

Memorandum

Date: April 14, 2004

To: Policy Board Members and Alternates

From: Robert D. Miller, Director

Subject: Amicus Brief

In November, 2003 Marchant Investment & Management Co., Inc. (MIC) and its principal, Jim Bartlett, filed a lawsuit in the Fourth Judicial District against the St. Anthony West Neighborhood Organization (STAWNO), its Board of Directors and Michael Rainville alleging that the defendants had made false, defamatory, and injurious statements about the plaintiffs and their proposed River Run housing project in the Sheridan neighborhood. The plaintiffs alleged common law business defamation, tortious interference with a prospective business advantage, tortious interference with a contract, civil conspiracy and civil aiding and abetting.

The lawsuit occurred because of vigorous objections raised by STAWNO to the high-density housing development proposed by MIC. Mr. Rainville and STAWNO opposed the development as contrary to the Above the Falls Plan and objected to the variances requested and the zoning application presented by the developer.

This past month Hennepin County Judge Steenson-Dufresne acted on the defendants motion for dismissal under the Minnesota Anti-SLAP statute. She agreed with the defense and dismissed the suits.

Unfortunately, STAWNO and Mr. Rainville had to retain counsel to defend themselves from the allegations and the attorney's fees will be approximately \$ 18,000. Although these fees may be eligible for coverage under the Director's and Officers Insurance Policy of the neighborhood, it would result in significant premium increases for STAWNO and possibly for all Minneapolis neighborhood organizations.

The neighborhood is going to bring a motion asking the judge to award the neighborhood group its reasonable attorney's fees and costs under Minnesota statute 554.04. This statute states in part, "The court shall award a moving party who prevails in a motion under this chapter [Free Speech-Participation in Government] reasonable attorney fees and costs associated with bringing the motion". STAWNO is the moving and prevailing party in this case.

Council President and Policy Board member Paul Ostrow has asked that NRP present an Amicus Brief as a friend to the Court supporting the motion for reasonable attorney's fees and costs. Such an action would be supportive of the interests of all neighborhood organizations and help ensure that lawsuits of this type are effectively addressed.

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I recommend that the Board act on the following resolution:

RESOLVED: That the Minneapolis Neighborhood Revitalization Policy Board (Board) authorizes the Director to prepare and file, on behalf of the Board, an Amicus Brief with the 4th Judicial District Court supporting the motion of the St. Anthony West Neighborhood Organization for reasonable attorney's fees and costs under Minnesota statute 554.04.