

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

Date:	May 8, 2009
To:	Ways & Means/Budget Committee
Subject:	Michael Maile v. The City of Minneapolis, a Municipal Corporation, And Thomas Deegan, In His Individual and Official Capacities Hennepin County District Court
The City of Minneapolis	That the City Council approve the settlement of the lawsuit of <i>Michael Maile v.</i> , et al. in the amount of \$29,500 payable to Michael Maile and his attorney, Dan 06900-145835 and authorize the City Attorney's Office to execute any documents settlement.
Previous Directives: NA	
Prepared by: Approved by: Presenter in Committee	Lee C. Wolf Phone: (612) 673-2359 Susan L. Segal City Attorney Susan L. Segal, City Attorney
Financial Impact (Check those that apply)	
No financial impact	(If checked, go directly to Background/Supporting Information).
Action requires an a	appropriation increase to the Capital Budget or Operating Budget.
Action provides inci	reased revenue for appropriation increase (in 2007 Budget request).
Action requires use	of contingency or reserves.
Business Plan:	_ Action is within the plan Action requires a change to plan.
X Other financial impact (Explain): Fund/Org. 06900-145835	
Request provided to	o department's finance contact when provided to the Committee Coordinator.
Community Impact (use any categories that apply)	
City Goal(s): Build Com	munity

Ways & Means/Budget Committee Michael Maile v. The City of Minneapolis, a Municipal Corporation, and Thomas Deegan, In His Individual and Official Capacities May 8, 2009 Page 2

Background/Supporting Information

Plaintiff, Michael Maile owns a property located at 1804-1806 Central Ave. N.E. In December, 2006 the Problem Properties Unit (PPU) condemned the garage at the property due to structural concerns. A meeting was set up between PPU staff and the owner of the property. It was agreed that the person who was renting the garage from the owner, and conducting automotive repairs in the garage, would clear the garage of all automotive repair tools and materials by the end of January 2007. At the December 2006, meeting the owner agreed to a rental housing inspection of the apartment building associated with the garage at 1804-1806 Central Ave. N.E. A rental housing inspection was conducted by Jim Dahl of the Minneapolis Fire Department in January 2007, which resulted in the issuance of several orders to make necessary repairs to the apartment building. The inspection also confirmed that the garage was cleared of all automotive repair materials by the end of January 2007. On February 28, 2007, Jim Dahl gave the owner an extension to complete the housing orders that had not been abated.

On March 15, 2007, Tom Deegan of the PPU requested a search warrant for the address due to information that the garage at the property was being used by individuals to perform activities such as stripping copper from air conditioning units, wires and for the storage of possibly stolen copper piping. Mr. Deegan was also informed that the individuals were allegedly bringing materials into the basement of the house to be stripped and/or stored. Mr. Deegan presented the warrant to Hennepin County Judge Kaman who signed the warrant.

Mr. Deegan then had the warrant executed by the Minneapolis Police Department along with Minneapolis Housing Inspectors. All four units and the basement of the building were searched. Housing Inspectors performed an inspection while in the property. The housing inspection resulted in a determination that the property was condemnable based upon numerous housing violations. On March 16, 2007, Mr. Deegan posted the property as being condemned for "structural, mechanical, electrical and plumbing issues". The building was not posted with a "Letter of Intent to Condemn" as required by City Ordinance, which would give the owner a period of time to correct the violations prior to the building being condemned.

Plaintiff brought suit alleging improper condemnation. Plaintiff alleges damages for lost rent and attorney's fees, with regards to this matter and Tenant Remedies Action proceedings filed by the former tenants, Plaintiff alleges that police officers and inspectors damaged property while executing the warrant. Plaintiff alleges total damages in excess of \$34,000. We have been able to settle this matter for \$29,500. The City Attorney's Office recommends settlement in the amount of \$29,500. The Department of Inspections has been consulted and is in agreement with the settlement of this matter for the amount of \$29,500.