

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

Jason Klohs,

Court File No: _____

Plaintiff,

v.

COMPLAINT

City of Minneapolis, Minneapolis
Neighborhood Revitalization Program
Policy Board, Marcy Holmes Neighborhood
Association,

Defendants.

Plaintiff Jason Klohs, for his Complaint against the above-named Defendants City of Minneapolis, Minneapolis Neighborhood Revitalization Program Policy Board, and Marcy Holmes Neighborhood Association, states and alleges as follows:

1. This action is brought under Minn. Stat. § 555.01, et seq, and Rules 57 and 65, Minn. R. Civ. P., and seeks the judgment of the Court that actions of Marcy Holmes Neighborhood Association regarding a request under Minn. Stat. § 13.01, et. seq are illegal, and also related injunctive relief.

PARTIES

2. Plaintiff Jason Klohs (“Klohs”) is an individual residing and owning property in Hennepin County, Minnesota, within the defined boundaries of the Marcy Holmes Neighborhood Association.
3. Defendant City of Minneapolis, Minnesota (“Minneapolis”) is a municipal corporation organized and existing under the laws of the State of Minnesota.

4. Defendant Minneapolis Neighborhood Revitalization Program Policy Board (“NRP”) is a joint powers board organized under Minn. Stat. § 469.1831.
5. Defendant Marcy Holmes Neighborhood Association (“MHNA”) is a Minnesota non-profit corporation organized and existing under the laws of the State of Minnesota.

AVERMENTS OF FACT

6. On February 24, 2006 the Minneapolis City Council adopted the Community Planning and Economic Development Department (“CPED”) Citizen Participation Program Guidelines (“CPED Guidelines”), attached hereto and incorporated herein as Exhibit A.
7. The CPED Guidelines provide for grievances against contracted neighborhood groups by property owners.
8. The final step in the CPED Guidelines grievance policy states “if any party is still unsatisfied, a mutually agreed upon third party will be selected to hear the complaint.”
9. NRP has also adopted a Grievance Procedure (“NRP Grievance Procedure”), attached hereto and incorporated herein as Exhibit B.
10. As a condition of initiating a grievance, the NRP Grievance Procedure requires a person filing the grievance to “follow these grievance procedures and accept the decision of the Policy Board Implementation Committee.”
11. Both the CPED Guidelines and the NRP Grievance Procedure require a complainant to first file a grievance with the neighborhood group at issue.
12. On July 9, 2009, Klohs filed a written grievance with MHNA pursuant to MHNA’s grievance procedure, attached hereto and incorporated herein as Exhibit C. The grievance implicated both CPED and NRP.
13. Klohs and MHNA did not resolve the grievance under the MHNA grievance procedure.

14. Klohs thereafter initiated grievances with CPED and NRP under their respective to grievance procedures.
15. The CPED grievance procedure was abruptly halted by CPED in a letter dated September 2, 2010, attached hereto and incorporated herein as Exhibit D. In the letter, Deputy Director Charles T. Lutz denied any meeting with an agreed-upon third party as required by the grievance procedure.
16. NRP refused to allow Klohs' grievance to proceed. In a letter dated April 14, 2010, attached hereto and incorporated herein as Exhibit E. The letter stated, in pertinent part: "The NRP Grievance Procedure clearly requires all parties to consent to be bound by the decision reached as a result of the identified process, and is therefore, in the nature of mandatory arbitration. Without such an agreement, the conditions of Section III are not satisfied and it would be inappropriate for NRP to accept this grievance."
17. Klohs repeatedly requested a letter from NRP stating that Klohs had exhausted his administrative remedies, all of which were denied by NRP.

COUNT I

Declaratory Judgment (CPED Grievance)

18. Paragraphs 1 through 17 are incorporated herein by reference.
19. CPED, for no reason other than the arbitrary conclusion by Charles T. Lutz that review by a third party could never resolve the grievance, arbitrarily and capriciously refused to comply with its own adopted policies.
20. Klohs is entitled to judgment affirming his right to a review of the CPED grievance by a mutually agreed upon third party.

COUNT II

Declaratory Judgment (NRP)

21. Paragraphs 1 through 20 are incorporated herein by reference.
22. The NRP Grievance Procedure impermissibly violates the doctrine of unconstitutional conditions as it requires Klohs to relinquish his constitutional rights, including but not limited to procedural due process, simply for participating as a concerned citizen in a government process.
23. Klohs is entitled to judgment declaring the NRP Grievance Procedure unconstitutional.

COUNT III

Declaratory Judgment (NRP)

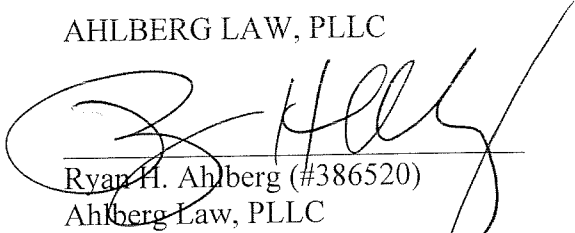
24. Paragraphs 1 through 23 are incorporated herein by reference.
25. In the alternative to the relief contemplated in Count II, Klohs has exhausted his administrative remedies with NRP because he is unwilling to agree to the conditions placed upon him in the NRP Grievance Policy.
26. Klohs is entitled to judgment declaring that he has exhausted his administrative remedies with NRP.

WHEREFORE, Plaintiff requests judgment against the various defendants as follows:

1. A declaratory judgment as set forth in paragraph 20, above;
2. A declaratory judgment as set forth in paragraph 13, above;
3. In the alternative to the relief prayed for in paragraph 2, a declaratory judgment as set forth in paragraph 26, above;
4. Plaintiff's costs, disbursements, and attorneys fees incurred in bringing this action, and;
5. Such other relief as the Court deems just and equitable.

Dated: November 5, 2010

AHLBERG LAW, PLLC



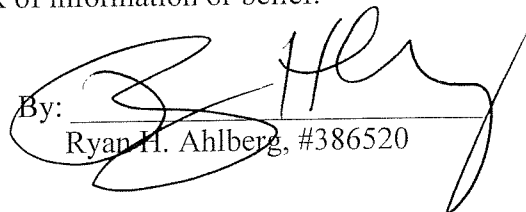
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Attorney for Plaintiff

ACKNOWLEDGEMENT

The undersigned hereby acknowledges that pursuant to Minn. Stat. §549.211, Subd. 2:

1. This pleading is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
2. The claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
3. The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after reasonable opportunity for further investigation or discovery; and
4. The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

Dated: November 5, 2010


By: _____
Ryan H. Ahlberg, #386520