

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Assessment Appeal

Midway Fuel, et al.,

Court File No. 62-CV-20-5640

Plaintiffs/Appellants,

v.

**SETTLEMENT AGREEMENT AND
RELEASE**

City of St. Paul,

Defendant/Respondent.

This Settlement Agreement and Release is made by and between Appellants Midway Fuel, 475 Cleveland Assoc. LLC, Dart Transit Company, Eaton Street LLC, 2085 Capp Road LLC, 802 Prior LLC, Krinkie Company, Rose M. Walsh, Trustee, Church of St. Pascal Baylon, Bolander Real Estate LLC, R&M Holdings, Thaemert Properties, Lethert Skwira, Kirtland Properties, LLC, Sewell Properties, LLC, Church of St. Mary, Lexington Convenience Properties, Town & Country Club, Dawn and Gary H, LLC, NJF Properties, Upper Corner Venture, Mb Properties, LLC, Center Ice LLC, Charles & Caroline McCann, McCann Developments, Warehouse Rentals, Update Company, Raymond Partners LLC, Midtown Commons, RRB Associates, 188 Plato, LLC, Minnesota Comm'l Railway, Soo Line Railroad, Nativity of Our Lord Church, Holy Spirit Church, Sacred Heart Church, St Agnes Church, St. Bernard Church, Cathedral of St. Paul, Blessed Sacrament Church, Holy Childhood Church, Maternity of Mary Church, Lumen Christi Church, St. Casimir Church, St. Cecilia Church, St. Columba Church, St. Francis de Sales Church, St. Patrick Church, St. Peter Claver Church, St. Stanislaus Church, First Baptist

Church of St. Paul, Christina Anderson & Simon Taghioff, Daniel Sullivan, Robert Bloomer, Jr., Kevin Fenelon, Michael Brennan, Monica Carlson, Matthew Russell, Mary Porter & Thomas Hays, Tom Gallagher, Samuel J. Varghese, Sherri Mortenson-Brown, Denny & Mary Thalhuber, Caprice Glaser, John Pitera & Kate Patterson, Kenneth & Harriet Goodpaster, Lindsay Drebenstedt, Pearl Bejblik, Paul & Deanne Gieser, Judith Miller, Arvold Properties LLC, Saul R. Sanchez Henriquez & America Jimenez de Tobar, Tina Lassahn, Tracy & Matthew Arends, Brian Gove, Christine Mack, Scott & Ericka Schultz, Rebecca Loeding, Robert Batta, Brian J. Ludwig, Henry Schnitzer, Bethlehem Tegegne, Nell McClung, Sisaneakoun Vang, Tom Kosobayashi, Darlene Heiskary, Doug Swalboski, Christopher Diekman & Pamela Hovda, John Mannillo, Nick Fercello, Gary Huffman, Leonard Anderson, Michael Schumann, BNSF Railway Co., Northern Pacific Ry Co., Glacier Park Company, Burlington Northern, Inc., Leatta Hough, Susan B. Foote, Terence G. O'Brien & Kristen H. O'Brien, Harris Bldg., LLC, John Purdy, Donerly, Inc., Kristy Nguyen, PAK Properties, Bigos Properties, Joe Clancy, Victoria & Richard Lemanczykafka, Nath Companies, Dey Properties, and Respondent City of Saint Paul.

WHEREAS, the above-listed Appellants filed an assessment appeal challenging their 2020 SMSP charges and/or assessments for certain properties owned by them located in St. Paul alleging, *inter alia*, that the amount of the charges and/or assessments were in excess of the special benefit to the properties;

WHEREAS, Respondent expressly denies Appellants' allegations and maintains that the charges and/or assessments were lawful;

WHEREAS, the parties wish to settle and resolve all outstanding disputes and claims between them in relation to, and to avoid the uncertainties and costs associated with continued litigation of, the above-entitled matter; and

WHEREAS, upon payment of the amounts shown in Paragraph 1 below, the parties to this Settlement Agreement and Release have successfully conciliated all issues of dispute in the above-entitled matter.

NOW, THEREFORE, in consideration of the mutual promises established herein, the parties agree as follows:

1. Upon formal approval of the St. Paul City Council, the City of St. Paul will issue a total payment to the above-listed Appellants through their attorneys, Ferdinand F. Peters, Esq. Law Firm, for \$167,816.98, payable to “Ferdinand F. Peters, Esq. Law Firm Trust Account,” in complete satisfaction of the 2020 SMSP assessment appeals that were alleged or could have been alleged in the above-entitled pending litigation.

