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April 21, 2021

Reply to St. Paul

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Mayor Melvin Carter  
Mayor  
St. Paul City Hall  
15 Kellogg Blvd. West, Suite 390  
St. Paul, MN 55102

Shari Moore  
City Clerk  
St. Paul City Hall  
15 Kellogg Blvd. West, Suite 310  
St. Paul, MN 55102

Councilmember Dai Thao  
St. Paul City Council, Ward 1  
St. Paul City Hall  
15 Kellogg Blvd. West, Suite 310  
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Councilmember Rebecca Noecker  
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Councilmember Chris Tolbert  
St. Paul City Council, Ward 3  
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Councilmember Mitra Jalali Nelson  
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City Council President Amy Brendmoen  
St. Paul City Council, Ward 5  
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Councilmember Nelsie Yang  
St. Paul City Council, Ward 6  
St. Paul City Hall  
15 Kellogg Blvd. West, Suite 310  
St. Paul, MN 55102

Councilmember Jane L. Prince  
St. Paul City Council, Ward 1  
St. Paul City Hall  
15 Kellogg Blvd. West, Suite 310  
St. Paul, MN 55102

Re: **Objection and Intent to Appeal**  
2019 Mill and Overlay Notice: Downtown (Lowertown – East of Jackson Street)  
Our File No.: 72421

Dear Mayor, City Clerk, and the St. Paul City Councilmembers:

I am the managing member of Park Square Court Building LLC ("Park Square"), a St. Paul-based limited liability company and owner of real property within the City limits.

April 21, 2021

Page 2

On September 5, 2019, Park Square received a letter from the City of St. Paul entitled "2019 Mill and Overlay Notice: *Downtown (Lowertown – East of Jackson Street)*". The letter details Mill and Overlay work the City intends to perform on the majority of downtown streets east of Jackson Street and between 10th Street and Kellogg Boulevard. The letter closes with the following:

**Project costs:**

All abutting property owners will be charged a fee of 50% of the mill and overlay project costs. The city pays the remaining 50% of the project. Property owners will receive a bill for the resurfacing project after the work has been completed.

**The estimated rate for the Downtown Paving Project (Phase 1-Lowertown) is \$47,55/per linear foot.**

According to the public records, on April 1, 2020, the City Council approved a resolution setting the date for public hearing to ratify the assessments against properties related to unpaid Mill and Overlay Charges for May 6, 2020. This included the charges the City purports to assert against property owned by Park Square.

On April 22, 2020, the City Council passed a resolution postponing the public hearing until September 16, 2020. Another resolution was passed on September 16, 2021 further postponing the hearing to May 5, 2021.

As a preliminary matter, under Section 62.04(c) of the Ordinances of the City of St. Paul and Minnesota Statutes Section 429.061, subd. 1, the Council is required to send written notice of the hearing to interested property owners at least ten (10) days before the hearing. This notice requires the Council, among other things, to notify affected property owners like Park Square: (1) of the procedures he or she must follow under state law or the charter in order to appeal the assessment to the district court; and (2) of the provisions of Minnesota Statutes section 435.193 and 435.195 and the existence of any deferment procedure established pursuant thereto.

This notice has not yet been received by Park Square. Thus, any attempt by the City Council to ratify assessments related to the Mill and Overlay Charges against Park Square during the May 5th hearing will be, by state statute, null and void if said notice is not timely provided.

In any event this letter is intended to serve as Park Square's written objection to these assessments and its intent to appeal the charges, if levied against Park Square or any of its properties, to the Ramsey County District Court. As the Minnesota Supreme Court ruled in its 2016 decision *First Baptist Church of St. Paul v. City of St. Paul*, 884 N.W.2d 355 (Minn. 2016), these charges, as levied, are an unconstitutional tax.

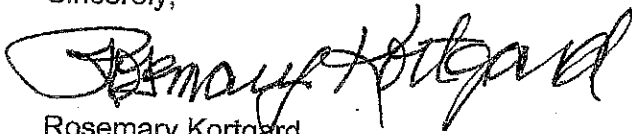
April 21, 2021  
Page 3

Should the City continue with its plan to levy this tax, and should Park Square be forced to appeal this matter to the district court, this will be – at least – the third lawsuit against the City relating to these charges filed since the *First Baptist* decision. It is our assessment that the plaintiffs will prevail in each of these lawsuits especially in light of recent decisions by the Ramsey County District Court.

We implore the City and its Council to rescind its intention to circumvent its own Charter, Minnesota State Statutes, and the Minnesota Constitution. Should the City continue down this path, Park Square and other affected property owners will have no choice but to take this matter to the courts, where we have full confidence that we will ultimately prevail.

Should you wish to discuss this matter directly, you may contact our lawyer, Kelly S. Hadac of the HKM P.A. law firm at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosemary Kortgard". The signature is written in a cursive, flowing style with some loops and flourishes.

Rosemary Kortgard  
Managing Member  
Park Square Court Building LLC

cc: Kelly S. Hadac