



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

Date: February 24, 2005  
To: Ways & Means/Budget Committee  
Referral to:

**Subject:** Dream Home Development, LLC v. City of Minneapolis

**Recommendation:** That the City Council authorize payment of \$18,000.00 for full and final settlement of the case of Dream Home Development v. City of Minneapolis payable to Dream Homes Development, LLC and its attorneys, Morrison Fenske & Sund, payable with \$9,000.00 from Fund/Org. 6900 150 1500 8500 and \$9,000.00 from Fund/Org. [GENO 8921 340C1000](#), and authorize the City Attorney to execute any documents necessary to effectuate the settlement.

**Previous Directives:** None.

Prepared by: James A. Moore, Assistant City Attorney Phone: 673-2063

Approved by: \_\_\_\_\_  
Jay M. Heffern  
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

**Financial Impact** (Check those that apply)

- No financial impact - or - Action is within current department budget.  
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): \$9,000.00 payable from Fund/Org. [GENO 8921 340C1000](#)  
\$9,000.00 payable from Fund/Org. 6900 150 1500 8500
- Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact:**

City Goals: Build Community

**Background/Supporting Information**

The case arose when Plaintiff purchased a vacant lot at 2204 4<sup>th</sup> Avenue South. Plaintiff applied for and was issued building permits for the construction of a two story, multi-family dwelling on the site. Pursuant to the permits Plaintiff began construction in April of 2002. When construction of the house was almost completed, neighbors complained that the design was not consistent with some of the requirements for the

Washburn/Fair Oaks Historic District. This is the first time that Plaintiff was put on notice that the property was in a historic district. Ordinarily, the fact that a property is within a historic district is noted in the Inspections Division computer and permits are not issued until after review by the Historic Preservation Commission (HPC). In this case, the Inspections computer contained no indication that the property was in an historic district. Consequently, the permits were issued without historic review. The Washburn Fair Oaks historic district was created by City Council resolution in 1976, but was not codified in the ordinances. Consequently, the Plaintiff was not on notice of the historic requirements until construction was almost completed.

When the issue arose, the City halted work on the project and referred the matter to the HPC. The HPC required the Plaintiff to replace windows and to add a porch to make the structure more consistent with the historic nature of the area. The delay in construction resulted in the loss of rents and the Plaintiff incurred additional expense in removing and replacing windows and adding the porch.

The Plaintiff sued claiming damages in excess of \$30,000.00 in damage. The City Attorney's Office has been able to negotiate a settlement of the case in the amount of \$18,000.00. Liability of the City is clear because of the lack of notice to the Plaintiff. The City Attorney's Office is working with CPED and Regulatory Services to codify historic districts so that future developers will be deemed to be on notice of the requirements of applicable historic districts.

For the foregoing reasons the City Attorney recommends settlement in the amount of \$18,000.00 payable \$9,000.00 from Fund/Org. [GENO 8921 340C1000](#) and \$9,000.00 from Fund/Org. 6900 150 1500 8500.