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November 13, 2024

VIA EMAIL

City Council
City of Spring Lake Park

**RE: OPPOSITION TO PROPOSED ASSESSMENT/ADMINISTRATIVE
CITATION 2024-0305**

Background

I am the owner and sole occupant of the home located at 626 83rd Ave NE in the city of Spring Lake Park. I am 66 years old and suffer from chronic back pain and Plantar Fasciitis. As the summer progressed, it became clear to me that I needed assistance in maintaining my yard. I began a frustrating search for a company or individual(s) whom I could hire to provide the needed services. I was several weeks into that process when I received a note on the door claiming I was in violation of several codes. In less than a week, I received the letter and citation dated 8/5/2024. A couple of weeks later, I was finally able to hire a contractor to clean up the yard. The cost was \$2,500. It was not my intent to let the grass grow as long as it did, but as I was unable to do it myself, I had to hire the work done, which took some time.

Recently, I received notice of the City of Spring Lake Park's intent to assess my property and by extension myself, for the fines purportedly assessed by the above referenced citation which cited three separate violations. I had assumed since the yard got cleaned up that the matter had been resolved, until I received the notice of assessment. These citations are infirm, both legally and factually, and hence any assessment predicated thereon are also without legal basis.

Due Process Violation

By this proposed finding of violation and assessment, my due process rights were violated by the failure to give the notice required by SLPC §9.20.020(G)(2) which requires that notice be given by personal service by a law enforcement officer or by certified mail and by the lack of opportunity to resolve the issue, which I was working towards. Notice of the violation was left at the front door, which does not meet the

notice requirement. For this reason, the matter must be dismissed and any assessments quashed.

Even had proper notice been given, the letter that accompanied the Administrative Citation stated that the inspection occurred on 8/2/2024 and the citation was issued on 8/5/2024, with no period given to cure the alleged violations.

Violation of MSFC 505.1

This alleged violation is factually and legally deficient and violates due process rights as stated above.

The citation claims that my home is in violation of this provision because the house numbers are not at least 12" in height and not "plainly visible". This is nonsense for two reasons. MSFC 505.1 only requires letters to be at least 4" high, not 12". The numbers on my house are in excess of 4" high. The citation further misstates the law when it states that the numbers must be "plainly visible". The statute requires that they be "plainly legible and visible". They are also plainly legible and visible from the street, and always have been. The statute does not define "plainly legible and visible from the street", but any reasonable interpretation as well as accepted practice, allows for trees and other vegetation to perhaps obscure the number from one particular narrow vantage point on the street, as long as any vehicle advancing slowing down the street will be able to identify the dwelling. In my five years of living in Spring Lake Park, I have noted that it is common that dwellings have trees in the front yard.

The noted inspectors comment was that shrubs and an overgrown limb blocked viewing the numbers. This is factually inaccurate and hopelessly vague. There are no shrubs blocking the numbers and there never has been. I have looked to find any legal or common definition of the "overgrown limb", without success. The largest tree in the front yard is a maple. While I am not a horticulturist, the tree appears to have the normal number of leaves on the limbs for the time of year at issue. Those leaves might well have blocked the view of the number from some angles, as did the trunk of the tree. However, no one driving down the street would have any difficulty reading the numbers, which is the point of a fire code.

This violation notice provides insufficient warning as to what the specifics of the alleged deficiency was, such that it could be remediated with confidence of compliance. I also incorporate my points about due process with respect to this allegation.

The other two alleged violations deal with public nuisance. Nothing alleged remotely arises to the level of public nuisance, so attempting to allege these two violations are prima facie invalid.

An information brief for the Minnesota House of Representatives, dated July 2015. generally sums up the what constitutes a *public nuisance*.

A “public nuisance” is an activity (or a failure to act in some cases) that unreasonably interferes or obstructs a right that is conferred on the general public, such as the enjoyment of a public park or other public space. A public nuisance may also exist where there is a condition that is dangerous generally to members of the public (such as a health hazard) or is in some way offensive to accepted community standards (such as loud music late at night).

<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.house.mn.gov/hrd/pubs/nuislaws.pdf&ved=2ahUKEwjY5Zeh5tqJAxWfhIkEHcZOFwwQFnoECB4QAQ&usg=AOvVaw0R0yxIVeEjSvxUDeUQiBDL>

Further, to the degree that the law holds that intent is an element of the offense, it never was my intent to let the grass get that long. I was working to contract for the work to be done, but finding help can be difficult these days as it was for me.

Alleged Violation of SLPC §9.20.020(B)(9)

The citation specifies an alleged violation of the above code. This code section is titled “Public Nuisances Health, Safety, Comfort, Or Repose.” Nothing in my yard has affected health, safety, comfort, or repose. But further, §(B)(9) provides that: “All noxious weeds, tall grasses defined as anything over eight inches in height, and other rank growths upon public or private property . . .” The notice of violation fails to allege that there were any noxious or rank growth in the yard. The grass was longer than optimal but not over 8” and there were some weeds of the types common to this area. As there were no grasses over 8” and no noxious weeds, there is no violation of this section.

I also here incorporate my above points regarding violations of my due process rights with respect to required notice, clarity of the violations, and the lack of opportunity to cure.

Alleged Violation of SLPC §9.20.020(D)(10)

The citation specifies an alleged violation of the above code. This code section is titled “Public Nuisances Affecting Peace and Safety. That section addresses: “The piling, storing, or keeping of old machinery, wrecked or junked vehicles, and other junk or debris”. The notice of violation only lists “debris in the front yard setback”. No specifics were given. Other than leaves and weeds, there was no debris in the front yard that I could see. Clearly there was no old machinery, wrecked or junked vehicles, or other junk, so if it is to be claimed that there is a some grave danger to public safety, some better description that debris would seem to have been an obvious requirement of such a violation. It is not clear to me even now, what the inspector thought was debris in the front yard, sufficient to create a public nuisance.

I also here incorporate my above points regarding violations of my due process rights with respect to required notice, clarity of the violations, and the lack of opportunity to cure.

Summation

As proper notice was never given as required by ordinance and my right of due process, this assessment must be set aside and the alleged violations expunged.

As set forth above, at no time was it unreasonably difficult to read the number on the house and it met the requirements of MSFC 505.1. It was visible, plainly legible, and met the height requirements.

It is a gross over-reach that the city has attempted to apply a public nuisance ordinance rather than the weed ordinance contained in SLPC §9.20.030. However, even that would be unavailing as it has the same notification requirement of personal service or certified mail, neither of which was utilized.

At this point, I trust that charity for an old lady of limited physical abilities and the common sense that the City has already expended more effort than \$200 of fines would justify will lead the council to dismiss the alleged violations and the proposed assessments.

Very Sincerely,

A handwritten signature in black ink that reads "Kristin A. Winter". The signature is written in a cursive, flowing style.

Kristin A. Winter

