



CITY OF SAINT PAUL

OFFICE OF THE CITY COUNCIL

310 CITY HALL

15 WEST KELLOGG BOULEVARD

SAINT PAUL, MN 55102-1615

Marcia Moermond, Legislative Hearing Officer

EMAIL: legislativehearings@ci.stpaul.mn.us

PHONE: (651) 266-8585 FAX: (651) 266-8574

REVISED LETTER

May 8, 2024

Clement Marriott
LAK Realty Inc
1430 Concordia Ave Ste 40295
St Paul MN 55104-3167

VIA EMAIL: info@lakrealtyinc.com

Re: Water Appeal for Property at 703 Case Avenue

Dear Clement Marriott:

You appealed the bill for water services to 703 Case Avenue for the water billed March 9, 2023. This appeal was discussed at a Legislative Hearing on November 7, 2023. In your appeal you requested this bill be reduced from its current level downward to reflect your average water consumption for the property.

I have reviewed the hearing record, documents submitted by you, and Saint Paul Regional Water Services (SPRWS) and other information on file with the City which have been attached to the hearing record, a link to which is provided at the end of this letter. Based on this review, I make the following findings and recommendation.

FINDINGS:

- 703 Case Avenue is a duplex in Saint Paul's Payne-Phalen neighborhood and as such receives quarterly bills for water consumption.
- Quarterly water consumption at this building from the March 9, 2022 through September 12, 2023, bills averaged 112 units with an average bill of \$1,018.92. Excluding the March 9, 2023, bill, an average of 74 units were consumed with an average bill of \$663.85.
- The bill under appeal was generated March 9, 2023, for 341 units of water billed at \$3,149.37. Your request to reduce this bill to reflect average consumption at this property would result in approximately a \$2,485.52 credit to the account.
- SPRWS became aware of the high water use at this property when doing the quarterly meter reading March 6, 2023 and reached out to you that day to discuss the matter. In this conversation, replacement of flappers in toilets was discussed and you indicated you replaced them in the previous year. You also indicated you would go check the property to determine if there was a problem. My understanding from the hearing and information reviewed is that you did not opt for meter testing, but rather indicated you would simply check the residence.
- The reasoning you put forward in the Legislative Hearing for the significant variance in the March 9, 2023, bill was a water meter equipment failure. You likened this to car



maintenance and IT system failures. You further indicated you were on premise frequently during this billing cycle and would have noticed any running toilets, water heater failures, etc. and that none occurred.

- The June and September bills following the March 9, 2023, bill show a marked decrease in the water flow measured by the meter which lends to the conclusion that step/s were taken within the property to decrease water flow, as the meter was not replaced. It is reasonable to assume that if there were a water meter failure, the high meter reading would have continued, rather than have self-corrected to close to a previous average.

703 Case Avenue Meter Readings & Billing – March 2022 – September 2023

Meter Reading Date	Units Consumed	Charge	Account Balance	~Aver Charge/Unit
9/12/2023	77	\$ 729.84	\$ 5,163.59	\$ 9.48
6/9/2023	45	\$ 438.48	\$ 4,411.83	\$ 9.74
3/9/2023	341	\$ 3,149.37	\$ 3,815.88	\$ 9.24
12/9/2022	70	\$ 597.83	\$ 3,680.31	\$ 8.54
9/12/2022	88	\$ 775.77	\$ 3,049.69	\$ 8.82
6/9/2022	72	\$ 636.09	\$ 2,236.12	\$ 8.83
3/9/2022	92	\$ 805.09	\$ 1,559.78	\$ 8.75
TOTAL	785	\$ 7,132.47	\$ 23,917.20	\$ 9.09
Average	112	\$ 1,018.92	\$ 3,416.74	\$ 9.09
Average Excluding 3/9/23 Bill	74	\$ 663.85	\$ 3,350.22	\$ 9.03
98.50%	73	\$ 653.89	\$ 3,299.97	
105.20%	78	\$ 698.37	\$ 3,524.43	

