

Nos. A10-1244 and A10-1331

State of Minnesota
In Court of Appeals

City of Minneapolis, a municipal corporation,

Respondent,

vs.

Minneapolis Police Relief Association and
 Minneapolis Firefighters Relief Association,

Appellants.

APPELLANTS' REPLY BRIEF

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INTRODUCTION

Inexplicably, the City completely sidesteps the primary issue on appeal – the correct interpretation of Minn. Stat. § 69.77, subd. 11 (“Subdivision 11”). The City erroneously assumes that the benefit determinations of the MPRA and MFRA made in accordance with their adopted bylaws were incorrect because they did not comply with Subdivision 11. But the City fails to address the necessary condition precedent – i.e. whether the Associations’ definitions of salary violated Subdivision 11 in the first place.

Minn. Stat. § 69.77 provides a system of checks and balances that must be complied with before a municipality can contribute any public funds, including any applicable police and fire state aid, to a police or firefighters’ relief association. Minn. Stat. § 69.77, subd. 1. Under this statute, the City is charged with certain duties, as are the Associations. *See id.*

In this case, the City completely ignores its obligations and duties under this statute, while alleging that the Associations are violating subdivision 11 of the statute, and thus their respective bylaws. The City cannot cherry pick from the Guidelines Act. The City must acknowledge and assume responsibility for its actions and inactions – including those of its finance department, its chief financial officers, and the City Council itself.

This entire case turns on the City’s challenge to the Associations’ bylaw amendments, which were approved by the district court in the 1995 Settlement Agreement and thereafter ratified by the City Council on November 22, 1995. Now, nearly fifteen years later, the City cannot complain about the bylaw amendment that it

specifically approved. The fact that the stock market upheaval of 2008 had an unexpected adverse impact on the funds may explain the City's motivation for bringing suit. It does not, however, provide a legal basis for the City to claim that the Associations have acted contrary to their governing laws, through a suit brought nearly a decade and a half after the new definition of "salary" was approved and implemented.¹

ARGUMENT

I. THE CRUX OF THIS APPEAL IS THE MEANING OF MINN. STAT. § 69.77, SUBD. 11.

Throughout its brief the City asserts that a bylaw amendment is required each and every time benefits increase. (Respt.'s Br. at p. 15-19, 29, 31.) With respect, mere repetition of a conclusion without any substantive support or analysis does not make the conclusion true.

Like the district court below, the City fails to conduct any statutory analysis. Indeed, the City apparently does not disagree with the Associations' interpretation of the plain language of Minn. Stat. § 69.77, subd. 11 or their applications of the canons of statutory construction. (Apps.' Br. at 20-21.) Instead, the City transposes the language of the statute by interchanging the phrases "amendment to the bylaws" and "increases or

¹ On page 4 of the City's brief, the City claims that the district court can rule on the recoupment plans. On July 14, 2010, the district court issued an order for entry of judgment specifically stating: "Based upon Defendants' submission of a recoupment plan pursuant to the Court's amended order filed May 17, 2010, let judgment be entered." Judgment was then entered on July 15, 2010. The City did not seek review by this Court of the recoupment plans. The Associations maintain that the district court has no jurisdiction on this matter

otherwise affect benefits.” (*Compare* Respt.’s Br. at p. 16, 17-18 *with* Apps.’ Br. at p. 20-21.)

The plain language of the statute states that if a bylaw amendment increases or affects retirement coverage, it is not effective until ratified by the City; the law does not state that any increase in retirement coverage requires a new bylaw amendment:

Any amendment to the bylaws or articles of incorporation of a relief association which increases or otherwise affects the retirement coverage provided by other service or retirement benefits payable from any police or firefighters’ relief association enumerated in subdivision 1a is not effective until it is ratified by the municipality...

Minn. Stat. § 69.77, subd. 11.² In fact, the City acknowledges the plain language of the statute: “Putting the omitted language back in the statute, it plainly reads that any amendment to the bylaws which increases retirement benefits payable from any association is not effective until it is ratified by the municipality.” (Respt.’s Br. at p. 16, fn 5.)

