

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

STATE OF MINNESOTA BY THE )  
CITY OF MINNEAPOLIS, CITY OF )  
EAGAN AND MINNEAPOLIS )  
PUBLIC HOUSING AUTHORITY, )  
CITY OF MINNEAPOLIS, CITY OF )  
EAGAN AND THE MINNEAPOLIS )  
PUBLIC HOUSING AUTHORITY )  
Plaintiff )

vs.

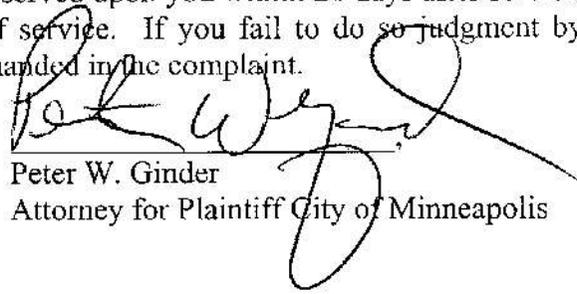
SUMMONS

METROPOLITAN AIRPORTS )  
COMMISSION, )  
Defendant )

The State of Minnesota to the Above-Named Defendant:

You are hereby summoned and required to serve upon plaintiff's attorney an answer to the complaint which is herewith served upon you within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so judgment by default will be taken against you for the relief demanded in the complaint.

Signed:



Peter W. Ginder  
Attorney for Plaintiff City of Minneapolis

Address:

Metropolitan Centre  
333 South 7th Street, Room 300  
Minneapolis, MN 55402  
(612) 673-2010

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

STATE OF MINNESOTA BY THE  
CITY OF MINNEAPOLIS,  
MINNEAPOLIS PUBLIC HOUSING  
AUTHORITY IN AND FOR THE  
CITY OF MINNEAPOLIS,  
CITY OF EAGAN, AND CITY OF RICHFIELD;  
CITY OF MINNEAPOLIS, MINNEAPOLIS  
PUBLIC HOUSING AUTHORITY IN AND  
FOR THE CITY OF MINNEAPOLIS, CITY OF  
EAGAN, and CITY OF RICHFIELD

Plaintiffs

Case No.

Case Type: Other Civil

vs.

**COMPLAINT**

METROPOLITAN AIRPORTS  
COMMISSION,

Defendant.

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**INTRODUCTION**

1. The City of Minneapolis ("Minneapolis"), the City of Richfield ("Richfield"), the City of Eagan ("Eagan"; collectively the "Cities") and the Minneapolis Public Housing Authority in and for the City of Minneapolis ("MPHA") bring this action against the Metropolitan Airports Commission ("MAC") under the Minnesota Environmental Rights Act ("MERA"), Minn.Stat. §§ 116B.01 et seq., and the Minnesota mandamus statute, Minn. Stat. § 586.01 et seq, seeking, among other relief, an order requiring the MAC to comply with its obligation to fully sound insulate homes within the 60 to 65 decibel ("dB") day-night level ("DNL") noise contours of the Minneapolis-St. Paul International Airport ("MSP") at no cost to the property owner or homeowner. MAC has made clear that it will not provide full sound insulation to homes within the DNL 60-65 dB, contrary to its responsibility pursuant to Minnesota law. Under MERA, MAC is obligated to comply with its past environmental mitigation commitments and to ensure the minimum impact to the protected resource of quietude.

## PARTIES

2. The City of Minneapolis (“Minneapolis”) is a Minnesota home rule charter city and political subdivision of the State of Minnesota under the laws and constitution of the State of Minnesota.

3. The City of Eagan (“Eagan”) is a Minnesota statutory city and political subdivision of the State of Minnesota under the laws and constitution of the State of Minnesota.

4. The City of Richfield (“Richfield”) is a Minnesota home rule city and political subdivision of the State of Minnesota under the laws and constitution of the State of Minnesota.

5. The Minneapolis Public Housing Authority in and for the City of Minneapolis (“MPHA”) is a municipal corporation and an independent public agency responsible for administering public housing and Section 8 rental assistance programs for eligible individuals and families in the City of Minneapolis.

6. The Metropolitan Airports Commission (“MAC”) is a statutorily created special purpose public entity, created pursuant to Minn. Stat. § 473.603, that owns and operates MSP and six reliever airports in the Twin Cities metropolitan area.