2. In consideration of the payment referenced in Paragraph 1, Appellants, by execution of this Settlement Agreement and Release, hereby fully and completely release the City of St. Paul, and all of its past and present agents, officers and employees, predecessors, and successors in interest of the City of St. Paul in their official and individual capacities, of any and all claims for damages, costs and attorneys’ fees which Appellants have or may have, whether presently known or unknown, arising in law or in equity, which were made, or which could have been made, in the above-entitled action. Appellants agree that upon execution of this Settlement Agreement and Release all such claims, differences, demands, rights, and causes of action, which Appellants now have or

may have against the City of St. Paul, and all of its past and present agents, officers, and employees, predecessors, and successors, and successors in interest of the City of St. Paul, in their official and individual capacities, whether currently known or unknown, arising in law or equity, which were made or which could have been made in the above-entitled action, are fully released, satisfied, discharged and settled. This means that Appellants release all employees of the City of St. Paul from any claims for damages, costs, interest, and attorney's fees with respect to 2020 SMSP charges and/or assessments known or unknown, that were or could have been brought in relation to the set of facts presented in the above-entitled assessment appeal.

3. Appellants agree that the terms of this Settlement Agreement and Release are binding on them and their personal representatives, heirs, successors and assigns.

4. Appellants understand and acknowledge that Respondent does not admit any wrongdoing, improper action or liability for any of Appellants' alleged claims.

5. The parties agree that this Settlement Agreement and Release constitutes all of the agreements and understandings between them. There are no other written or oral agreements or understandings which modify the terms set forth in this Settlement Agreement and Release.

6. Appellants, by execution hereof, acknowledge that this Settlement Agreement and Release has been read by their legal counsel, and that they understand and fully agree to each provision hereof.

7. The parties agree that upon payment of the amount set forth in Paragraph 1 above, they hereby authorize their counsel to sign and file a stipulation and proposed order

to dismiss the above-entitled matter, with prejudice, and with all of the parties to bear their own costs, disbursements, and attorney fees.

8. This agreement may be executed in counterparts by way of attached signature pages for each Appellant that is party to this release.

FERDINAND F. PETERS, ESQ. LAW FIRM

Dated: _____, 2022

FERDINAND F. PETERS, #157041
BENJAMIN P. LOETSCHER, #0389037
711 Smith Ave. S.
Saint Paul, MN 55107
Telephone: (651) 647-6250
Email: ferdpeters@ferdlaw.com
bloetscher@ferdlaw.com
Attorneys for Plaintiffs

LYDNSEY M. OLSON
City Attorney

Dated: _____, 2022

ANISSA M. MEDIGER, #0290439
Assistant City Attorney
750 City Hall and Court House
15 West Kellogg Boulevard
Saint Paul, MN 55102
Telephone: (651) 266-8729
Email: anissa.mediger@ci.stpaul.mn.us
Attorneys for City of Saint Paul

Midway Fuel

By: 
(printed name) Gary Santoorjian

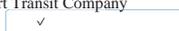
Its: VP Real Estate

475 Cleveland Assoc. LLC

By: 
(printed name) Gary Santoorjian

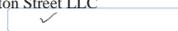
Its: VP Real Estate

Dart Transit Company

By: 
(printed name) Gary Santoorjian

Its: VP Real Estate

Eaton Street LLC

By: 
(printed name) Gary Santoorjian

Its: VP Real Estate

2085 Capp Road LLC

By: [Signature]
(printed name) Gary Santoorjian

Its: VP Real Estate

802 Prior LLC

By: [Signature]
(printed name) Gary Santoorjian

Its: VP Real Estate

Krinkie Company

By: [Signature]
(printed name) Philip Krinkie

Its: Managing Partner

Rose M. Walsh, Trustee

By: [Signature]
Carol Ann Lugg, Successor Trustee

Carol Ann Lugg, Successor Trustee

Church of St. Pascal Baylon

By: Rev. John J. Mitchell *John J. Mitchell*
(printed name)

Its: PASTOR

February 10, 2023

Bolander Real Estate LLC

By: *Tom E. Sullivan*
(printed name)

Its: CFO

Craig Thaemert & Affiliates (Thaemert
DQueen LLC, Thaemert Properties
LLC, Thaemert WCastle LLC, &
Thaemert CStore LLC)

By: *Elaine Thaemert*
(Elaine Thaemert, Manager)

