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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
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City Council President Amy Brendmoen
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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 Stadium Ramp LLC ("Stadium Ramp"), a St. Paul-based limited liability company and owner of real property within the City limits.

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

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.

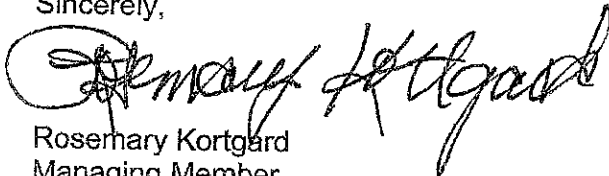
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Should the City continue with its plan to levy this tax, and should Stadium Ramp be forced to appeal this matter to the district court, this will be – at least – the third lawsuit against the City relating to these charges filed since the *First Baptist* decision. It is our assessment that the plaintiffs will prevail in each of these lawsuits 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, 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", written over a circular stamp or seal.

Rosemary Kortgard
Managing Member
Stadium Ramp LLC

cc: Kelly S. Hadac