

**STATE OF MINNESOTA, COUNTY OF RAMSEY
DISTRICT COURT, SECOND JUDICIAL DISTRICT
CASE TYPE 2: CONDEMNATION
COURT FILE NO. 62-CV-20-3127
JUDGE LEONARDO CASTRO
NOTICE OF HEARING**

County of Ramsey,
Petitioner,
v.
Karen Properties, LLC; The Bank of Elk River; TCF National Bank; Target Corporation; Shoreview Retail, LLC; Minnesota Department of Employment and Economic Development; SCP 2004E-014 LLC; Silver Macedon III, LLC; Raising Cane's Restaurant, LLC; RO'STOD Enterprises, LLC; Cypress Street Commercial LLC; Stephen's Art and Frame; Edward Jones; Jonathan Robert Fielding; Winkin Rooster; Centennial Jewelers Inc.; Children's Shelter of Cebu; Sprint Communications Company LP; TAT II, LLC; Goodwill Industries, Inc.; Peoples Bank Midwest; JP Morgan Chase Bank, N.A.; Northern States Power Company; SUP I Shannon Square LLC; Wilmington Trust, National Association, as Trustee for the Benefit of the Registered Holders of Bank 2018-BNK14/ Commercial Mortgage Pass Through Certificates/Series 2018-BNK14; George's Shoe and Repair; Subway Real Estate Corp.; Allstate; China Express I; Great Clips; Anytime Fitness; UPS; Nails 3000; Tobacco; Namaste India; Clean n Press; Davanni's; Caribou; H&R Block; T Mobile; Supervalu Inc.; Store Master Funding III; Pace Industries, LLC; Citibank, NA; CS&M Arden Hills LLC; Arden Tire MN, LLC; Boston Private Bank & Trust Company; Franchise Associates LLC; Roberts Commercial Properties, LLC; Bell Bank; BFL Fitness; Bindery Plus, Inc.; Papa Murphy's; Jim Laab's Pianos; Olive Me Chiropractic; State Farm; Lexington Station, LLC; City of Shoreview; City of Arden Hills; County of Ramsey;
and all other parties unknown having any claimed right, title or interest in the premises herein, together with the unknown heirs or devisees, if any, of the parties that may be deceased, and including unknown spouses, if any,
Respondents.

**IN THE MATTER OF THE
CONDEMNATION OF CERTAIN LAND
TO THE RESPONDENTS HEREIN ABOVE NAMED:**
You, and each of you, are hereby notified that on the 3rd day of August, 2020, at 10:00 a.m. by telephone conference before Judge Leonardo Castro, Petitioner will present to the above-named court a Petition now on file herein for condemnation of certain land for highway purposes. Parties wishing to appear at the telephone conference at 10:00 a.m. on August 3, 2020, are to call 612-902-9678, Access Code: 0101006. If you plan to appear by telephone, please notify the petitioner's attorney listed below in order to receive a copy of any proposed exhibits provided to the court. You are not required to notify the petitioner's attorney, but failure to do so may prevent you from having access to the exhibits submitted.

The object of the Petition is to acquire by "quick take" condemnation under the right of eminent domain the real property interests as described in the Petition.

The land desired and proposed to be taken are situated in Ramsey County, Minnesota, and are described in the Petition, together with the names of all persons appearing of record or known to Petitioner to be the owners of said land or interested therein including all whom Petitioner has been able by investigation and inquiry to discover, together with the nature of the ownership of each as nearly as can be ascertained.

At the hearing, the County of Ramsey will ask the Court for an order permitting payment to the respective owners or deposit with the Court an amount equal to Petitioner's approved appraisal of value of the parcels described in the Petition, thereby transferring title and the right to possession of the property to the County of Ramsey effective August 17, 2020. Furthermore, the County of Ramsey will ask the Court to ascertain the allocation of funds so deposited and to establish a procedure for the withdrawal of those funds. Neither payment to the respective owners nor deposit with the Court shall prejudice or affect the right of a respective party to apply for additional payment in this proceeding. Finally, the County of Ramsey will ask the Court to establish procedures by which commissioners shall hear all allegations and proofs of persons interested herein.

