

**JOHN M. GEARIN P.A.**

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May 11, 2015

Ying Vang  
Chee Xiong  
2153 Beech Street East  
St. Paul, MN 55119

Re: My Clients: Thomas and Carole Brace  
My File No.: 15-1266

Dear Ying Vang and Chee Xiong:

Please be advised that I represent Thomas and Carole Brace in regards to an ongoing issue with the retaining wall which is located on the north end of your property line on 2153 Beech Street East, St. Paul, Minnesota 55119; such retaining wall is placed completely on your property but has collapsed, causing damages to my clients' property which is located adjacent at 2157 Beech Street East, St. Paul, Minnesota 55119.

My clients are owed a duty of lateral support of their land from any injuries they may have as a result of the alteration of your lot from its natural condition. For your information, your lot was graded by the builder prior to placing your home on the site and the north end of your lot was altered by cutting into the natural bank which existed between my clients' property and yours.

In Minnesota, the right of lateral support of land from the adjacent soil is an absolute right of property, and the right to recover for injuries to the land by reason of removal of such support does not depend on negligence, but upon the violation of the right of property. *Schultz v. Bower*, 57 Minn. 493 (1894). Therefore, the law in Minnesota is that my clients have a right of property such that when the lateral support of their land is jeopardized by construction or alteration on your lot, it violates their right of property.

I have reviewed photographs from my clients which show the collapse of your wall and they have indicated to me that their driveway is sinking, causing cracks and other damage to their property. I understand that you have had numerous discussions with my clients in effort to resolve this matter and a survey was completed to place the property line.

Unfortunately, these discussions have not led to an agreement to resolve the problem. The Braces have indicated to me that they will force the issue of repair and/or compensation if you choose not to act to rectify the problem which is causing damage to their property. The best

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May 1, 2012

Ying Vang  
Chao Xiong  
2125 Beach Street East  
St Paul, MN 55119

Re: My Clients: Thomas and Carol Bracc  
My File No.: 12-1268

Dear Ying Vang and Chao Xiong:

Please be advised that I represent Thomas and Carol Bracc in regards to an ongoing issue with the retaining wall which is located on the north end of your property line on 2125 Beach Street East, St Paul, Minnesota 55119. For such retaining wall is placed completely on your property but has collapsed, causing damage to my clients' property, which is located adjacent to 2125 Beach Street East, St Paul, Minnesota 55119.

My clients owe a duty of lateral support of their land from any adjacent land they may have as a result of the alteration of your lot from its natural condition. For your information, your lot was graded by the builder prior to placing your home on the site and the north end of your lot was altered by cutting into the natural bank which existed between my clients' property and your

In Minnesota, the right of lateral support of land from the adjacent soil is an absolute right of property, and the right to recover for injury to the land by reason of removal of such support does not depend on negligence, but upon the violation of the right of property. Section 4.01, Minnesota Statutes (M.S.A. 403.01). Therefore, the law in Minnesota is that my clients have a right of property such that when the lateral support of their land is jeopardized by construction or alteration on your lot, it violates their right of property.

I have reviewed photographs from my clients which show the collapse of your wall and the damage caused to me that their driveway is sinking, causing cracks and other damage to their property. I understand that you have had numerous discussions with my clients in effort to resolve this matter and a survey was completed to place the property line.

Unfortunately, these discussions have not led to an agreement to resolve the problem. The Braccs have indicated to me that they will forego the issue of repair and/or compensation if you choose not to act to rectify the problem which is causing damage to their property. The best

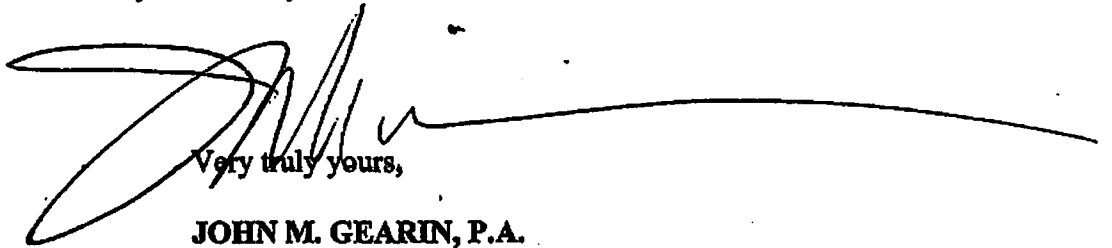
solution, of course, is the repair of the retaining wall and I would hope that you would promptly replace the wall in order to avoid any further problems.

The condition of your retaining wall is also in violation of the City of St. Paul codes and may result on an Order to repair. (Codes enclosed).

I am sure you would like to avoid a lawsuit and I would ask that you or your representative respond to me immediately but in no case more than ten (10) days after receipt of this letter. If I do not hear from you, I will assume that you do not wish to resolve this matter outside of litigation and we will then proceed accordingly.

Thank you for your prompt attention to this matter.

May I immediately hear from you?



Very truly yours,  
**JOHN M. GEARIN, P.A.**

John M. Gearin  
Attorney at Law

JMG/jv

cc: Thomas and Carole Brace (via email only)