



Legislation Text

File #: RES PH 16-389, **Version:** 2

Ratifying the assessment costs for the 2016 Right-of-Way Maintenance Program and 2016 Above-Standard Lighting Operation and Maintenance Program for properties appealed by Michael and Marlene Killa at 740 GRAND AVENUE and 745 LINCOLN AVENUE. (File No. 16ROW FINAL2, Assessment No. 16032B)

Date of Hearing: 10/14/16

Time of Hearing: 2:00 PM

Date of Council Public Hearing PH: 10/5/16 & 11/2/16

Appellant/Owner: Michael and Marlene Killa

PIN/PINS:

740 GRAND AVENUE 02-28-23-42-0073 (W2)

745 LINCOLN AVENUE 02-28-23-42-0092 (W2)

- 745 Lincoln Avenue and 740 Grand Avenue also appear on a list of properties appealed by Ferdinand Peters in RES PH 13-384. As owner Michael and Marlene Killa represented herself and husband, RES PH 16- 389 is the main file we are using for their case.

WHEREAS, on October 5, 2016, the City Council adopted Council File RES PH 16-287 which ratified the assessments roll for 2016 services in the 2016 Right-of-Way Maintenance Program and 2016 Above-Standard Lighting Operation and Maintenance Program; and

WHEREAS, the Council received all written objections from property owners, either before the hearing or at the hearing, and directed the city clerk to make a record thereof and remove those properties from the assessment roll ("remaining properties") for separate consideration; and

WHEREAS, the Council directed that the remaining properties be laid over from the October 5, 2016 public hearing for separate hearings to consider individual objections, and to return to the Council on November 2, 2016; and

WHEREAS, the Council ratified the assessments roll for those parcels for which property owners did not object, and ratified the balance of the assessment roll; and

WHEREAS, Council File RES PH 16-287 also directed the Legislative Hearing Officer to receive written and oral submissions regarding the remaining properties from the affected property owners, city officials, and other witnesses regarding any non-constitutional objections to the proposed assessment; and

WHEREAS, the Legislative Hearing Officer has the authority to make factual determinations regarding the non-constitutional objections for each proposed assessment and consult with the City Attorney to determine whether an objection is a constitutional objection; and

WHEREAS, on October 14, 2016, the Legislative Hearing Officer conducted a hearing regarding the appeal for Michael and Marlene Killa at 740 GRAND AVENUE and 745 LINCOLN AVENUE and appellant was granted the opportunity to present oral or written testimony and evidence to support her objections to the

proposed assessments; and

WHEREAS, oral testimony and documentation regarding the assessments were provided by City staff; and

WHEREAS, the Legislative Hearing Officer made the following determination(s) and recommendation:

- Appellant did not provide any written, oral testimony or material evidence regarding non-constitutional objections to support a reduction or deletion of the assessments;
- No factual basis was established for modifying the proposed assessments; and therefore the Legislative Hearing Officer is,
- Recommending ratification of assessments; Now, Therefore, Be It

RESOLVED, that pursuant to Minnesota Statute 429, the determination(s) and recommendation enumerated above are adopted by the Council and said assessments are hereby ratified as proposed and made a part of the assessment roll as ratified by Council File RES PH 16-287; and be it finally

RESOLVED, that the service charges shall be collected using the procedures set forth in Minn. Stat. Sections 429.061 and 429.071, and any appeals shall be made to the district court pursuant to Minn. Stat. Section 429.081.