In this case, the 1995 bylaw amendments increased or otherwise affected retirement coverage because the bylaw amendments defined “salary” for the first time. It is undisputed that the City ratified these amendments. (AA.181 at 14:23-25.) Therefore, based on the plain language, the Associations (and the City) complied with Subdivision 11.

² Moreover, if the Minnesota Legislature had intended Minn. Stat. § 69.77, subd. 11 to apply to all benefit changes, it could have taken such action during the nearly 40 years that this statute has been in existence. *See Christensen v. Minneapolis Mun. Employees Retirement Bd.*, 331 N.W.2d 740, 744 (Minn. 1983) (stating: “It is certainly not for this court to read into the statute a requirement that the legislature declined to impose during 41 years of the statute’s existence.”). The legislature has not done so, and this Court should refrain from rewriting the statute.

II. THE ASSOCIATIONS HAVE COMPLIED WITH THEIR BYLAWS.

A. The Associations *must* comply with their governing bylaws.

Contrary to the arguments asserted by the City, the Associations do not have an unfettered right to add new items of compensation to their calculations of “salary” for unit value purposes. (Respt.’s Br. at p. 15-19.) Instead, new items of compensation are added only when certain criteria are met, as set forth in the 1995 bylaws – bylaws that the City expressly approved.

In this case, the 1995 bylaw amendments, ratified by the City Council on November 22, 1995, expressly provided that new items of compensation must be included in the calculation of “salary” for unit value purposes provided that at least 50 percent of all first grade firefighters or top grade patrol officers were eligible to receive the new compensation item:

[For firefighters:] Any new item of compensation granted to first grade Firefighters in the collective bargaining process after April 15, 1995, may be included in salary by action of the Board of Trustees of the Relief Association, provided that at least 50 percent (50%) of all first grade Firefighters are eligible to receive the new compensation item...

(AA.029.)

[For police officers:] Any new item of compensation granted to top grade patrol officers in the collective bargaining process after April 15, 1995, may be included in salary by action of the MPRA, provided that at least 50 percent of all top grade patrol officers are eligible to receive the new compensation item...

(AA.027.)

The district court approved this Agreement and the City Council ratified the bylaw amendments. Upon ratification, the Associations were obligated to calculate pension

benefits in compliance with these bylaws. *Isaacs v. American Iron & Steel Co.*, 690 N.W.2d 373, 376 (Minn. App. 2004) (holding that bylaws must be obeyed by the corporation, directors, officers, and shareholders); Respt.'s Br. at p. 14 (citing same). For over a decade prior to this litigation, the Associations complied with their bylaws, and year after year the City Council repeatedly approved the Associations' financial determinations.

By law, the Associations are governed by their bylaws. Minn. Stat. § 423B.05, subd. 2; Minn. Stat. § 423C.02, subd. 3; Minn. Stat. § 423C.10. And as the City concedes, the district court found that "the bylaws do provide that new items of compensation may be included in the salary by action of the [Associations]." (Respt.'s Br. at p. 16-17.)

Therefore, because the bylaws provided for the addition of new items of compensation and the Associations were obligated to comply with its bylaws, the bylaw amendments became an operational part of the terms of the plans. *Axelson v. Minneapolis Teachers' Retirement Fund Ass'n*, 544 N.W.2d 297, 300 (Minn. 1996) (stating that MTRFA Board is required to act in accordance with its plan documents); *Fassbinder v. Minneapolis Fire Dept. Relief Ass'n*, 254 N.W.2d 363, 366 (Minn. 1977) (stating that the contract between a member and the Association consists of relevant statutes and the articles and bylaws of the Association); *Nichols v. Borst*, 439 N.W.2d 432, 433 (Minn. App. 1989) (same).

