

Moermond, Marcia (CI-StPaul)

From: Sisk, Cheri (CI-StPaul)
Sent: Monday, October 24, 2016 11:45 AM
To: Moermond, Marcia (CI-StPaul)
Subject: Peters' Oct. 7 email re ROW hearings

From: Flowers, Portia (CI-StPaul)
Sent: Friday, October 07, 2016 2:33 PM
To: Sisk, Cheri (CI-StPaul)
Subject: FW: ROW Assessment Appeals

From: Moore, Shari (CI-StPaul)
Sent: Friday, October 07, 2016 1:32 PM
To: Tierney, Rachel (CI-StPaul); Clark, Samuel (CI-StPaul); Flowers, Portia (CI-StPaul); Kisch, Meghan (CI-StPaul)
Subject: FW: ROW Assessment Appeals

Mr. Peters has the same questions as Mr. Hoeschler sent to me yesterday.

From: Ferdinand Peters [<mailto:ferdpeters@ferdlaw.com>]
Sent: Friday, October 7, 2016 11:18 AM
To: Naylor, Racquel (CI-StPaul) <racquel.naylor@ci.stpaul.mn.us>; Moore, Shari (CI-StPaul) <shari.moore@ci.stpaul.mn.us>
Cc: Moser, Lynn (CI-StPaul) <lynn.moser@ci.stpaul.mn.us>; #CI-StPaul_Ward4 <Ward4@ci.stpaul.mn.us>; #CI-StPaul_Ward3 <Ward3@ci.stpaul.mn.us>; #CI-StPaul_Ward1 <Ward1@ci.stpaul.mn.us>; #CI-StPaul_Ward2 <Ward2@ci.stpaul.mn.us>; #CI-StPaul_Ward5 <Ward5@ci.stpaul.mn.us>; #CI-StPaul_Ward6 <Ward6@ci.stpaul.mn.us>; #CI-StPaul_Ward7 <Ward7@ci.stpaul.mn.us>
Subject: Re: ROW Assessment Appeals

Ms. Naylor:

Thank you for your email message to me notifying me of what you call a "hearing".

What is the nature and purpose of the hearing that you are notifying me of? Without the questions presented below responded to posthaste by the city, I cannot determine whether I need a separate "hearing" for each of my clients, or no hearing at all.

This is an important matter so that I can protect the due process rights of all my clients, as well as other constitutional and statutory rights that they possess. Without your detailed responses before any hearing is even scheduled, there are serious substantial and procedural constitutional rights in play, and I demand that they not be ignored.

Here are my questions:

- 1) Under what part of the city charter and ordinances or the state statutes is this proceeding being conducted. The City has stated that it is following statutory requirements for following assessment law in Minnesota, and my clients have objected and now the statutes require an appeal by my clients. The Resolution RES PH 16-287 "Version 2" is not understandable. What factual issues are to be determined by the "Legislative Hearing Officer"? The Resolution does not include my objection handed to the Presiding Officer at the hearing on October 5, 2016, on behalf of every property owner listed in the assessment roll. All of my objections on behalf of ALL clients are also constitutional objections. Who in the city will determine my objections based on the constitutions of the US and Minnesota?
- 2) Under what procedural rules will the hearings be conducted?
- 3) What is the schedule that the city would like to see with respect to these hearings?
- 4) What discovery opportunities will my clients as protestors have? The city attorney refused to allow any contact with city staff prior to the hearings to even ask a question and before these hearings I will want to propound some discovery.
- 5) What are the names and qualifications of the independent hearing examiners and especially those who have been assigned to hear the protests that I have lodged?
- 6) I have not received from you notice of a "hearing" for all of my filed client objections. Any reason for that?
- 7) Does the city council agree to a reassessment based on the city council OR the "municipal attorney" finding that the assessment is in violation of Minnesota law so as to make it "invalid"? See yellow highlighted statutes below.
- 8) Is the city be taking the position before the district court that the appeal to the district court will be an appeal from an administrative proceeding and that no further discovery will be allowed at the district court level? If so, this is another example of the machinations of the city attorney to try to stifle the serious deficiencies in his advice to the city council.
- 9) Provide the contact information for each of the hearing examiners and for anyone else who will be supervising this new procedure so that I may speak with those persons personally before proceeding further.

For your information, the City's assessment hearing took place and the resulting Resolution adopted the Assessment. There is no other procedural step for the city to conduct regarding any objector since NONE is contained in the statutes. In its notice the City Council told us to be at city hall on October 5th and get our written objections filed, which we did----and I spoke to the council at that hearing---there is no other "hearing" in the Statutes that the same Resolution supposedly is following.

