



**Request for City Council Committee Action
From the City Attorney's Office**

Date: November 12, 2008
To: Ways & Means/Budget Committee
Referral to:

Subject: Memorandum of Understanding with Midwest Entertainment Group, LLC, the Minnesota Timberwolves Basketball Limited Partnership, LLC and the City of Minneapolis

Recommendation: That the City Council authorize the City Attorney's Office to enter into a Memorandum of Understanding concerning the Settlement Agreement with the U.S. Attorney's Office regarding an ADA compliance review of Target Center and further authorize the City Attorney's Office to execute any documents necessary for the Memorandum of Understanding

Previous Directives:

Prepared by *PWG* Peter W. Ginder Phone: (612) 673-2478
Approved by: *Susan Segal*
Susan L. Segal
City Attorney

Presenter in Committee:

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
- Other financial impact (Explain):
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact

- Neighborhood Notification
- City Goal(s):
- Comprehensive Plan
- Zoning Code
- Other

Background/Supporting Information

On May 8, 2006, the United States Attorney's Office conducted an on-site Americans With Disability Act ("ADA") compliance review of the Target Center ("2006 ADA Compliance Review"). As a result of the 2006 ADA Compliance Review, the United States Attorney's Office issued a letter dated June 5, 2006, which contained a series of findings regarding ADA compliance issues at the Target Center. Through a number of letters and meetings with representatives of the U.S. Attorney's Office, the City of Minneapolis, and Midwest Entertainment Group, LLC, ("MEG") each finding was responded to by the parties. Subsequently, on approximately September 8, 2008, the City and MEG reached a settlement agreement with the United States Attorney's Office. In light of that agreement, the U.S. Attorney's Office closed its file on this matter. MEG and/or Minnesota Timberwolves Basketball Limited Partnership, LLC ("MTBLP") and the City of Minneapolis, have agreed which of the parties will address the findings contained in the settlement agreement.

A copy of the proposed Memorandum of Understanding and the Settlement Agreement with the United States Attorney's Office are attached.

M:drive/attorney/ginder/W&M Budget Ltrs/11.12.08 Memorandum of Understanding Midwest Entertainment and Timberwolves et al

Memorandum of Understanding

This Memorandum of Understanding concerning the Settlement Agreement for the May 8, 2006 Compliance Review of Target Center ("Memorandum") is made by and between Midwest Entertainment Group, LLC ("MEG"), the Minnesota Timberwolves Basketball Limited Partnership, LLC ("MTBLP") and the City of Minneapolis ("City") (collectively, the "Parties") as of October 14, 2008.

Whereas, the Minneapolis Community Development Agency ("MCDA") and MEG were parties to the Arena Lease, Operating, Management, Use and Assurances Agreement dated as of March 1, 1995, as amended (the "Operating Agreement");

Whereas, MEG and MTBLP were parties to the Arena Use Agreement dated as of September 21, 2000, as supplemented and amended by Supplement No. 1 to Arena Use Agreement dated September 21, 2000 (the "Arena Use Agreement") which replaced the Arena Use Agreement dated March 17, 1995;

Whereas, pursuant to the certain Agreement Regarding The Assignment and Assumption of Certain Arena Agreements dated May 10, 2007 (the "Transfer Agreement") MEG assigned to AEG and AEG assumed MEG's rights and obligations under the Operating Agreement and the Arena Use Agreement incurred or arising on or after the May 2, 2007, management change (the "Effective Date");

Whereas, the United States Attorney's office conducted an on-site ADA compliance review of the Target Center on or about May 8, 2006 ("2006 ADA Compliance Review"); and

Whereas, the 2006 ADA Compliance Review resulted in a letter dated June 5, 2006 from the United States Attorney's office containing a series of findings regarding ADA compliance issues at the Target Center; and

Whereas, MEG and the City have reached a settlement agreement with the United States Attorney's office, which is attached hereto and incorporated herein by referenced as Exhibit A (the "Settlement Agreement");

Now therefore, in consideration of the mutual covenants and understandings contained herein, the parties agree as follows:

1. The City will work with the current operator of the Target Center to address items numbered 1-2, 6, 21, 27 and 28 in the Settlement Agreement.
2. MEG and/or MTBLP will address items numbered 5, 7-8, and 9-20 in the Settlement Agreement.
3. Items numbered 3-4 and 22-26 in the attached Settlement Agreement require no action.

The Parties will use best efforts to complete actions required by the Settlement Agreement by January 31, 2009. If any party encounters delays in completing one or more of the items, that party may provide written notice to the other parties along with the new date by which the item will be corrected. The new completion date must be agreed to by the other parties and such agreement will not be unreasonably withheld.

By entering into the attached Settlement Agreement and this Memorandum, the Parties do not intend to and do not admit any violation of the ADA or any other law.

This Memorandum, together with the Settlement Agreement, shall constitute the complete and comprehensive agreement between the parties hereto with respect to the subject matter hereof, shall supplement all prior agreements or understandings, oral or written, and may not be amended except only in a writing duly and properly executed by the parties hereto.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Memorandum, effective as of the date first above written.