B. The State Auditor never claimed a violation of Subdivision 11 but simply questioned the methodology utilized.

Further, contrary to the City's factual assertions, the State Auditor *never* claimed that either Association had improperly included any new items of compensation in its calculation of "salary" for unit value purposes in violation of any bylaw or any state law.³ (Respt.'s Br. at p. 8.) Instead, the State Auditor questioned the *methodology* the Associations used in calculating certain items of compensation when including them in the computation of salary. (See AA.184 at 17:7-9.) Thus, the State Auditor advised the City to renegotiate with the Associations or suggested developing a comprehensive funding plan:

The City should consider the following issues as they relate to the funding dilemma it faces with the MPRA while at the same time protecting the City taxpayers: (1) renegotiate the 1995 Settlement Agreement; (2) freeze benefits by agreement or legislation; and (3) develop a comprehensive future pension funding plan.

(AA.155).

C. Board action does not require a bylaw amendment.

The City also contends that an "action" of the board requires a bylaw amendment subject to City approval in order to meet "the underlying requirements of state law." (Respt.'s Br. at p. 17.) But there is no provision in either Minn. Stat. ch. 423B or Minn. Stat. ch. 423C or any other law that contains such a requirement. And there is nothing in

³ Further, the State Auditor did not find that the addition of any of the following items of compensation were contrary to state law or to the respective Association's bylaws: overtime, vacation credit pay, performance premium pay, or corporal pay (MPRA); health club dues, vacation cash out, work out of grade pay, performance pay, or holiday pay (MFRA). (AA.089-121; and AA.122-152.)

Minn. Stat. §69.77, subd. 11 that suggests that an action of the board requires a bylaw amendment.⁴ (See Apps.' Br. at p. 22-24.) The word "action" is not contained in anywhere in Minn. Stat. §69.77. Furthermore, the Associations are both non-profit corporations under Minn. Stat. ch. 317A. It is a basic tenet of corporate law that an action of the board does not require a change in the bylaws. See, e.g. Minn. Stat. §§ 317A.237, 317A.239, and 317A.241; *Brennan v. Minneapolis Soc. for Blind, Inc.*, 282 N.W.2d 515, 522-524 (Minn. 1979) (distinguishing board action such as determining member eligibility from amending bylaws to change the membership eligibility criteria). In order for the City's position to prevail, this Court would have to rewrite Minnesota's Nonprofit Corporation Act to redefine the term "action." Board action simply does not require a bylaw amendment.

⁴ Even if this Court were to go beyond the plain language, nothing in the legislative history indicates that the City has unilateral authority to approve or deny benefits or that bylaw amendments are the only way to set up benefits.

As set forth in the 1971 version of the law, the LCPR stated that the phrase "affecting benefit levels" could be incorporated into the 1969 Guidelines Act to give municipalities "*some voice* in the determination of pensions which they are required to finance." (AA.167) (LCRP Memo to Legislative Committees Considering Pension Bills, S.F.145 & H.F.272 (January 26, 1971).)

And, the Senate Committee on Pensions & Retirement stated that this law provides that all benefits bestowed "*in this manner*" [*setting up of benefits* through by-laws or articles of incorporation] must be ratified by the local governmental subdivision. (AA.168-AA.170) (Senate Pensions & Retirement Committee Minutes, S.F.145 (January 28, 1971).)

D. There is no statutory conflict when benefit levels are based on current salaries and the City itself determines current salaries through the collective bargaining process.