A party wishing to challenge the public use or public purpose, necessity, or authority for a taking must appear at the court hearing and state the objection or must appeal within 60 days of a court order, and a court order approving the public use or public purpose, necessity, and authority for the taking is final unless an appeal is brought within 60 days after service of the order on the party. Furthermore, a party wishing to be heard as to the appointment of the commissioners who will ascertain the amount of damages must appear at the court hearing.

Any person not appearing at the hearing, or otherwise filing a notice of appearance with the district court, may not be notified of further hearings or actions related to the Petition.

Dated: June 9, 2020
JOHN J. CHOI,
Ramsey County Attorney
By: /s/ James A. Mogen
James A. Mogen
Assistant Ramsey County Attorney
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DISTRICT COURT, SECOND JUDICIAL DISTRICT
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PETITION**

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and all other parties unknown having any claimed right, title or interest in the premises herein, together with the unknown heirs or devisees, if any, of the parties that may be deceased, and including unknown spouses, if any,
Respondents.

**IN THE MATTER OF THE
CONDEMNATION OF CERTAIN LAND
TO: THE DISTRICT COURT ABOVE NAMED**

The County of Ramsey brings this Petition and respectfully states and alleges:

I.
That this proceeding is taken pursuant to law in the name of and on behalf of the County of Ramsey, State of Minnesota, by John J. Choi, the duly elected, qualified and acting County Attorney, at the request of the Board of County Commissioners of Ramsey County, as shown by County Board Resolution No. B2017-039, dated February 14, 2017, a certified copy of which is attached hereto as Exhibit A and made a part hereof.

II.
That the County of Ramsey also deems it necessary, expedient, and for a public use and purpose to obtain by "quick take" condemnation under the right of eminent domain the respective permanent easements and temporary construction easements in the lands as described in this Petition, together with all structures, trees, shrubs, grass and herbage to be damaged thereby.

III.
In the attached Exhibit B, where a "permanent easement" is identified, the interests being conveyed include all rights necessary for the construction, operation, and maintenance of all public right-of-way and utility uses now known or adopted in the future. Such rights include, but are not limited to, the right: to remove and use all plants, trees, ground cover, and natural growth now existing, or later planted or grown; to permanently grade or alter the grade of the land, and to remove and use all earth and other material not reasonably necessary for lateral and subjacent support; to limit or allow the location, number, and related characteristics of access from the remainder property to the public right-of-way; to store equipment or supplies; to access, both ingress and egress, from reasonably convenient rights-of-way; to remove any physical improvements or fixtures; and to exclude from the area any use or improvement that conflicts with the rights conveyed herein.

IV.
In the attached Exhibit B, where a "temporary easement" is identified, the interests being conveyed include all rights of possession and use, for a limited period of time, necessary or incidental to support the related construction project, including the right: to store equipment or supplies (except hazardous waste); to stage equipment or supplies; to access other portions of the construction project; to make minimal permanent alterations to the grade of the land; to remove (and restore in substantially similar condition) any plants, ground cover, or physical improvements; to access, both ingress and egress, from reasonably convenient rights-of-way; and to install any temporary improvements. The term of the temporary easement shall be for 24 months beginning on August 17, 2020, or when granted pursuant to order of the district court, whichever is later. In addition, the interests identified in this paragraph include the option of the Petitioner to extend the temporary easement for up to two six-month terms to be held consecutive to the original term and to each other at the pro rata monthly rate determined for the initial term.

V.
Personal property not specifically identified as being acquired, including, but not limited to, fencing, irrigation systems, pavement, curbing, or signage, or trees, shrubs, plants, or ground covering, is not included in this petition, except to the extent the above rights provide for the removal, replacement, use, or repair of such property. It is the intention of the Petitioner to address any claim of damage related to personal property destroyed, removed, lost, or otherwise damaged, but not repaired or replaced in substantially similar condition, in accordance with applicable relocation laws, including Minn. Stat. § 117.50 - .56 or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and any regulations adopted pursuant thereto.

VI.
That the purpose for which said interests in land described in this Petition are being acquired is for the widening, addition to and realignment of Lexington Avenue for the purpose of public travel and transportation and related uses.