Also, please provide me with a certified copy of all objections, as per the statute immediately below (see yellow highlighted area).

Minn Stat. Section 429.081 APPEAL TO DISTRICT COURT.

Within 30 days after the adoption of the assessment, any person aggrieved, who is not precluded by failure to object prior to or at the assessment hearing, or whose failure to so object is due to a reasonable cause, may appeal to the district court by serving a notice upon the mayor or clerk of the municipality. The notice shall be filed with the court administrator of the district court within ten days after its service. The municipal clerk shall furnish appellant a certified copy of objections filed in the assessment proceedings, the assessment roll or part complained of, and all papers necessary to present the appeal. The appeal shall be placed upon the calendar of the next general term commencing more than five days after the date of serving the notice and shall be tried as other appeals in such cases. The court shall either affirm the assessment or set it aside and order a reassessment as provided in section 429.071, subdivision 2. If appellant does not prevail upon the appeal, the costs incurred shall be taxed by the court and judgment entered therefor. All objections to the assessment shall be deemed waived unless presented on such appeal. This section provides the exclusive method of appeal from a special assessment levied pursuant to this chapter.

429.071 SUPPLEMENTAL ASSESSMENTS; REASSESSMENT

...
Subd. 2. **Reassessment.**

When an assessment is, for any reason whatever, set aside by a court of competent jurisdiction as to any parcel or parcels of land, or in event the council finds that the assessment or any part thereof is excessive or determines on advice of the municipal attorney that the assessment or proposed assessment or any part thereof is or may be invalid for any reason, the council may, upon notice and hearing as provided for the original assessment, make a reassessment or a new assessment as to such parcel or parcels.

Perhaps the city attorney of Duluth provided advice to Duluth Mayor Emily Larson that is different than Saint Paul's city attorney---and Mayor Larson has now moved Duluth's full budget for streets onto the real estate tax levy so as to AVOID future LITIGATION. She has read the MN Supreme Court cases carefully.

<http://www.northlandsnewscenter.com/news/local/Mayors-budget-proposal-ditches-street-fee-for-levy-392840251.html>



Mayor's budget proposal ditches street fee for levy | KBJR ...

www.northlandsnewscenter.com

The current street fee is about \$60 per yer for the average Duluth homeowner. "Continuing to maintain a street fee for something that is viewed as a tax ...

Respectfully submitted,

Ferdinand Peters
Ferdinand F. Peters Esq. Law Firm
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842 Raymond Avenue Suite 200
St. Paul, MN 55114
USA
651-647-6250
Fax: 651-251-1183
Subject to all notices at <http://www.ferdlaw.com>

From: Naylor, Racquel (CI-StPaul) <racquel.naylor@ci.stpaul.mn.us>
Sent: Thursday, October 6, 2016 1:57 PM
To: Ferdinand Peters
Cc: Moser, Lynn (CI-StPaul)
Subject: ROW Assessment Appeals

Regarding the following addresses:
754 Blair Avenue, 841 Bradford Street, 241 Brimhall Street, 2130 Como Avenue, 1530 Edgcumbe Road, 2005 Ford Parkway, 555 Frontenac Place, 0 Grand Avenue, 622 Grand Avenue, 740 Grand Avenue, 965 Grand Avenue, 985 Grand Avenue, 999 Grand Avenue, 1036 Grand Avenue, 1342 Grand Avenue, 1355 Grand Avenue, 168 Griggs Street North, 724 Hague Avenue, 753 Hague Avenue, 754 Hague Avenue, 758 Hague Avenue, 1703 Hague Avenue, 1728 Hague Avenue, 649 Holly Avenue, 655 Holly Avenue, 480 Iglehart Avenue, 668 Lafond Avenue, 814 Laurel Avenue, 194 Lexington Parkway North, 195 Lexington Parkway North, 745 Lincoln Avenue, 2330 Long Avenue, 483 Marshall Avenue, 1708 Portland Avenue, 675 Randolph Avenue, 682 Selby Avenue, 365 Smith Avenue North, 594 Smith Avenue South, 607 Smith Avenue South, 1611 Stanford Avenue, 194 Summit Avenue

Ferdinand Peters,

You are scheduled for a hearing on appeals of the right-of-way assessments for the above properties. Your hearing will be held on Friday, October 14, 2016, at 11:00 a.m., in Room 330 City Hall, 15 Kellogg Boulevard West, Saint Paul, MN 55102.

Racquel Naylor
City Council Offices

Suite 310 City Hall/Courthouse
15 Kellogg Boulevard West
Saint Paul, MN 55102
Phone: 651-266-8573
Fax: 651-266-8574