Last, there is no statutory conflict because these bylaws are in aid and furtherance of the statutory scheme. *Mangold Midwest Co. v. Village of Richfield*, 143 N.W.2d 813, 816-17 (Minn. 1966) (rendering a bylaw invalid when the bylaw and statute contain express or implied terms that are irreconcilable, such as when the statute forbids what the bylaw permits; stating that if the bylaw is “merely additional and complementary or in aid or furtherance of the statute,” it does not conflict with the statute). Here, “State law requires that the Associations determine pension benefits based on the *current* salaries of active-duty officers and firefighters.” Minn. Stat. § 423B.01, subd. 20 and Minn. Stat. § 423C.01, subd. 28; Minn. Stat. § 423B.09, subd. 1 and Minn. Stat. § 423C.05, subd. 2; (AA.179 at 12:16-24); (Respt.’s Br. at p. 13.) When new items of compensation are obtained through the collective bargaining process, “salary” for the determination of retirement benefits *ipso facto* increases as well.⁵ (*Id.*) The Associations do not unilaterally add items of compensation; instead, the City itself determines salary levels based upon its collective bargaining with active police and firefighters. As discussed

⁵ On page 18 of its brief, the City states that Minnesota’s Public Employment Labor Relations Act (“PELRA”) prohibits the City from negotiating over pension benefits. That is true in the trivial sense that a pension benefit is not a “term and condition of employment” and therefore not a mandatory subject of bargaining. *See* Minn. Stat. §§ 179A.03, subd. 19 and 179A.07, subd. 2. *But, PELRA mandates that the employer bargain over the terms and conditions of employment including, but not limited to, items of compensation. See id.* The “compensation” that these active officers and firefighters receive directly affects pension benefits. Representatives of the City are at the bargaining table. And, more important, the City Council ratifies all collective bargaining agreements.

previously, the Associations must comply with its bylaws, including the 1995 bylaw amendments that specifically provided that new items of compensation must be added based upon certain objective factors.

In short, the City cannot claim foul because the Associations have complied with the plain language of the bylaw amendments – bylaw amendments that the City itself specifically ratified.⁶

III. THE CITY DOES NOT HAVE STANDING TO CHALLENGE THE ASSOCIATIONS' BYLAWS.

The district court went beyond addressing a statutory violation and construed not only Minn. Stat. §69.77, subd. 11 but also analyzed each Association's respective bylaw defining "salary." (ADD.20-24; ADD.27-29) This was error. *See Rukavina v. Pawlenty*, 684 N.W.2d 525, 531 (Minn. App. 2004) (reviewing standing issue *de novo*). The City does not have standing to challenge the bylaws.

The bylaws of relief associations create a contractual obligation between the association and its members. *Norby v. Austin Policemen's Ben. Ass'n*, 347 N.W.2d 531, 534 (Minn. App. 1984) (citing *Sandell v. Saint Paul Police Relief Ass'n*, 236 N.W.2d 170 (Minn. 1975)). Therefore, only a member of a relief association has standing to assert a

⁶ The City's theory that the Associations are not complying with its governing bylaws runs directly counter to legislature's authorization of the escalator provision in 1953 and its legislative intent. The City appears to be arguing that if the collective bargaining process renamed the base pay of police and firefighters as "bonus pay," then that amount of compensation would no longer be included in the definition of "salary." This would effectively leave every pension at the definitional mercy of the collective bargaining process. Pensions would then become "mere gratuities." As noted in our principal brief at p. 45, the State Supreme Court rejected the gratuity theory of pensions in the *Christensen* decision.

claim that the association violated its bylaws. *See id.* A third party has no power or authority to mount such a challenge. *Little Canada Charity Bingo Hall Ass'n v. Movers Warehouse, Inc.*, 498 N.W.2d 22, 24 (Minn. App. 1993) (holding corporation's violations of its bylaws may be challenged by a director or member but not a third party); *see also* Minn. Stat. § 317A.165, subds. 2, 3 (stating that only members can bring action against the nonprofit corporation and that only the corporation can bring a derivative suit).

Because the City has no standing to assert a claim that the Associations violated their bylaws, the district court erroneously analyzed each Association's bylaws.

IV. THE CITY VOLUNTARILY DISMISSED ITS BREACH OF FIDUCIARY DUTY CLAIM, AND THE ASSOCIATIONS DO NOT HAVE A FIDUCIARY DUTY TO THE CITY UNDER MINN. STAT. § 356A.04.

