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SEP 16 2020
CITY CLERK

September 11, 2020

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
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Councilmember Rebecca Noecker
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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
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Councilmember Jane L. Prince
St. Paul City Council, Ward 1
St. Paul City Hall
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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 Stadium Ramp LLC ("Stadium Ramp"), a St. Paul-based limited liability company and owner of real property within the City limits.

On September 5, 2019, Stadium Ramp 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 Stadium Ramp.

On April 22, 2020, the City Council passed a resolution postponing the public hearing until September 16, 2020. This resolution appears on the published agenda for the September 16th hearing.

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 was 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 Stadium Ramp: (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 was never sent to Stadium Ramp. Thus, any attempt by the City Council to ratify assessments related to the Mill and Overlay Charges against Stadium Ramp during the September 16th hearing is, by state statute, null and void.

In any event this letter is intended to serve as Stadium Ramp's written objection to these assessments and its intent to appeal the charges, if levied against Stadium Ramp 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.

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Should the City continue with its plan to levy this tax, and should Stadium Ramp 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.

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, Stadium Ramp 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. To the left of the signature, there is a small, hand-drawn circle.

Rosemary Kortgard
Managing Member
Stadium Ramp LLC

cc: Kelly S. Hadac

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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.

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. This resolution appears on the published agenda for the September 16th hearing.

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 was 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 was never sent to Park Square. Thus, any attempt by the City Council to ratify assessments related to the Mill and Overlay Charges against Park Square during the September 16th hearing is, by state statute, null and void.

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.

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

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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.

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 fluid and cursive, with a large initial "R" and "K".

Rosemary Kortgard
Managing Member
Park Square Court Building LLC

cc: Kelly S. Hadac

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

I am the managing member of Courtly Park Townhouses LLC d/b/a 375 Jackson Building ("Courtly Park"), a St. Paul-based limited liability company and owner of real property within the City limits.

On September 5, 2019, Courtly Park 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:

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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 was 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 Courtly Park: (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 was never sent to Courtly Park. Thus, any attempt by the City Council to ratify assessments related to the Mill and Overlay Charges against Courtly Park during the September 16th hearing is, by state statute, null and void.

In any event this letter is intended to serve as Courtly Park's written objection to these assessments and its intent to appeal the charges, if levied against Courtly Park 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.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Rosemary Kortgard". The signature is fluid and cursive, with the first name "Rosemary" written in a larger, more prominent script than the last name "Kortgard".

Rosemary Kortgard
Managing Member
Courtly Park Townhouses LLC d/b/a 375 Jackson Building

cc: Kelly S. Hadac