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October 25, 2007

Hon. Francis Connolly
Hennepin County District Court
C-921 Hennepin County Gov't Center
300 South Sixth Street
Minneapolis, MN 55487

Re: Peter Huxmann v. Minneapolis Park and Recreation Board
Hennepin County District Court Case No. 27-CV-07-7807
BY FAX AND REGULAR MAIL

Dear Judge Connolly:

I write in necessary response to the uninformed statements in Ms. Walther's October 24, 2007 letter to Your Honor. Early on, Ms. Walther says "[a]s you know, Ms. Peterson is out of the country until October 29, 2007." (Emphasis added.) How did Your Honor come to know that? Please make this part of the record.

Ms. Walther states, *e.g.*, that "[i]f the court stays the proceedings, then as a matter of law, plaintiffs(*sic*) must post an appropriate bond." (Italics in original and emphasis added.) That should come as news to Your Honor inasmuch as you wrote in pertinent part as follows in your August 2d letter to counsel prior to the August 30th hearing: "All parties should be prepared to discuss whether a bond or other condition as provided by the Rules should be imposed if the court grants such a stay." (Emphasis added.)

Ms. Walther also states that "[t]he Park Board has not failed to provide this court with any relevant information." She cannot be serious. Waiting four months to tell the court that time had not been of the essence when the temporary injunction was denied was a failure to provide the court with relevant information until August 30th. And despite knowing that plaintiff's motion for a stay of proceedings was still under advisement, never informing the court that the construction would be completed and probably started in 2008 without penalty was a failure to provide the court with relevant information.

And in yet another of her determined attempts to show that she does not know what she is talking about, Ms. Walther states that "we will be happy to discuss whether the

Member: UNITED STATES SUPREME COURT BAR • MINNESOTA STATE BAR • UNITED STATE BAR FOR THE DISTRICT OF MINNESOTA • UNITED STATES BAR FOR THE EIGHTH CIRCUIT COURT OF APPEALS • UNITED STATES BAR FOR THE COURT OF APPEALS FOR THE FEDERAL CIRCUIT • UNITED STATES BAR FOR THE COURT OF VETERANS APPEALS • UNITED STATES TAX COURT BAR • UNITED STATES BAR FOR THE COURT OF INTERNATIONAL TRADE

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amount [of a bond] we initially requested should be changed.” They requested nothing, we already had the discussion, and Ms. Peterson would not have even proffered the August 29th Eoloff affidavit at the August 30th hearing if I had not written the following in plaintiff’s August 27th reply memorandum in support of his motion for a stay of proceedings:

[D]efendant’s response argument contains not a word as to what sort of bond or other conditions should be imposed and why. The trial court thus continues to have no evidence before it on which to base an imposition of a bond or other conditions, and defendant’s attorney cannot be properly allowed to ‘testify’ at the hearing on August 30th on a subject about which *nothing* has been said in defendant’s response memorandum. Defendant has never even *argued* that it will be harmed, financially or otherwise, by a postponement of the construction of what we now know will be a 10’ bicycle-only path and not the falsely-described ‘bike/pedestrian’ path. The absence of any such argument **coupled with the absence of any evidence that a bid concerning the Ulysses-to-Stinson project has been accepted or even advertised** should require this court to presume that a bid for the Ulysses-to-Stinson project has never been solicited, let alone accepted. (Italics in original and emphasis added.)

Nor did Ms. Peterson put any such evidence before the court at the August 30th hearing, as shown in plaintiff’s September 6th response to the irrelevant (and misleading) Eoloff affidavit.

My letter did not contain any references to the Park Board’s pending summary judgment motion, and there was no reason to do so then *or now*. Plaintiff’s motion for a stay of proceedings during the pendency of his appeal presents separate and distinct questions which deserve to be resolved.

Sincerely,

STANBURY LAW FIRM P.A.



Alfred Stanbury

cc: Peter Huxmann
Ann Walther, Esq.