

Tim Himmer

Subject: FW: Variolite

From: William Goodrich [mailto:bgood@anokalaw.com]
Sent: Thursday, September 30, 2010 5:30 PM
To: Kurt Ulrich; Tim Himmer
Cc: Brian Olson; Diana Lund
Subject: RE: Variolite

I discussed this issue with Tim this am and since then have done some additional research on this issue.

The standard Minnesota Purchase Agreement form does provide for disclosure if there is pending or authorized public improvement project which is to be specially assessed. Also, the Purchase Agreement form requires the Seller to disclose any notices from any governmental authority concerning any eminent domain, condemnation special taxing district or rezoning proceedings.

In addition, Minn. Stat. 513.55 requires Residential Sellers to disclose any material facts of which seller are aware that could adversely and significantly affect: (1) an ordinary buyer's use and enjoyment of the property; or (2) any intended use of the property of which the seller is aware. I assume that a buyer could argue that the comprehensive plan transportation road designation, if know by the seller should be disclosed. To date there is no case law on this specific issue.

Contrasted with the above statutory disclosure requirement, is the City's statutory obligation to prepare and develop a comprehensive plan per Minn. Stat. 873.859 and specifically subd. 3 which requires a transportation plan "...describing, designating and scheduling the location, extent, function and capacity of existing and proposed local public and private transportation services and facilities;"

Based on the above, it is unclear to me if a Seller needs to disclose the comprehensive plan designation to a potential buyer and the effect of such a disclosure. I could contact the League of Cities for their insight on this issue.

What is clear to me however is that the City should not be giving legal advice to Sellers/Buyers on what their legal disclosure obligations are. They should be advised to contact their respective advisors for such advice.

Let me know if you want me to research this matter in further detail.

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From: Tim Himmer
Sent: Tuesday, September 21, 2010 12:50 PM
To: 'Bill Goodrich'

Cc: Brian Olson; Kurt Ulrich
Subject: FW: Variolite
Importance: High

Bill

See e-mail below. Can you please investigate the notion of whether disclosure would be required for a "line on the map" scenario. Thanks.

We may want to consider placing this matter on a future Finance Committee meeting to see if there is any appetite out there for advancing the acquisitions from willing sellers?

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From: Dan Lindau [mailto:dlindau@sifcompls.net]
Sent: Tuesday, September 21, 2010 12:24 PM
To: Tim Himmer; Brian Olson
Cc: Thatcher, Teresa M
Subject: Variolite
Importance: High

Tim,

I received your voice mail yesterday. Just so Terri and I understand where this process is at today:

1. The Variolite extension project has ceased all discussion and has been placed on hold.
2. There is no activity for moving forward on the Environmental Mapping.
3. There is no activity for moving forward on the Right of way Mapping.
4. There is no activity for the advancement of alignment.
5. You have been instructed to leave the line on the cities planning map.

We among many other residents are absolutely and completely frustrated with the City of Ramsey's management and communication of this Variolite Extension Project! Dating back to the summer of 2005 when the post card was sent out to residents informing the affected communities residents of this project it has been in discussion and some sort of planning to date or I should say was in planning until last weeks meeting. Terri has been in contact and has had many discussions with Brian Olsen and yourself for more than five years now. Terri was told that the project would be completed by 2009. Well it is now 2010, still no definite answer to our many questions as to when and if the plan for the road will now or ever be completed. It has now been squashed by the City the City Council, etc., I am sure the media's involvement orchestrated by Matt Long and the Hanson Tree farm has scarred all the powers to be off. Not a surprise. Maybe it is time for some new media coverage and that being media coverage for those residents that have been sequestered and limited in marketing their properties due to this extension project since 2001/2002 when it was put on the map. I have heard it brought up in these meetings with the City and the City Council responding to the resident that are and have been concerned with selling their properties. Not being able to market their properties due to discloser concerns seller to buyer, due to this project being on the map and in numerous council meetings, work sessions, etc. The City and City Council has stated to the residents that they do not have to disclose this to a potential buyer. Let me tell you that the City and the City Council is WRONG. If a seller has any knowledge of such activities or planning

it is the sellers responsibility to disclose this to any potential buyer. The seller would be civilly liable for the home if sold and this wasn't disclosed. Today, no one in the city of Ramsey's alignment of this project could sell there home as there is no buyer having this disclosed to them would ever make an offer on a home that is in the sights of the city for a road to go through and potential immanent domain situation. We as resident have been waiting for years to see this extension project come to fruition, negotiate the sales of our homes and move on. Again, we have waited for years, unable to market our homes fairly and adequately due to this plan that now has been stopped, put on hold or what ever limbo the city wishes to call it. The bottom line is we as residents that still remain in this alignment that is documented within the cities plan remain in the same position we have been in for the past years. We CANNOT market our homes fairly.

We have approached the city on numerous occasions offering to negotiate and sell our homes to the city. Today, we are all still held hostage and cannot fairly sell our homes. After last weeks meeting Terri was headed out the door, more than adequately frustrated and was approached by a City Councilman and was told that the city would not be opposed to purchasing individual properties at this time. We obviously have been proactive in approaching the city on this purchase and are interested in negotiating and equitable closure to both us and the city. I would like to suggest that we schedule very soon a meeting to have such conversations. We want to seek a fair conclusion to this. It would not be our intentions to seek other avenues to create a fair environment in selling our house on the open market, but obviously will do what we have to in order to bring fairness to our situation. As we are all aware legal council is expensive and time consuming, but when it is the only option it will be exercised. Please contact us to set up a meeting to discuss and plan our and the City's future in this matter.

Dan and Terri

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