VII.
The taking in this matter is to obtain rights sufficient to support the construction and maintenance of a public highway, including related facilities. Unless specifically identified, pre-existing utility, pipeline, access, and other easements or interests shall remain in full force and effect and shall only be impaired to the extent necessary for the County of Ramsey to construct and maintain a public highway, and related uses, on the land being acquired. For any parcel being taken by this condemnation proceeding that is subject to pre-existing utility, pipeline, access, or other easements or interests, the County of Ramsey shall work as needed with the easement holder to adjust facilities to accommodate the construction or to adjust construction plans to minimize related damages.

VIII.
It is the intent of the Petitioner that reasonable access, in at least one direction, to the main thoroughfare will be maintained for any remaining interest of a property from which a permanent or temporary easement is taken.

IX.
Notwithstanding anything to the contrary contained herein, should tests or evaluations undertaken by or on behalf of the County of Ramsey indicate the possible presence of pollutants, contaminants, or hazardous substances on any of the property described in this Petition, the County of Ramsey reserves the right to defer effecting the transfer of the interest to any of the property as described herein for a reasonable time until the County of Ramsey can evaluate whether it wishes to proceed with the taking, abandon these proceedings and dismiss the Petition as to said property, or otherwise respond to such information.

Further, the County of Ramsey reserves the right to recover costs of clean-up and testing and all other damages resulting from the presence of pollutants, contaminants, or hazardous substances on the property described herein, from all potentially responsible parties in a separate legal action.

X.
That a party wishing to challenge the public use or public purpose, necessity, or authority for a taking must appear at the hearing of this Court at which the County of Ramsey, as Petitioner, shall present this Petition to the Court and state the objection or must appeal within 60 days of a Court order.

XI.
That the land in these proceedings to be taken are situated in Ramsey County, Minnesota and are more particularly described in attached Exhibit B which is made a part hereof. The names of all persons appearing of record or known to the County of Ramsey to be the owners of said land, or interested therein, including all whom the County of Ramsey has been able by investigation and inquiry to discover, together with the nature of the ownership of each, as nearly as can be ascertained, are set forth on attached Exhibit B.

XII.
The County of Ramsey hereby moves the court for an order transferring title and possession of the parcels described herein prior to filing of an award by the court appointed commissioners, pursuant to Minnesota Statutes § 117.042.

WHEREFORE, the County of Ramsey prays for an order of this Court as follows:

1. Adjudging that said taking is for a public purpose, is necessary, and is authorized by law; and
 2. It be further adjudged that the County of Ramsey is entitled to take and hold such property for the public use pursuant to the Notice of Intent to Take Possession, on file with this Court; and
 3. Appointing three disinterested commissioners, and at least two alternates, to ascertain and report the amount of damages that will be sustained by the several owners on account of the taking; fixing the time and place of the first meeting of the three commissioners; prescribing their compensation; establishing procedures for the disbursement of funds deposited with the district court; establishing procedures by which commissioners shall hear all allegations and proofs of persons interested herein; and requiring the commissioners to file their report with the District Court Administrator within 365 days from the date of the order appointing the commissioners unless said time be further extended by order of the Court; and
 4. For such other and further relief as may be proper and pursuant to law.
- Dated: June 9, 2020
JOHN J. CHOI, Ramsey County Attorney

By: /s/ James A. Mogen
James A. Mogen
Assistant Ramsey County Attorney
121 7th Place East, Suite 4500
St. Paul, MN 55101-5001
(651) 266-3121
Attorney Reg. No. 0309266
Attorneys for Petitioner

ACKNOWLEDGMENT
The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. Section 549.211 to the party against whom the allegations in this pleading are asserted.
/s/ James A. Mogen

**EXHIBIT A
RAMSEY COUNTY BOARD OF COMMISSIONERS
RESOLUTION NO. 2017-039**

Presented by: Commissioner McDonough Date: February 14, 2017
No. B-2017-039 Attention: Public Works
WHEREAS, Federal, state, and local funds have been made available to the counties for the improvement of county roads and bridge facilities; and

WHEREAS, The Ramsey County Board of Commissioners desires to establish a program which utilizes these funds to the best interest of its residents; Now, Therefore, Be It