The City asserts over and over that the Associations have a fiduciary duty and implies that the Associations have breached that duty. (Respt.'s Br. at p. 12, 38-42.)

The Associations acknowledge that they owe a fiduciary duty 1) to their members; 2) to the taxpayers who help finance the pension funds; and 3) to the state of Minnesota. Minn. Stat. § 356A.04, subd. 4; *see also Axelson v. Minneapolis Teachers' Retirement Fund Ass'n*, 544 N.W.2d 297, 300 (Minn. 1996). Their fiduciary duty applies in equal part to each of these entities; none is more important than the other. *See id.*

The Associations' fiduciary duty does not extend to the City of Minneapolis,⁷ and no taxpayer is a named party in this lawsuit. It defies logic for the City to claim that the

⁷ In its brief, the City raises an entirely new issue neither raised nor litigated below, regarding the tax status of the funds. (Respt.'s Br. at p. 41-42.) As this was neither raised nor ruled on by the district court, this issue is not properly before this Court.

Associations' boards of directors and trustees could ignore a bylaw defining salary, a bylaw that had been approved and ratified by the City Council. Yet, the City is claiming that the Associations breached a fiduciary duty, when the Associations complied with the plain language of the bylaw amendments. In any event, the City dismissed its breach of fiduciary duty claim with prejudice on the first day of the trial of this matter. (AA.187 at 21:14-20.) No breach of fiduciary duty claim is before this Court.

V. THE CITY'S CLAIMS ARE BARRED BY EQUITABLE DEFENSES.

While apparently not recognizing its own obligations and culpability, the City spends nearly ten pages of its brief claiming that none of the Associations' equitable defenses has merit. (Respt.'s Br. at p. 26-35.) With respect to estoppel and waiver, the City contends that the Associations have not shown affirmative misconduct by the City, that the City cannot be bound by the unauthorized acts of its officers, and that the City did not waive its claims because it discovered the miscalculations in 2004. (*Id.* at p. 26, 28, 32.) As to laches, the City again claims that it only discovered the alleged improper calculation in 2004 based on the State Auditor's report. (*Id.* at p. 35.) None of these contentions has merit, nor does the City meet the arguments presented by the Associations on these points. (*See* Apps.' Br. at p. 29-30, 33-38.)

As to both estoppel and waiver, here, the City was an active participant in literally every aspect of how the current situation came to be.⁸ The City negotiated the meaning of the term "salary" that resulted in the 1995 Settlement Agreement, and thereafter

⁸ *See also* Minn. Stat. § 645.16(6) ("When the words of a law are not explicit, the intention of the legislature may be ascertained by considering... the consequences of a particular interpretation.").

ratified the same in the bylaw amendments.⁹ (AA.181 at 14:23-25.) The City led both the Associations and the district court to believe that the amendments that were adopted by each Association in order settle the 1994 lawsuit would “prevent future differences of opinion on the elements of compensation to be included in salary.” (AA.019.) The City has annual and recurring statutory obligations and duties under 69.77 to ensure that the financial determinations of the Associations are made in accordance with the law. Minn. Stat. § 69.77, subds. 1, 5. Each year the City Council voted and approved the tax levies by the Associations. The City has City-employee representatives on each Association’s boards. The City itself can control pension benefits, since they are tied to current salaries, which the City negotiates through the collective bargaining process. The City has its own actuaries that review the Associations’ actuarial reports each year. (AA.079 at 18:7-21, 20:4-10.) These salary determinations were implemented in annual financial determinations and the tax levies approved by the City each year from 1995 forward. (AA.41-AA.68; *see* AA.184 at 17:3-6, 17:10-12, 17:13-15; AA.209-AA.210 at 45:13-46:12.) Because of the City’s numerous and repeated actions and affirmative representations and direct knowledge, waiver and estoppel should bar the City’s claims.