Kirtland Properties, LLC

By: *Richard Kirtland*
(printed name)

Its: President

Sewell Properties, LLC

By: [Signature]
(printed name) F Sewell

Its: President

Church of St. Mary

By: [Signature]
(printed name) Rev. Byron S. Hagan

Its: Co-Pastor/Parish Moderator

Lexington Convenience Properties

By: [Signature]
(printed name)

Its: [Signature]

Town & Country Club

By: [Signature]
(printed name) Robert White

Its: General Manager

Dawn and Gary H, LLC

By: [Signature]
(printed name) GARY HUFFMAN

Its: CEO

NJF Properties

By: [Signature]
(printed name) Jeff Ulrich

Its: Chief Officer

Upper Corner Venture
By: David Brooks owner
(printed name)
Its: DAVID BROOKS

Mb Properties, LLC
By: David Brooks DAVID BROOKS
(printed name)
Its: OWNER

Center Ice LLC

By: David Brooks David Brooks
(printed name)

Its: owner

Charles & Caroline McCann
Charles & Caroline McCann

McCann Developments

By: Sandra Dascalos
(printed name) Sandra Dascalos

Its: Partner

Warehouse Rentals

By: Sandra Dascalos
(printed name) Sandra Dascalos

Its: Partner

Update Company

By: Sandra Dascalos
(printed name) Sandra Dascalos

Its: Property Manager

Raymond Partners LLC

By: Sandra Dascalos
(printed name) Sandra Dascalos

Its: Partner

Midtown Commons

By: Sandra Dascalos
(printed name) Sandra Dascalos

Its: Partner

RRB Associates

By: [Signature]
(printed name)

Its: JIM RUTICK

MANAGING PARTNER

188 Plato, LLC

By: JIM RUTZICK
(printed name)

Its: [Signature]
OWNER

Minnesota Comm'l Railway

By: [Signature]
(printed name) Michael E. Lebakken

Its: Co-President & CFO

Soo Line Railroad

By: [Signature]
(printed name) Greg Koenig

Its: Vice President of Finance
11/28/2022

Nativity of Our Lord Church

By: [Signature]
(printed name) Laura Barr

Its: Parish Administrator

Holy Spirit Church

By: JUSTIN CARRION *JSC*
(printed name)

Its: BUSINESS MANAGER

Sacred Heart Church

By: Edison Galarza *E. Galarza*
(printed name)

Its: Pastor 01/23/23

St Agnes Church

By: RESMAEK MARIARY *Resmaek Mariary*
(printed name) (Sign)

Its: PASTOR

St. Bernard Church

By: AROKIADOS RAJI
(printed name)

Its: PASTOR

Cathedral of St. Paul

By: Rev. J. J. Fontanel
(printed name) Rev. John L. Voel

Its: Pastor

Blessed Sacrament Church

By: Father Jimmy Puttananickal
(printed name)

Its: Pastor Jimmy Puttananickal

Holy Childhood Church

By: Fr. Philippe VIGNERON
(printed name)

Its: Pastor in Solidum

Ph

Maternity of Mary Church

By: Fr. Philippe VIGNERON
(printed name)

Its: PASTOR

Ph

Lumen Christi Church

By: [Signature]
(printed name) Daniel C. Haugan

Its: Pastor

St. Casimir Church

By: Rev. Dwight C. Hoeberechts, OMI
(printed name) Rev. Dwight C. Hoeberechts, OMI

Its: Pastor

St. Cecilia Church

By: John M. Hofstede
(printed name)

John M. Hofstede

Its: pastor

St. Columba Church

By: [Signature]
(printed name)

Haug Haugen

Its: Pastor

St. Francis de Sales Church

By: Fr. James F. Adams
(printed name)

Its: Pastor
Fr. James F. Adams

St. Patrick Church

By: Rev. Dwight C. Hoeberechts, OMI
(printed name) Rev. Dwight C. Hoeberechts, OMI

Its: Pastor

St. Peter Claver Church

By: Fr. Joseph Gifford
(printed name)

Its: Pastor Vice President

St. Stanislaus Church

By: Kim I. Myers
(printed name) Kim I. Myers

Its: Parish Administrator

First Baptist Church of St. Paul

By: William Englund
(printed name)

Its: Pastor



Christina Anderson



Simon Taghioff



Daniel Sullivan



Matthew Russell

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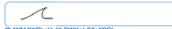
Mary Porter

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Thomas Hays

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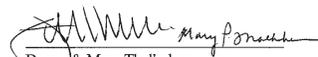
Tom Gallagher
o/b/o Arlington Apartments LLC

