

University Avenue businesses seek to halt Central Corridor project

by Bill Clements

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Court filing expected after mitigation talks break off

A group of minority-owned businesses on University Avenue will ask a federal judge to halt construction of the \$957 million Central Corridor light rail line because negotiations over mitigation measures have fallen apart.

Thomas DeVincke, attorney for the businesses, said Wednesday that he will file a motion by Oct. 5 asking U.S. District Court Judge Donovan W. Frank in St. Paul to enforce his Jan. 26 order regarding mitigation measures for the businesses and "to enjoin further construction until the government fully complies with the National Environmental Policy Act."

Defendants include the Metropolitan Council, the manager of the project, and its federal overseers, the U.S. Department of Transportation and the Federal Transit Administration.

The court already is set to hear arguments Nov. 21 on the motion to enjoin, said DeVincke of the Minneapolis-based law firm Bonner & Borhart.

"There was no substantive offer to address my clients' concerns, so we are proceeding with the litigation," DeVincke said.

Meredith Salsbery, spokeswoman for the Met Council, said in a statement that the council believes it "has fulfilled all of its obligations with regard to the order by the court in this case."

In an order issued Jan. 26, Frank ruled that the Met Council, FTA and DOT did not adequately consider "lost business revenue as an adverse impact" of the Central Corridor construction on businesses in the Midway East section of the corridor, formerly known as Rondo.

The primarily African-American community of Rondo was destroyed in the 1960s by another major public transportation project: the construction of Interstate 94 through St. Paul.

The motion expected to be filed will ask Frank to stop the largest public construction project in Minnesota history, DeVincke said, because of what he claims are fruitless negotiations over measures to soften the hit to the pocketbook that the businesses will take as a result of the huge project.

On June 21, DeVincke and the businesses sent the Met Council a list of mitigation measures they wanted to see beyond the \$4 million potentially forgivable loan program to assist businesses that the cities of St. Paul and Minneapolis have set up.

"We made a number of [mitigation] demands," DeVincke said, "and the Met Council directed us to review publicly available material about mitigation measures — and then said if we wanted to set up a meeting so they could explain the material to us further, we could do that.

"It was a total waste of time."

Among the mitigations the businesses have requested:

- That the Central Corridor project hire 100 workers from St. Paul's Ward 1 to work on



Central Corridor project workers are now building light rail transit stations at a number of the planned stops, including this one at Raymond Avenue. (Staff photo: Bill Klotz)

- the construction of the line;
- That the cities soften the requirements businesses need to match to get their business assistance loans forgiven; and,
- That the council contribute to a “property tax and rent cap housing affordability preservation fund.”

Paul D. Reuvers, a private attorney from the Bloomington-based firm of Iverson Reuvers whom the Met Council has hired to handle this case, deferred comment to his client.

“We have been and will continue to make exhaustive efforts to assist businesses along University Avenue as CCLRT construction continues, including funding a marketing campaign and forgivable loan programs,” Salsbery said in a prepared statement.

She also e-mailed to Finance & Commerce a copy of a letter dated July 19 and addressed to DeVincke that responded to his clients’ list of mitigation requests.

Among the responses in the letter: that the council is prohibited by federal law from hiring based on geographic preference; that the city of St. Paul is the proper authority to discuss softening the loan fund requirements with; and that the council has neither the authority nor the money to contribute to any such housing preservation fund.

In addition, in response to the court’s order that the Met Council undertake additional “supplemental environmental” efforts, the council files with the FTA a monthly update on the assistance the Central Corridor project is providing businesses along the corridor. (Available [here](#).)

The so-called Rondo lawsuit, filed in January 2010, asked the court to vacate the Aug. 4, 2009, approval of the Central Corridor project’s final environmental impact statement (FEIS) and sought an injunction blocking planning and construction of the 11-mile Central Corridor line scheduled to open in 2014.

The line will connect the downtowns of St. Paul and Minneapolis; heavy construction has been going on since spring in downtown St. Paul and along the western part of University Avenue in St. Paul.

In his January order, Frank declined to stop construction of the LRT line, ruling that the public benefits of the project outweighed harm to residents and businesses in the area.

But Frank also wrote that the FEIS “is inadequate insofar as it fails to address the loss of business revenues as an adverse impact of the construction of the CCLRT.” And he ordered the defendants to “supplement its analysis of business interruption impacts” and to negotiate mitigations with the businesses involved in the lawsuit.

The lawsuit’s dozen plaintiffs include the St. Paul Branch of the NAACP, the Community Stabilization Project, the Aurora/St. Anthony Neighborhood Development Corp., Pilgrim Baptist Church, Shear Pleasure Inc. (a hair salon at 979 University Ave.) and Arnellia’s (a restaurant/nightclub at 1183 University Ave.).

What the businesses want

Here’s the list of mitigation measures the Rondo businesses submitted to the Met Council:

1. Agree to confer with Shear Pleasure Salon of Beauty (979 W. University Ave.) directly and in person to address in writing each concern of the business and to ensure its continued presence and prosperity on University Avenue.
2. Agree to confer with Arnellia’s (1183 W. University Ave.) directly and in person to address in writing each concern of the business and to ensure its continued presence and prosperity on University Avenue or at a suitable alternative location.
3. Enter into a contract with a community group agreeable to the plaintiffs to support community based capacity building. Available sources of funding could include but are not limited to portions of the Sustainable Communities Regional Planning Grant Funds.
4. Make full written disclosure of the details regarding the business support fund including full disclosure of all criteria to qualify for funding and discuss relaxing conditions for forgiveness of loans. Also, removal of criteria that guarantors and applicants provide credit information and removal of “underwriting” with respect to the forgivable loan process. Also, specifications on the amount of additional small business loans available above and beyond the initial \$20,000. Also, clarification on whether the administrative

cost of the business support program will be paid out of the \$4 million fund.

5. Met Council commits to hiring 100 workers on LRT project who reside in Ward 1.
6. Commitment from the Met Council to acquire land adjacent to the Western, Dale, Victoria and Lexington stations for land banking to later transfer ownership and control to ASANDC and partners for the purpose of community-based development. Priority sites or parcels for acquisition include the Old Home site at Western, the southeast corner inclusive of the Uni-dale Mall or parcels thereof or the northwest corner of Dale, parcels at the southeast corner of Victoria and parcels at the southeast corner of Lexington.
7. Commitment from the Met Council to equally contribute alongside local units of government into a Property Tax and Rent Cap Housing Affordability Preservation Fund. In the alternative, a commitment from Met Council to lobby at the state level to implement an Income Limited Tax Preference Program Along Transit corridors modeled after existing "Green Acres" type program.

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