

STATE OF MINNESOTA
IN COURT OF APPEALS

Peter Huxmann, individually and
on behalf of all those similarly
situated,

Appellants,

**RESPONDENT'S MOTION TO DISMISS
APPEAL AS MOOT**

v.

City of Minneapolis, Park Board

Respondent.

APPELLATE COURT CASE NO: A07-1431

To: The Minnesota Court of Appeals and Alfred Stanbury, Stanbury Law Firm, P.A.,
2209 St. Anthony Parkway, Minneapolis, Minnesota 55418

Pursuant to Minn. R. Civ. App. P. 127, Respondent City of Minneapolis, acting
by and through its Park and Recreation Board (Park Board) hereby moves the Minnesota
Court of Appeals for an order dismissing Appellant's appeal as moot.

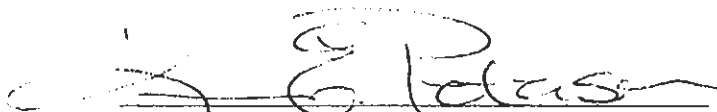
Appellant Peter Huxmann (Huxmann) appealed from an order of the district court
denying Huxmann's motion for a temporary injunction. After Huxmann had filed his
appeal, the district court granted summary judgment to the Park Board. The district
court's order for entry of judgment was filed on October 31, 2007. Judgment was entered
in the case on November 2, 2007. Pursuant to Minn. R. Civ. App. P. 104.01, Huxmann
had 60 days to appeal. Huxmann's time to appeal from the district court's entry of
summary judgment has passed rendering his appeal moot.

EXHIBIT 11

It is well settled that the court of appeals may not extend the time for filing the notice of appeal. *See* Comment 1983 to Minn. R. Civ. App. P. 126; *see also* Minn. R. Civ. App. P. 127. Huxmann's failure to file a timely appeal from the entry of summary judgment in the underlying is fatal; he cannot cure it. Therefore, the Park Board respectfully requests that the court of appeals dismiss Huxmann's appeal with prejudice.

Date: January 11, 2008

RICE, MICHELS AND WALTHER, LLP

A handwritten signature in black ink, appearing to read 'Karin E. Peterson', is written over a horizontal line.

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