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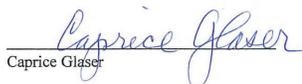


Samuel J. Varghese

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Denny & Mary Thalhuber

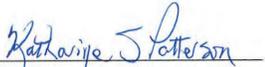
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Caprice Glaser

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John Pitara

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Kate Patterson,

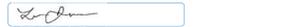
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Kenneth Goodpaster (Nov 29, 2022 16:00 CST)
Kenneth Goodpaster

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Harriet Goodpaster (Nov 29, 2022 16:13 CST)
Harriet Goodpaster

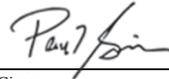
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Lindsay Drebenstedt

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Patricia Ann Dec

Pearl Bejblik, by Patricia Ann Dec, Successor



Paul Gieser

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Deanne Gieser



Judith Miller

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Arvold Properties LLC

By: NATHAN ARVOLD 
(printed name)

Its: OWNER


Saul R. Sanchez Henriquez


America Jimenez de Tobar


America Jimenez de Tobar



Tracy & Matthew Arends

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Brian Gove

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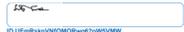
Christine Mack

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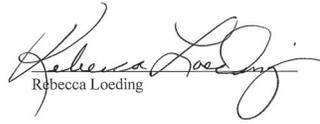


Scott & Ericka Schultz

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Scott & Ericka Schultz


Rebecca Loeding

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Robert Batta



Henry Schnitzer

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BT

Bethlehem Tegegne

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Neil McClung

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Sisaneoun Vang

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Tom Kosobayashi

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Darlene Heiskary

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Doug Swalboski
o/b/o Dojo Holdings LLC

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Christopher Diekman

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Pamela Hovda

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John Mannillo
John Mannillo

N. F. Fercello
Nick Fercello

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Gary Huffman
Gary Huffman

Leonard Anderson
Leonard Anderson

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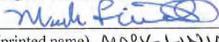

Michael Schumann

BNSF Railway Co.
By: Mark Liniado
(printed name) MARK LINIADO
Its: VICE PRESIDENT & GENERAL
TAX COUNSEL

Northern Pacific Ry Co.
By: Mark Liniado
(printed name) MARK LINIADO
Its: VICE PRESIDENT AND GENERAL
TAX COUNSEL

Glacier Park Company
By: Mark Liniado
(printed name) MARK LINIADO
Its: Vice President & General Tax Counsel

Burlington Northern, Inc.

By: 
(printed name) MARK LIANO

Its: Vice President & General Tax Counsel.



Leactta Hough, individually, and
o/b/o Hough LLC



Terence G. O'Brien



Kristen H. O'Brien

John Purdy

John Purdy

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By: Kristin Schroeder
(printed name)

Its: K.P.

4810 Ithaca Ln N
Plymouth, MN
55446

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Kristy Nguyen

Kristy Nguyen

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PAK Properties

By: _____
(printed name)

Its: Man

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Bigos Properties
By: [Signature]
(printed name) Ted Bigos
Its: Chief Manager

Bigos-Lowertown Lofts, LLC
By: [Signature]
(printed name) Ted Bigos
Its: Chief Manager

Bigos-Galtier, LLC
By: [Signature]
(printed name) Ted Bigos
Its: Chief Manager

Bigos-Mears Park, LLC
By: [Signature]
(printed name) Ted Bigos
Its: Chief Manager

Bigos-Jackson Tower, LLC
By: [Signature]
(printed name) Ted Bigos
Its: Chief Manager

Bigos-Sibley Tower, LLC
By: [Signature]
(printed name) Ted Bigos
Its: Chief Manager

Bigos-Kellogg, LLC
By: [Signature]
(printed name) Ted Bigos
Its: Chief Manager

Saint Paul Housing Group, LLC
By: [Signature]
(printed name) Ted Bigos
Its: Chief Manager

[Signature]
Joe Clancy

[Signature]
Victoria Lemanczykafka

[Signature]
Richard Lemanczykafka

California Commercial Investment Group Inc, managing agent,
ON BEHALF OF FACTORY HOME, LLC

~~Nath Companies~~

By: Scott Henton
(printed name)

Its: EXEC. V.P.

Dey Properties

By: Peter Dey
(printed name) Peter Dey

Its: President

Lethert, Skwira, Schultz & Co.

By: Kenneth Kalina
(printed name) Kenneth Kalina

Its: Partner