- 703 Case Avenue has an A-Rating from the City’s Fire Certificate of Occupancy Program with a certificate having been issued August 11, 2022, which noted a deficiency of a water heater having been installed without a permit.
- In the Legislative Hearing, you stated that the water heater was replaced prior to you assuming ownership in November 2019 after I noted that it may have been incorrectly installed accounting for some or all of the overage in the bill. You commented further that it was very difficult to find a contractor to assume responsibility and pull a trade permit for this work when it was performed by another party. In my follow-up on this situation, I learned that when the Fire Certificate of Occupancy inspector showed for a previously scheduled inspection on July 22, 2022 the inspector found property maintenance workers who reported they were in the process of installing a water heater. This is reflected in the real time notes taken by the inspector which are attached to the record. You subsequently hired a contractor, Champion Plumbing, LLC to replace the water heater with a new one under a permit issued February 17, 2023. Your testimony was inconsistent with the fact pattern.
- In scheduling the Legislative Hearing a packet was emailed to you with the same materials which were provided to me before-hand. I inquired whether you had received this email and you indicated you received no such communication. However, staff were able to demonstrate you did receive the October 9, 2023, email, as you had responded to it within 30 minutes asking for a different hearing date. This lends to a conclusion you were not careful or complete in speaking to the issue of the water heater or the provided materials.
- SPRWS indicated it is extremely unlikely an equipment failure would yield such a stark difference. *I asked for follow-up information from them on manufacturer and in-house testing of meters and statistical variability.*
- Water meter manufacturer information was of limited statistical value for your particular situation. Although manufacturer has stringent quality requirements, they pertain to the

meters prior to leaving the manufacturing facility. Meters are tested by SPRWS and are not installed without passing a test ensuring operation within their rigid parameters.

- The closest appropriate statistical comparison is test results on meters which have been removed from residences and brought to the SPRWS meter shop for testing. Although I think it is likely that meters showing up at the shop for testing are more likely to have failed, staff indicate they do not believe there is information to substantiate that perception.
- The table which follows summarizes SPRWS water meter testing data from January 2022 to soon after your hearing, mid-November 2023. The key metric used is where the meter reading falls in the parameters for sound functioning as defined by the American Water Works Association (AWWA). Using their metrics, a meter operating at 100% is one which accurately records all water use. A meter which is operating at 98% is one which records only 98% of the water use.

SPRWS Tests Performed on Residential Water Meters Removed from Property
January 2022 - November 2023

Meter Reading as Percent of Water Volume	Number	Percentage
Passing Through Meter (AWWA Standard)		
<98.5% - Under Reporting	234	25.1%
98.5%-101.5% - Reporting within Range	678	72.6%
>101.5% - Over Reporting*	22	2.4%
Valid Test Reading Total	934	100.0%
<i>Technician Error/Removed from Analysis</i>	8	0.8%
TOTAL (including error)	942	
* 105.2% was highest recorded over-report from meter		

- As indicated in the table above, 72.6% of the meters tested showed results within the acceptable range. 97.7% recorded water use *at or less than* the acceptable range. This translates to all those meters resulting in readings generating bills at or below actual water consumption, while only 2.4% resulted in overbilling.
- The largest over reading reported was 105.2%. Applying this over read percentage for your case would mean your meter recorded 341 units, when actually 324 had been used. 324 units of water would have produced a bill of \$2,993.76. Therefore, the difference between the bills would be \$155.61.

RECOMMENDATION:

- On balance, I believe that the cause of the exceptionally high bill of March 9, 2023 is not a failure of the water meter. Given the fact pattern, I find it much more plausible there was an equipment failure within the property where water flow went unchecked. This could have resulted from a water heater malfunction, a toilet leak, or some other failure.
- I, therefore, recommend that the SPRWS Board of Water Commissioners deny your appeal.

This is a link to the hearing record:

<https://stpaul.legistar.com/LegislationDetail.aspx?ID=6653647&GUID=CDC8EFCC-7827-43C7-B214-7D5E345F6D45>

This matter will go before the Board of Water Commissioners on Tuesday, June **4**, 2024, at **5PM in Room 330, Saint Paul City Hall, 15 Kellogg Blvd. West, Saint Paul, MN**. You may contest this recommendation in person, or in writing. If you wish to appear in person, please remember to allow time to go through security prior to the meeting. If you wish to contest in writing, please reply to the email transmitting this letter and Mai Vang will ensure its inclusion in the record before the Board.

If you have any questions, please contact Mai Vang at 651-266-8585.

Sincerely,

Marcia Moermond

Marcia Moermond
Legislative Hearing Officer

c: SPRWS Staff: Racquel Vaske (General Manager), Mollie Gagnelius, Derek Olson,
Richard Rowland and Joe Tronson