

# Appeal of Fire Inspection Correction Notice 180 5<sup>th</sup> Street East



# Timeline

- **1995:** Encroachment permit issued to Building Owner
- **February 2010:** City / Met Council direct Building Owner to remove encroachments and Building Owner complies
- **2011-12:** Met Council completes construction of green line and Areaway improvements
- **2012:** Fire inspection correction notices regarding Areaway: (1) extend fire suppression system; (2) install acoustical ceiling and (3) fireproof beams
- **September 2012:** Met Council says improvements to Areaway are compliant
- **2014:** Fire inspector proposes resolution and Building Owner relies on proposal
- **2015:** Fire inspector says Building Owner now also responsible for correcting fireproofing and removal/replacement of light rail work completed by City / Met Council
- **February 18, 2016:** Letter to Fire Inspector explaining Building Owner's position and requesting clarification of City's position
- **August 8, 2016:** Fire Inspection Correction Notice setting forth 134 deficiencies, including Nos. 99 and 105 that address fireproofing in dispute
- **August 18, 2016:** Building Owner Appeals Fire Correction Notice No. 13287

# St. Paul City Ordinance

Sec. 134.12. - Public improvements; removal or relocation.

In the event it shall become necessary during the term of the permit to remove or relocate the physical property of the permittee located within or upon any of the streets or public rights-of-way because of interference or use by the city or as a result of any public improvement undertaken by or on behalf of the city, ***the permittee shall, when so advised by the department, remove and relocate its facilities without cost to the city and shall place the street or right-of-way in the same condition as existed prior to construction of the projection or encroachment.***

(C.F. No. 94-242, § 1, 3-23-94)

# Why Appeal Should Be Granted

- Under Sec. 134.12 of the St. Paul City Ordinances, the City / Met Council directed Building Owner to remove encroachments from Areaway. Building Owner expended substantial costs to comply.
- Sec. 134.12 does not require Building Owner to repair alleged deficiencies to work to Areaway that was completed as part of a public improvement undertaken by or on behalf of the City.
- The improvements at issue were installed by the City / Met Council, not the Building Owner. The City or Met Council should be responsible for correcting their own work.