CITY OF MINNEAPOLIS

By _____
Peter W. Ginder
Deputy City Attorney

MIDWEST ENTERTAINMENT GROUP,
LLC

By _____
Name: _____
Title: _____

MINNESOTA TIMBERWOLVES
BASKETBALL LIMITED PARTNERSHIP

By _____
Taylor Sports Group, Inc., General Partner
Name: _____
Title: _____



U.S. Department of Justice

United States Attorney
District of Minnesota

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300 South Fourth Street
Minneapolis, MN 55415
www.usdoj.gov/usao-mn

(612)664-5600

September 8, 2008

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Vice President &
Assistant General Counsel
Midwest Entertainment Group, LLC
1725 Roe Crest Drive
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Peter W. Ginder
Deputy City Attorney
Office of the City Attorney
333 South 7th Street
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Minneapolis, MN 55402-2453

Steve Mattson
Vice President &
General Manager
Target Center
600 First Avenue North
Minneapolis, MN 55403

Re: ADA Compliance Review of Target Center

Dear Ms. Spellacy, Mr. Ginder & Mr. Mattson:

On May 8, 2006, the United States Attorney's office conducted an on-site ADA compliance review of the Target Center. That review raised 28 possible ADA findings. By letters dated November 21, 2006, March 20, 2007, and September 25, 2007, and through meetings with representatives of this office, the Target Center, the City of Minneapolis, and Midwest Entertainment Group, LLC, have responded to each finding. Below is a summary of the parties agreement as to each finding.

Skyway Opening and Concourse Remodel.

1. An ambulatory stall that is exactly 36 inches wide will be installed in the lower concourse level women's toilet room.
2. Soap dispensers in the lower concourse level women's toilet room will be re-installed to comply with the ADA.

The Gym - Minnesota Timberwolves and Lynx Pro Shop.

3. The slope of the accessible ramp was deemed acceptable and required no modification.
4. The existing handrails were deemed acceptable and required no modification.

Club Cambria - Assembly Seating.

5. Designated accessible spaces along an accessible route will be provided in the center seating section of Club Cambria.
6. For each aisle seat located in the Club Cambria general assembly seating area, either a folding armrest will be installed in one seat in the assembly seating area of Club Cambria or the armrest will be removed.

Club Cambria - Bar/Dining Area.

- 7-8. Six 34-inch high accessible tables will be placed in the Club Cambria dining/bar area in a manner that provides a similar dining/bar experience for all patrons.

Cambria Club - Toilet Rooms.

- 9-20. Toilet Room 102 will be modified into a fully accessible unisex toilet facility.

Cambria Club - Visual Alarms.

21. Visual alarms will be provided in the lounge area and in each single user toilet room.

Assembly Seating - General.

22-26. It was determined that the number of accessible seating available in each seating configuration was sufficient and no modification was required.

Suites 1-68.

27. An additional removable seat will be added to all suites requiring two removable seats in order to achieve the required 36 inch minimum accessible aisle.

28. For each aisle seat, either a folding armrest will be installed or the armrest will be removed.

In light of the above agreements, this office intends to close its file and will take no further action on this matter unless we become aware of new information suggesting that Target Center is not complying with its obligations under the ADA. Please countersign and return a copy of this letter to me indicating your agreement with the representations and terms set forth herein. Once we review your countersigned copy, we will consider this matter resolved.

This letter does not constitute a finding by the United States Attorney's Office that the Target Center is in full compliance with the ADA, nor does it constitute an admission by the Target Center of fault or noncompliance with the ADA. Moreover, this letter does not address other potential claims of discrimination on the basis of disability that may arise from the activities of the Target Center. Rather, this letter is limited to the issues discussed above. Our decision to close our file in this matter does not affect the rights of private individuals to enforce their rights under the ADA against the Target Center.

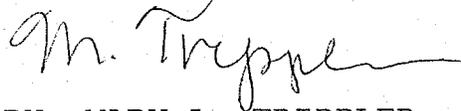
We appreciate your cooperation in bringing this matter to a conclusion. Should you need general information about the

ADA, you may call the ADA information line at 800-514-0301 (voice), 800514-0383 (TTY), or access the ADA homepage at www.ada.gov.

Sincerely,

Dated: *September 8, 2008*

FRANK J. MAGILL, JR.
United States Attorney

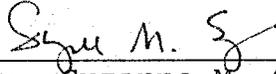


BY: MARY L. TRIPPLER
Assistant U.S. Attorney
Attorney I.D. No. 110887

Countersigned:

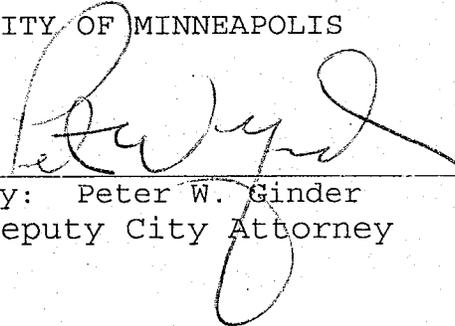
MIDWEST ENTERTAINMENT GROUP LLC

Dated: *October 14, 2008*


By: Suzanne M. Spellacy
Vice President &
Assistant General Counsel

CITY OF MINNEAPOLIS

Dated: *October 1, 2008*


By: Peter W. Ginder
Deputy City Attorney