In addition, and perhaps most important, John Moir, the former chief financial officer of the City who was a signatory to the 1995 Agreement and treasurer to the MPRA, claimed that he knew from 1999 on that bylaw amendments were required under

⁹ The City is bound by the City Council’s action. *See McDonough v. City of Rosemount*, 503 N.W.2d 493, 497 (Minn. App. 1993) (citing 10A Eugene McQuillan, *The Law of Municipal Corporations* § 29.120 (3d ed. rev. vol. 1990) and stating “a subsequent council may not repudiate a contract, regardless of a change in membership.”).

the statute. (John Moir Aff. to City's S.J. memo. at ¶ 3.) Yet, Mr. Moir, who signed the 1995 Settlement Agreement, never asserted at the time of the Agreement or any time before 2009 that Subdivision 11 precluded actions by the Associations' boards to add new items of compensation. Even in this case, seven years after the City's admitted knowledge, the City never asserted a claim for violation of Minn. Stat. § 69.77, subd.11 until the last hour, at the summary judgment stage in the middle of 2009. (*Compare* AA.069-AA.077 at ¶¶ 7-18, 20, 21, 26, A, C *with* AA.163-AA.165); (AA.159 at p.20) ("Here, the City's action is against Defendants, for their alleged *breach of the Settlement Agreement*, not against the individual members of the relief associations for a reduction in their benefits.") (emphasis added). Even if the City first discovered the alleged miscalculations in 2004, the City's own CFO stated that he knew bylaw amendments were required as early as 1999 and yet failed to act accordingly. If state law was being violated as the City now contends, the City had a clear duty to immediately act. Therefore, the City unreasonably delayed in asserting a known right, and the doctrine of laches should bar the City's claims.

VI. THERE IS NO PROVISION FOR RECOUPMENT IN EITHER MINN. STAT. CH. 423B OR 423C.

The City and the Associations agree that the pension plans are governed by an elaborate set of laws regulating benefits. Minn. Stat. ch. 423B, Minn. Stat. ch. 423C, Minn. Stat. ch. 69, Minn. Stat. ch. 356 and Minn. Stat. ch. 356A. (AA.178 at 11:14-18; Respt.'s Br. at p. 4-5.) Unlike other state pension plans, however, the Minnesota Legislature did not provide for any method of recoupment in the statutory provisions that

control either the MPRA or the MFRA. The legislature has demonstrated that it knows how to provide for the recovery of overpayments. (*Compare* Minn. Stat. § 353.27, subs. 7, 7b, 7c (Public Employees Retirement Association) and Minn. Stat. § 354A.12, subs. 7, 8 (First Class Teachers Retirement) where recovery is authorized but limited to a three year period as to both, *with* Minn. Stat. § 423B or 423C that does not have a benefit overpayment provision.) If the legislature had intended to provide a recoupment provision in either Minn. Stat. § 423B or 423C, it could have included one. And it is solely the province of the legislature, not the Courts, to so provide.

Wholly aside from its legality, the City contends that recoupment should be allowed because amortization is not sufficient as there are no excess contributions left to be amortized. (Respt.'s Br. at p. 39.) But the City has represented multiple times that it was not seeking to reduce benefits, and conceded that its claim was not against the members.¹⁰ And, this Court has held that this case is primarily “a dispute between the contributor to and the administrators of the pension funds about the proper method of calculating the contributor’s minimum obligation.” *City of Minneapolis v. Minneapolis Police Relief Ass’n*, No. A07-420, 2008 WL 1747923, at *4 (Minn. App. 2008) (unpublished). The Guidelines Act provides an exclusive and precise remedy for any

¹⁰ “*The City’s claims do not seek to reduce the retirement benefits of the individual participants...Here, the City’s action is against Defendants, for their alleged breach of the Settlement Agreement, not against the individual members of the relief associations for a reduction in their benefits.*” (AA.159 at p.20) (emphasis added)

“But we are not here to punish the beneficiaries, because they are not responsible for these calculations.” (AA.172 at 34:23-25)

contribution made by a municipality in excess of the minimum contribution required under the statute, i.e. amortization. Minn. Stat. §69.77, subd. 8; (ADD.34 at ¶ 10.) Therefore, amortization is the City's exclusive remedy at law.

