

**A06-0982**

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State of Minnesota  
In Court of Appeals

**Juris Curiskis,**

*Appellant*

vs.

**City of Minneapolis,**

*Respondent*

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**APPELLANT'S RESPONSE TO RESPONDENT'S FORMAL BRIEF AND  
APPENDIX AS PER APPELLATE PROCEDURE RULE 128.02 Subd.3**

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appellant's response to respondent's brief

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### **RULE 128.02 Subd. 3**

The appellant may file a brief in reply to the brief of the respondent. The reply brief must be confined to new matter raised in the brief of the respondent.

### **NEW MATTER RAISED BY RESPONDENT, RE: Sec 8**

The respondent's new matter, on page 9 of his brief, states that Ch. 10, Section 8 of the Minneapolis Charter may not be used as an argument in the Appeal's Court because it was not used as an argument at the Trial Court. The respondent also calls Section 8 as "specious". It is a matter of record that the appellant used Section 8 in the Trial Court. It is also a matter of record that the City of Minneapolis used Section 8 to instruct residents of the appeals process to the District Court. If anything, respondent's argument against Section 8 is "specious". His argument is analogous to saying that Minnesota is not part of the United States of America because it is not labeled "Minnesota, USA".

## **APPELLANT'S TRIAL COURT RECORD, RE: Sec. 8**

The appellant's brief and exhibits, as submitted to the District Court (Trial Court) document the argument by the appellant that Sec. 8, Chapter 10 of the Minneapolis Charter applies. That record is found in the appellant's brief dated February 12, 2006 in items A,B,C,D and E on pages 1 through 3 and exhibits 1 through 7. Also, appellant's response, dated February 27, 2006, to the respondent's challenge on page 1 states Section 8 as an argument. **It is not a new argument in the Appeals Court. It is the same argument as in the District Court (Trial Court) briefs.**

## **APPELLANT'S BRIEF ON SEC. 8 TO APPEALS COURT.**

The appellant has furnished certified copies, from the City, of Sections 8 and 6 as well as the City Clerk's notification in their entirety to validate that the Trial Court arguments were not "specious" . **Far from being a new argument in the Appeals Court, it is the same argument as in the Trial Court except that it is now CERTIFIED by the Minneapolis City Clerk's Office.**

## **MINNEAPOLIS CITY CLERK'S NOTICE and Sec. 8**

The appellant has furnished a certified copy of the notice where the procedures for an appeal to District Court is documented AFTER the City Council has made the assessments. It has the same requirements and time line for filing with the City Clerk's Office and the District Court as does Sec. 8 (though not Sec. 6) The notice also describes the work proposed and is the same as described and enumerated in Section 8. **This notice was part of the appellant's material facts presented at the Trial Court. Section 8 is not a new argument in the Appeals Court by the appellant.**

### **AFFIDAVIT OF SUZETTE HJEMSTAD and Sec. 8**

The affidavit on page 29 of respondent's appendix states that the proposed work performed was the Bryn Mawr **Renovation project**. This work is the same as enumerated in Section 8. **The affidavit also demonstrates that Section 8 was presented as a material fact at the Trial Court by the respondent.**

### **SUMMARY JUDGMENT MEMORANDUM and Sec. 8**

In the middle of page 6, Judge McShane writes the following: ---within **THIRTY DAYS AFTER** such order. Such appeal shall be made by serving a written notice of such appeal upon the Mayor or City Clerk of said city, which shall specify the property of the appellant affected by such award, and refer to the objection filed as aforesaid, and by filing the notice of appeal upon the clerk of the District Court within **TEN DAYS AFTER** its service.

**The Judge's statement and time line of 30 days + 10 days is the same as Sec. 8 and the City Clerk's notice.** The Judge, therefore, made an error in his ruling that the filing was missed by one week. The correct ruling **from his own statement and time line**, should be that the the confirmation of assessments by the City of Minneapolis was on May 13, 2005. The appeal was filed with the City Clerk and the Mayor on June 10, 2005 and in District Court on June 20, 2005, both filings done in the correct manner and within the 30 day+10 day time line specified in Ch.10 Sec. 8 of the City Charter.

## CONCLUSION

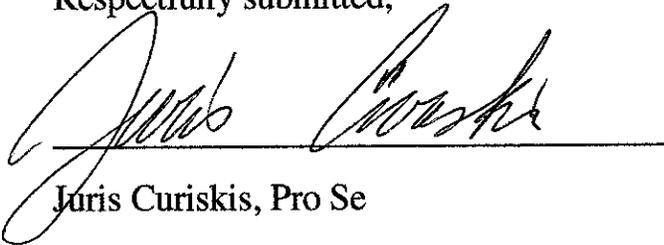
**It is documented, for the Appeals Court to read, that Section 8 has been the appellant's material fact and argument in the Trial Court since the motion for Summary Judgment was filed by the respondent.**

The respondent's Affidavit by Suzette Hjemstad confirms Section 8 by default because none of her nomenclature could possibly fit in Sec. 6. Moreover, even the City Clerk's notice gives instructions for the process of appealing to District Court that are identical to Section 8, -- but not to those in Section 6.

**In addition, the Trial Court's Judge also lays down a time line identical to the one in Section 8.** Respondent's statement that Section 8 was not used at the Trial Court is WRONG and his attempt to edit appellant's brief is an affront to the concept of justice.

Dated: 7/28/06

Respectfully submitted,



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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2) (with amendments effective July 1, 2007).