7. The MAC’s statutory responsibilities include:

assur[ing] the residents of the metropolitan area of the minimum environmental impact from air navigation and transportation, and to that end provid[ing] for noise abatement, control of airport area land use, and other protective measures; and promot[ing] the overall goals of the state’s environmental policies and minimize[ing] the public’s exposure to noise and safety hazards around airports.

Minn. Stat. § 473.602.

8. As discussed in greater detail below, MAC is obligated under both state and federal law to provide sound insulation to homes within the 60-65 decibel DNL contour.

## JURISDICTION

9. This district court has jurisdiction over a complaint brought under MERA, Minn. Stat. § 116B.03 (1), and the State mandamus statute, Minn. Stat. §§ 586.01, *et seq.*

## STATEMENT OF FACTS

### **A. MSP’s Effects on Neighboring Communities**

10. MSP is a critical transportation resource for the State of Minnesota and the Minneapolis-St. Paul metropolitan area, contributing significantly to the regional economy.

11. MAC's operation and development of MSP has exposed neighborhoods in the Cities to severe and recurrent aircraft noise events. MSP was built and has been expanded on a small site adjacent to areas that were fully developed before the advent of commercial jet transportation. MAC predicts that more than 10,000 homes in Minneapolis, Eagan, Richfield and other communities will experience noise in excess of DNL 60 dB in 2007. Among those homes are about 15 homes owned by MPIIA. More than 7,500 of these homes are in the DNL 60-65 dB contours.

12. In the absence of aircraft noise from MSP, the Minneapolis neighborhoods within the DNL 60-65 dB contour would predominantly experience noise in the DNL 30-40 dB range, almost 1,000 times less sound energy than they currently experience because of MSP operations. The other Cities would also experience considerably less noise in the absence of MSP operations. The low ambient noise levels constitute a unique and important resource in an urbanized area like the Twin Cities.

13. Quietude in neighborhoods in the Cities and on properties owned by MPHA is important for residents' health, welfare, quality of life and property values.

14. Minneapolis's Comprehensive Plan adopted in 2000, the Minneapolis Plan, identifies airport noise as the most significant factor negatively influencing quality of life for many neighborhoods in South Minneapolis.

15. Eagan's Comprehensive Plan, adopted February 20, 2000, acknowledges both the positive and negative effects of the neighboring MSP. Eagan has adopted policies to work cooperatively with MAC to reduce the adverse impacts of aircraft noise, but recognizes the MAC's commitment to expand its sound insulation program to include homes in the DNL 60-65 noise contours.

16. Richfield's Comprehensive Plan addresses the effects of noise on Richfield neighborhoods, recognizing that noise has "substantial and quite significant" effects on the community and that takeoff noise in some locations is the highest of any existing airport facility in the country.

17. Noise levels in excess of DNL 60 db severely affect residents and owners of property in the Cities. Such noise contributes to resident annoyance, interference with the enjoyment of property, interference with the ability to engage in conversations and listen to television, radio and other wanted sounds, and other serious effects.

18. Noise from aircraft using MSP has significantly reduced the value of property in the Cities relative to its value without such noise.

19. Adequate mitigation of MSP-related noise is critical to the future of the Cities' neighborhoods.

20. MAC's actions cause and will cause noise in the DNL 60-65 dB contours that exceeds the levels recognized by the State as consistent with speech, sleep, and hearing conservation.

#### **B. MAC's Obligation to Minimize the Impacts of MSP Noise**

21. Minnesota Statutes require that MAC minimize the environmental impact of its operations, including the provision of noise insulation. These obligations are central to the MAC's very existence. The legislature's stated purposes for creating the MAC include "assur[ing] the residents of the metropolitan area of the minimum environmental impact from air navigation and transportation, and to that end provid[ing] for noise abatement . . . and other protective measures" and also "minimiz[ing] the public's exposure to noise and safety hazards around airports." Minn. Stat. § 473.602.

22. The MAC's enabling statute expressly recognizes that residents in areas within the 60 DNL dB contour are negatively affected by noise. Minn. Stat. § 473.608, Subd. 29(d).

23. The MAC enabling statute grants to the MAC general authority to accomplish the objects and duties authorized by the enabling statute, which objects and duties include providing for noise abatement, minimizing the public's exposure to noise, implementing noise mitigation efforts, and adopting and enforcing rules and regulations to those ends. Minn. Stat. §§ 473.602.

24. That statute also grants the MAC direct authority to issue bonds to fund noise abatement and natural resource protection measures, regardless of location and ownership. Minn. Stat. § 473.608, Subd. 12a.