CONCLUSION

The City would have this Court believe that the Associations have run amok by adding benefits unilaterally for 15 years. There is no merit to the City's arguments.

The fact is that the City is faced with financial responsibility for salary and compensation decisions it made in 1995 and now wants to evade those responsibilities. The City is looking for a loophole and a way to avoid a 1995 negotiated agreement that was thereafter incorporated into the Associations' bylaws in full conformance with the law.

In addressing this case, this Court must address the *threshold* question of statutory interpretation of Subdivision 11. In doing so, this Court must apply the rules of statutory construction, which show that the Associations (and the City's) 1995 bylaw amendments were made in accordance with Subdivision 11.

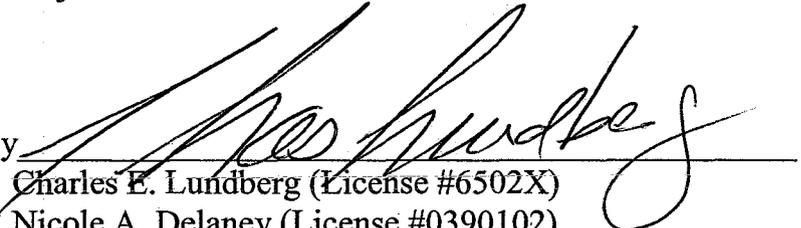
Last, as this Court previously made clear in its April 15, 2008 decision, "[T]his case is primarily 'a dispute between the contributor to and the administrators of the pension funds about the proper method of calculating the contributor's minimum obligation.' The individual members of the associations are not indispensable parties." *City of Minneapolis v. Minneapolis Police Relief Ass'n*, 2008 WL 1747923, at *4. Because the members are not a party to this case, this Court cannot let the orders of the district court stand – orders which affect often the sole income for current and deceased

members, paid over a period of nearly 15 years. As this Court ruled, this case is about “contributions” between the City and the Associations.

For this and the other reasons set forth in this brief and in the Associations’ principal brief to this Court, the judgments below should all be reversed.

BASSFORD REMELE
A Professional Association

Dated: Dec. 7, 2010

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STATE OF MINNESOTA
IN COURT OF APPEALS

City of Minneapolis, a municipal
corporation,

Respondent,

vs.

CERTIFICATION OF BRIEF LENGTH

APPELLATE COURT CASE NOS. -
CONSOLIDATED:

Minneapolis Police Relief Association
And Minneapolis Firefighters Relief
Association,

A10-1244
A10-1331

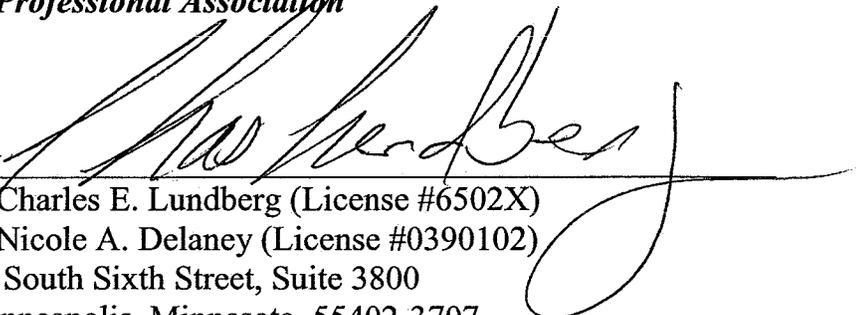
Appellants.

I hereby certify that this brief conforms to the requirement of Minn. R. Civ. App. P. 132.01, subds. 1 and 3, for a brief produced with a proportional 13-point font. The length of this brief is 4,419 words. This brief was prepared using Microsoft Office Word 2003.

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