

# Management Committee

**Business Item**

Item: 2011-288

**Meeting date: October 26, 2011**

## **ADVISORY INFORMATION**

**Date:** October 11, 2011

**Subject:** Request for Waiver of Conflict – Parker Rosen, LLC

**District(s), Member(s):**

**Policy/Legal Reference:** Minnesota Statutes § 473.129, subd. 3

**Staff Prepared/Presented:** Donald Mueiting, General Counsel  
651.602.1463

**Division/Department:** Office of General Counsel

## **Proposed Action**

That the Metropolitan Council:

- (1) waive any conflict of interest and consent to Parker Rosen, LLC (Parker Rosen) representing and advising the property owner of Prospect Park Properties, LLC, 2929 University Avenue Southeast, Minneapolis, in a condemnation action by the State of Minnesota through its Commissioner of Transportation for the Central Corridor Light Rail Transit (CCLRT) project; and,
- (2) authorize the General Counsel to execute any documents necessary to effectuate such waiver.

## **Background**

The law firm, Parker Rosen represents the Metropolitan Council and provides legal services pertaining to labor, employment, and other general legal matters. Parker Rosen is currently providing legal services to the Council in a variety of employment cases including grievance arbitrations and civil rights lawsuits. Parker Rosen is not representing or advising the Council with regard to any matter related to the CCLRT project.

Parker Rosen has requested a waiver that will permit it to advise and represent the owner at the property mentioned above in the pending eminent domain actions including any appeals arising out of those cases. If the waiver is granted, Parker Rosen has stated that only attorneys or paralegals who have not worked for the Council will work on the condemnation matters and those attorneys and paralegals will not perform any work for the Council in the future. Andrew Parker has also agreed that one condition of the waiver will be that the firm will not challenge the legal basis for the condemnation. Attached is a copy of the conflict waiver letter from Andrew Parker on behalf of his firm.

## **Issues**

Whether to consent to the waiver of a conflict of interest in connection with Parker Rosen's representation of the owner for the property being acquired for the CCLRT project in St. Paul.

## **Recommendation**

The Office of General Counsel has no objection to the Parker Rosen request and recommends that the Council give its consent.

October 7, 2011

Mr. Don Muetting  
Office of the General Counsel  
Metropolitan Council  
390 Robert Street North  
St. Paul, MN 55101-1805

Re: Prospect Park Properties – Conflict Waiver

Dear Mr. Muetting:

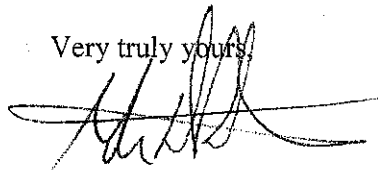
Our law firm has been asked to represent Prospect Park Properties, LLC, owner of the property at 2929 University Avenue SE, Minneapolis, in a condemnation action by the State of Minnesota for the Central Corridor light rail project. MN/DOT is the condemning authority. Our representation is sought for the “just compensation” determination only, and not to challenge the condemnation petition.

Previously, you advised us that a contract exists between the Metropolitan Council and MN/DOT which includes a provision that may create a conflict of interest or a perception of a conflict of interest if we were to represent property owners in Central Corridor condemnations. Under similar circumstances earlier this year, the Council waived any conflict arising out of our representation of two other property owners (one of which, St. Paul Athletic Club, we did not go on to represent). We write to ask the Council to formally waive any actual or perceived conflict resulting from our representation of Prospect Park Properties, LLC, for the “just compensation” determination.

As with the previous conflict waiver, we commit that an “ethical wall” will be maintained, such that no Parker Rosen lawyer that is involved with any Council matter will be involved in the Prospect Park Properties matter.

Please thank the Members of the Council for their consideration of this request. We will of course proceed as determined by the Council.

Very truly yours,



Andrew D. Parker

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TAMMY L. RUST  
ANTHONY G. EDWARDS  
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