

STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT
Court File No. 19HA-CV-19-5724
Case type: Assessment Appeal

Daniel Witucki,

Appellant,

SETTLEMENT AGREEMENT

vs.

City of West St. Paul,

Respondent.

This Settlement Agreement is entered into by and between Appellant Daniel Witucki (the “Appellant”) and Respondent City of West St. Paul (the “City”) (collectively the “Parties”).

RECITALS

A. The City performed street reconstruction and utility improvements as part of the City’s Wentworth Avenue Reconstruction Project (the “Project”).

B. Appellant owns real property with an address of 110 Wentworth Avenue West, West St. Paul, Minnesota 55118, PID No. 42-01900-80-010 (the “Property”).

C. Pursuant to Minnesota Statutes Chapter 429, the City specially assessed the Property \$8,500.00 for the Project.

D. Appellant disputes the validity and amount of the assessment and filed the above-captioned assessment appeal (the “Assessment Appeal”).

E. The City denies that the assessment exceeded the special benefit the Property received from Project or was otherwise legally defective.

F. Appellant paid \$1,178.96 toward the special assessment on or about April 20, 2020.

G. The Parties now wish to compromise and settle all claims raised in the Assessment Appeal.

AGREEMENT

NOW THEREFORE, in consideration of the previous recitals, which are incorporated into the agreement, and the mutual promises and agreements, the Parties agree as follows:

1. Pursuant to Minn. Stat. § 429.071, Subd. 2, the City will reassess the Property as set forth in the resolution attached hereto as Exhibit 1 (“Reassessment Resolution”).
2. Appellant waives all rights to notices, hearings and appeals, and all other rights under Minn. Stat. §§ 429.061, 429.071 and 429.081, with respect to the Reassessment Resolution.
3. In consideration of the City’s adoption of the Reassessment Resolution, Appellant, for himself, his successors and assigns, releases the City and its officers, employees, and agents, from all claims, known or unknown, that were asserted or could have been asserted in the Assessment Appeal.
4. Upon adoption of the Reassessment Resolution, the Parties will execute the Stipulation and Order for Dismissal attached hereto as Exhibit 2.
5. This Agreement represents a compromise and settlement of disputed claims. Nothing in this Agreement shall be deemed an admission by any Party.
6. Any person signing this Settlement Agreement in a representative capacity represents and warrants that the signer has been authorized to bind the principal to the terms and conditions of this Settlement Agreement and that it is the intent of the principal to be so bound.
7. This Settlement Agreement may be signed in counterparts which, taken together, shall be and comprise one agreement. This Settlement Agreement may be executed with electronic signatures.

[The remainder of this page is intentionally left blank; signature pages follow.]

EXHIBIT 1
REASSESSMENT RESOLUTION

CITY OF WEST ST. PAUL
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. 20-_____

**RESOLUTION ADOPTING REASSESSMENT
OF 110 WENTWORTH AVENUE WEST FOR
WENTWORTH AVENUE RECONSTRUCTION PROJECT 17-7**

WHEREAS, the City of West St. Paul (the “City”) performed street reconstruction and utility improvements as part of the City’s Wentworth Avenue Reconstruction Project 17-7 (the “Project”); and

WHEREAS, Daniel Witucki (the “Owner”) owns real property in the City of West St. Paul identified as Dakota County PID Number 42-01900-80-010, with a street address of 110 Wentworth Avenue West, West St. Paul, Minnesota 55118 (the “Property”); and

WHEREAS, on October 28, 2019, by Resolution No. 19-112, the City levied a special assessment against the Property in the amount of \$8,500.00, for Project improvements; and

WHEREAS, the Owner paid \$1,178.96 toward the special assessment on or about April 20, 2020 (“Installment Payment”); and

WHEREAS, the Owner objected to the special assessment and commenced an assessment appeal in Dakota County District Court, Court File No. 19HA-CV-19-5724 (“Appeal”); and

WHEREAS, the City denies the claims made in the Appeal; and

WHEREAS, the City and the Owner have entered into an agreement to compromise and settle the Appeal (“Settlement Agreement”);

WHEREAS, under Minn. Stat. § 429.071, Subd. 2, the City Council may reassess the Property upon the advice of the City Attorney in settlement of a special assessment appeal; and,

WHEREAS, in the Settlement Agreement the City and the Owner agree that the Property shall be reassessed in the amount of \$4,750.00 (“Reassessment”); and

WHEREAS, the Owner has waived all rights to notices, hearings, and appeals with respect to the Reassessment.

NOW, THEREFORE, BE IT RESOLVED by the West St. Paul City Council that:

1. Pursuant to Minn. Stat. § 429.071, Subd. 2, and the Settlement Agreement, the City Council hereby reassesses the Property in the amount of \$4,750.00.
2. The Installment Payment of \$1,178.96 shall be credited against the reassessment amount.
3. The Owner may pay the balance of the reassessment, \$3,571.04, in full before August 1, 2020.
4. The balance of the reassessment that is not paid by August 1, 2020, shall be payable in equal annual installments extending over a period of 10 years with the first installment to be payable on or before the first Monday in January, 2021, and will bear interest at the rate of 3.87 percent per annum from August 1, 2020. To each installment when due shall be added interest for one year on all unpaid installments.
5. The Owner may, at any time after August 1, 2020, pay to the City Treasurer the entire amount of the reassessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made.
6. The City Clerk shall forthwith transmit a certified duplicate of this reassessment to the County Auditor to be extended on the property tax lists of the County. Such reassessment shall be collected and paid over in the same manner as other municipal taxes.

Adopted by the City Council of the City of West St. Paul, Minnesota, this ____ day of July, 2020.

Attest:

David J. Napier, Mayor

Shirley R Buecksler, City Clerk

EXHIBIT 2
STIPULATION AND ORDER FOR DISMISSAL

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

Court File No.: 19HA-CV-19-5724

Case Type: Assessment Appeal

Daniel Witucki,

Appellant,

v.

**STIPULATION,
ORDER AND JUDGMENT**

The City of West St. Paul,
a municipal corporation.

Respondent.

STIPULATION

The matter having been fully compromised and settled, Appellant Daniel Witucki and Respondent City of West St. Paul, by and through undersigned counsel, hereby agree that the above-entitled action shall be dismissed with prejudice and without an award of litigation costs, expenses and/or attorneys' fees to any party.

FREDRIKSON & BYRON, P.A.

Dated: _____

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Attorneys for Appellant

LEVANDER, GILLEN & MILLER, P.A.

Dated: _____

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ORDER

Pursuant to the foregoing Stipulation, the above-entitled action is dismissed with prejudice and without an award of litigation costs, expenses and/or attorneys' fees to any party.

LET JUDGEMENT BE ENTERED ACCORDINGLY.

Dated: _____, 2020.

BY THE COURT:

Judge of District Court

JUDGMENT

I hereby certify that the above Order constitutes a judgment of the Court.

Dated: _____, 2020.

COURT ADMINISTRATOR:

By: _____

Its: _____