AND DELIVERED

In Presence of:

W. J. Toomey

Jno. J. Toomey

Jas. J. Hill

Mary T. Hill

State of Minnesota, )  
County of Ramsey. ) ss.

On this 17th day of September A.D. 1901, personally appeared before me Mary T. Hill and James J. Hill, who being by me first duly sworn, did say that they are the parties mentioned in, and who executed the foregoing instrument and each of whom acknowledged the same to be their own free act and deed.

C.C. McElwee,  
Notary Public,  
Ramsey County, Minnesota.



Approved as to form and Execution  
September 18th, 1901  
Arthur J. Stobbart,  
Asst. Corporation Attorney.

Filed for Record on the 23rd day of September A.D. 1901 at 2:30 o'clock P.M.

NO 263056.

THIS AGREEMENT, Made and entered into this twentieth day of August, A.D. 1901, by and between Albert G. Barnes and Della M. Barnes, his wife, of Windham County, Vermont of the first part, and John L. Cramer of Ramsey County, Minnesota, of the second part,

WITNESSETH, That said parties of the first part, in consideration of the covenants and agreements of said party of the second part, hereinafter contained, hereby sell and agree to convey unto said party of the second part, or his assigns, by deed of Warranty upon the prompt and full performance of said party of the second part of his part of this Agreement, the following described premises, situate in the County of Ramsey, in the State of Minnesota, to-wit:

Lot twenty two (22) of Block thirty one (31) of Summit Park Addition to St Paul, Minnesota according to the recorded plat thereof,

And the said party of the second part, in consideration of the premises, hereby agrees to pay said party of the first part, as and for the purchase price of said premises, the sum of Eight hundred & 00/100 Dollars, in manner and at the times following, to-wit:

One hundred Dollars (\$100.00) Cash on delivery of this contract and the remaining seven hundred Dollars (\$700) payable in monthly installments of Fifty Dollars per month- the first payment to be made October 1<sup>st</sup> 1901 and the succeeding installments to be paid the first of each month thereafter until fully paid and to pay all taxes or assessments that may hereafter be levied or assessed upon said premises, as well as the assessment for stone walk in front of this lot.

Deferred payments to bear interest at 6% per annum from the date of this contract.

But should default be made in the payment of said several sums of money, or any or either of them or any part thereof, or in the payment of said interest or taxes or any part thereof, or in any of the covenants herein to be by said party of the second part kept or performed, then this Agreement to be void at the election of said party of the first part, time being of the essence of this Agreement; and in case of default by said party of the second part, in whole or in part, in any or either of the covenants of this Agreement to be by him kept and performed, he hereby agrees, upon demand of said parties of the first part, quietly and peaceably to surrender to them possession of said premises, and every part thereof, it being understood that until said