



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

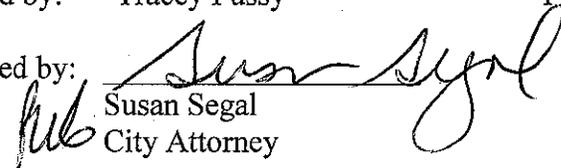
Date: July 27, 2010
To: Ways & Means/Budget Committee
Referral to:

Subject: *Don Blyly v. City of Minneapolis, et. al.*

Recommendation: That the City Council approve the settlement of this case by payment of \$17,000 payable to Don Blyly and his attorney Lawrence Crosby from fund/org 06900-1500100-145937, and authorize the City Attorney's Office to execute any documents necessary to effectuate settlement.

Previous Directives:

Prepared by: Tracey Fussy Phone: (612) 673-2254

Approved by: 
Susan Segal
City Attorney

Presenter in Committee: Susan Segal, City Attorney

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): \$17,000 from Fund/Org.06900-1500100-145937
 Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact: Other

Background/Supporting Information:

In 2005, the City hired Lunda Construction Company to serve as general contractor for the demolition and reconstruction of the Chicago Avenue bridge at 28th Street. Lunda hired several subcontractors to perform work on the reconstruction project. Plaintiff Don Blyly owns two bookstores in adjoining buildings located on Chicago Avenue near the bridge (Uncle Edgar's Science Fiction Bookstore and Uncle Hugo's Mystery Bookstore).

Bridge demolition started in April 2005. In June 2005, the City performed its own water main work on Chicago Avenue in front of Blyly's buildings. In November 2005, the City performed some street paving work, which included tamping down gravel on Chicago Avenue in front of Blyly's building. During the City's own work Blyly alleged the building shook and that he saw portions of plaster fall from the ceiling. The falling plaster brought down the suspended ceiling. Additionally, at that same time the roof adjoining Blyly's stores separated, which allowed water to enter the building, causing damage to the building and the books within the building. The roof needed to be replaced. Blyly also noticed a new crack in the basement floor that ran up into the foundation.

Blyly brought suit against the City and Lunda Construction Company. Lunda sued its subcontractors for their work on the bridge renovation. During the course of the litigation each party, including the City, sought expert opinions as to whether the City's water main and street paving work could have caused damage to Blyly's building. The experts, including the City's, concluded that the City's water main and street paving work caused damage to Blyly's building. The estimated damage to Blyly's building was over \$500,000.

The City and Blyly reached a proposed settlement in the amount of \$17,000. The settlement amount has been reviewed and approved by the City Attorney Litigation Committee. Public Works administration has also approved the settlement. Therefore, staff recommends approval of the settlement.