25. Ultimately, the statute recognizes that:

the development, extension, maintenance and operation of the [metropolitan airports] system in such a manner as to assure the residents of the metropolitan area of the minimum environmental impact from air navigation and transportation, with provision for noise abatement . . . and other protective measures, is essential to the development of air navigation and transportation in and through this state, and is necessary in order to assure the inclusion of this state in national and international systems of air transportation, benefits the people of the state as a whole, renders a general public service, and provides employment, and is of great public economic benefit.

Minn. Stat. § 473.655 (emphasis added).

26. As a result, MAC has implemented a noise insulation program for the area around MSP since 1992.

27. In the MAC noise insulation program implemented to date, MAC has been insulating homes in the DNL 65 decibel and higher contours. MAC's program provides a combination of, among other measures, new or refurbished doors and windows, wall and ceiling

insulation, and vent baffling, which in combination are designed to provide a minimum of a five decibel reduction for each home. Air conditioning, while it does not provide insulation, is provided to allow homeowners to close their windows. The package of insulation measures is provided at no cost to the homeowner.

28. MAC is currently completing the noise insulation program for the DNL 65 and greater noise contours.

29. The noise insulation program has provided significant relief to those homes that have been part of the program to date. Residents experience much less interference with their daily life, sleep patterns and use and enjoyment of their property. Residents have expressed high levels of satisfaction with the program and found that it greatly increases the compatibility of their homes with the nearby airport.

30. However, residents within the DNL 60-65 dB contours – often located within tens of feet of already insulated homes and exposed to indistinguishable levels of noise – have received no relief. This affects the quality of their environment and the quality of neighborhoods in the Cities.

### **C. The “Dual-Track Process” for Evaluating Future Airport Capacity**

31. In 1989, the Minnesota Legislature enacted the Metropolitan Airport Planning Act to create a process to determine whether the long-term aviation capacity needs of the metropolitan area could be best met by enhancing capacity at MSP or by developing a replacement airport within the metropolitan area.

32. As a result, MAC, the Metropolitan Council, the Cities and others engaged in an extensive study and planning process to examine the best location for the metropolitan area’s primary airport.

33. In March 1996, MAC and the Metropolitan Council prepared a Joint Report to the Legislature with a recommendation to expand MSP and discontinue efforts to develop a replacement airport. Primary bases for the recommendation were findings that MSP could accommodate expected future demand with expansion of its runways and other facilities and that doing so would save over \$2.2 billion.

34. At the same time, however, MAC and the Metropolitan Council recognized the environmental costs imposed on nearby communities such as Minneapolis and Eagan and the countervailing need to take more aggressive steps to mitigate noise. MAC and the Metropolitan Council found that expanding MSP would result in 39 times more persons located in the DNL 60-65 dB contours in 2005 than would be in the DNL 60-65 contours of a new airport – a total of more than 22,030 persons.

35. In 1996, after receipt of the report from MAC and the Metropolitan Council, the Minnesota Legislature determined that MSP should be kept in its current location and that the MAC should develop a 2010 long-term capital plan.

36. The legislation that was enacted in 1996 required that the MAC to prepare a report and recommendation on mitigation for the 2010 capital projects and specified that the recommendation shall examine noise mitigation to the 60 dB DNL level. Minn Stat. §473.661(4)(f).

#### **D. MAC Mitigation Plan Commitments within the DNL 60-65 dB Contours**

37. As a result of the Legislature's requirement that the MAC develop a report and recommendation regarding mitigation, the MAC convened a noise mitigation committee including representatives of the Cities and other communities surrounding MSP.

38. Based on extensive work by the committee, on October 28, 1996, MAC approved a noise mitigation program for MSP (the "1996 Noise Mitigation Program"). The 1996 Noise Mitigation Program provided that MAC would expand the then-existing noise insulation program for the DNL 65 dB and greater contours to incorporate the residences in the area encompassed by the projected 2005 60 dB DNL contour.

39. The 1996 Noise Mitigation Program provided that MAC would fund it through airport revenues, passenger facilities charges and federal grants and provided explicitly that "[i]n no case should unreimbursed financial impacts fall on affected residents or their local governments."

40. The 1996 Noise Mitigation Program was intended to provide that the "extension" of the noise program would continue to be based on providing the five-decibel noise reduction standard for each home in the DNL 65 dB and above contours.