RESOLVED, The Ramsey County Board of Commissioners adopts the 2017 - 2021 Public Works Transportation Improvement Program (TIP); and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Engineer to prepare plans and agreements for all projects identified in the TIP, and to issue solicitations in accordance with County policies and procedures and the Minnesota Department of Transportation's (MnDOT) list of "Pre-Qualified Vendors by Work Type"; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Engineer to execute Right of Way Plats and Certificate of Surveys for Highway projects that require the determination of existing right of way for the delineation and/or acquisition of property, for planning studies or disposition of excess County property; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Manager to issue solicitations in accordance with the County's procurement policies and procedures, enter into contracts and agreements, and execute change orders and amendments to contracts and agreements related to the expenditure of TIP Project Funds utilizing County State Aid, Federal, and participating funding associated with the construction of the approved projects in the 2017-2021 or a previously approved TIP; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Engineer and County Attorney to acquire temporary easements, permanent easements, fee title, and enter into Limited Use Permits with the State of Minnesota for projects in the 2017 - 2021 TIP, or previously approved TIP, by negotiation or condemnation; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Engineer to approve negotiated settlements for up to \$15,000 over the County's appraised value per parcel for temporary and permanent easements and fee title; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Manager to approve and execute purchase agreements, settlements, closing documents, Limited Use Permits, and other related real estate documentation associated with County Board approved acquisitions of real property; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Manager to approve and execute cooperative agreements and maintenance agreements with cities, counties, the State, and other governmental agencies for their participation in projects listed in the 2017 - 2021 Public Works Transportation Improvement Program or previously approved TIP; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Manager to make all necessary budget adjustments including increasing estimated revenues and appropriations; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes temporary cash loans from the County General Fund to the Road and Bridge Capital Improvement Program fund and the Wheelage Tax fund for costs of projects listed in the 2017 - 2021 Public Works Transportation Program, or previously approved TIP, pending receipt of Federal, County State Aid Highway, State, participating funds, and for maintenance project expenditures occurring before bond or wheelage tax proceeds are received.

Ramsey County Board of Commissioners			
	YEA	NAY	OTHER
Toni Carter	X		
Blake Huffman	X		
Jim McDonough	X		
Mary Jo McGuire	X		
Rafael Ortega	X		
Janice Rettman	X		
Victoria Reinhardt	X		

EXHIBIT B

PARCEL 1

TEMPORARY EASEMENT DESCRIPTION:

Over, under, across and upon Temporary Easement Parcel 1, RAMSEY COUNTY HIGHWAY RIGHT OF WAY PLAT NO. 16, as the same is on file and of record in the office of the County Recorder in and for Ramsey County, Minnesota.

PIN: 263023230012

ADDRESS: 3854 Lexington Ave. N., Shoreview, MN 55126

NAME	NATURE OF INTEREST
Karen Properties, LLC	Fee
The Bank of Elk River	Mortgagee
City of Shoreview	Possible special assessments
County of Ramsey	Possible property taxes

PARCEL 2

PERMANENT HIGHWAY EASEMENT:

Over, under, across and upon Parcel 2, RAMSEY COUNTY HIGHWAY RIGHT OF WAY PLAT NO. 16, as the same is on file and of record in the office of the County Recorder in and for Ramsey County, Minnesota.

TEMPORARY EASEMENT DESCRIPTION:

Over, under, across and upon Temporary Easement Parcel 2, RAMSEY COUNTY HIGHWAY RIGHT OF WAY PLAT NO. 16, as the same is on file and of record in the office of the County Recorder in and for Ramsey County, Minnesota.

PIN: 263023320016

ADDRESS: 3836 Lexington Ave. N., Shoreview, MN 55126

NAME	NATURE OF INTEREST
TCF National Bank	Fee
Target Corporation	Access easement holder
Shoreview Retail, LLC	Sign easement holder
Minnesota Department of Employment and Economic Development (DEED)	Bond holder
City of Shoreview	Easement and possible special assessments
County of Ramsey	Possible property taxes

PARCEL 4

TEMPORARY EASEMENT DESCRIPTION:

Over, under, across and upon Temporary Easement Parcel 4, RAMSEY COUNTY HIGHWAY RIGHT OF WAY PLAT NO. 16, as the same is on file and of record in the office of the County Recorder in and for Ramsey County, Minnesota.

PIN: 263023320014

ADDRESS: 3780 Lexington Ave. N., Shoreview, MN 55126