41. Less insulation than that sufficient to reduce noise by five decibels would be barely perceptible by residents and insufficient to minimize the noise impacts of MSP, as required by law.

42. Indeed, the Mitigation Committee of the MAC recommended that the MAC evaluate insulation beyond the DNL 60 dB contours once the DNL 60-65 dB program was complete and evaluate the possibility for a three-to-five decibel reduction in this area outside of the DNL 60 dB contour.

#### **E. MAC Commitments to DNL 60 dB Mitigation in Environmental Reviews**

43. As part of the process for approving the expansion of MSP, MAC was required to undertake environmental review of the proposed projects under the Minnesota Environmental Policy Act ("MEPA"). Minn. Stat. §§ 116D.01, *et seq.*

44. As part of its environmental review process for major federal actions related to the expansion, the Federal Aviation Administration ("FAA") was also required to undertake environmental review through the National Environmental Policy Act ("NEPA"). 42 U.S.C. §§ 4321, *et seq.*

45. FAA and MAC sought to discharge their obligations through joint environmental review documents. Together, they issued a Final Environmental Impact Statement ("FEIS") in May 1998.

46. The FEIS evaluated the environmental impacts of a package of MSP expansion projects, including the construction of a new runway ("Runway 17/35"). While FAA typically considers noise impacts only above DNL 65 dB, MAC and FAA evaluated the effects of MSP out to DNL 60. The FEIS recognized that noise associated with airport operations can impact people outside of the DNL 65 dB contours and therefore considered impacts to the DNL 60 dB contour.

47. In recognition of the Legislature's direction to develop a mitigation plan and the noise impacts associated with MSP in the DNL 60-65 dB contours, the FEIS provided that the 1996 Noise Mitigation Program would be implemented if the MSP expansion projects were undertaken.

48. On November 23, 1998, the Minnesota Environmental Quality Board ("EQB") assessed the adequacy of the Dual-Track FEIS and determined that the document – which included the DNL 60-65 dB mitigation commitments – was adequate for purposes of MEPA.

49. The Cities did not object to the FEIS's adequacy under MEPA in reliance on MAC's noise insulation commitments in the document.

50. MSP has in fact implemented the MSP expansion projects addressed in the FEIS, and is planning to open the new Runway 17/35 in late 2005. Thus, it is obligated to follow through with all committed mitigation in the program.

#### **F. November 1998 Third Parallel Runway Agreement**

51. In 1998, Minneapolis and the MAC entered into an agreement (the "Third Parallel Runway Agreement") addressing the construction of a potential third parallel runway at MSP and the City's ability to challenge the construction of Runway 17/35. MAC and Richfield entered into a similar agreement in 1998.

52. MAC sought these agreements to avoid any judicial, administrative or other challenges to the Runway 17/35 by the Cities, which was of great value to MAC.

53. Minneapolis and Richfield agreed to avoid any challenges to Runway 17/35 only in reliance on the MAC's commitments to follow through with adequate sound insulation in the DNL 60-65 dB noise contours.

54. Minneapolis and Richfield have each relied to their detriment upon MAC's consistent, repeated and clear commitments to complete sound insulation of all homes within the 60 dB DNL contour when it agreed to forego potential legal challenges to Runway 17/35.

## **G. 1999 Airline Lease Agreement**

55. In early 1999, the MAC and the airlines entered into a new operating agreement for MSP (the "1999 Airline Lease Agreement") that contained agreements regarding funding for the capital program at MSP through 2010.

56. As part of the 1999 Airline Lease Agreement, airlines agreed to fund the DNL 60-65 dB noise insulation program for MSP, which was then estimated to cost \$150 million. The cost estimates assumed full insulation of the homes in the program, not just installation of air conditioning units.

## **II. March 12, 2002, Metropolitan Council Action Approving Capital Program and Requiring Mitigation**

57. Minnesota law, Minn. Stat. §§ 473.181, 473.621, requires MAC to secure review and approval by the Metropolitan Council for certain major capital projects at the airport.

58. In March 2002, the Metropolitan Council approved 2002 "significant effect" projects (which included the construction of Runway 17/35 and a terminal parking structure) for implementation.

59. However, the Metropolitan Council conditioned its approval on MAC's reaffirmation of its \$150 million commitment, identified in the 1999 Airline Lease Agreement, to provide noise mitigation to residents within the DNL 65-60.

## **I. MAC's Recent Retreat from Its DNL 60-65 dB Commitments**

60. Despite its clear commitments to extend the Sound Insulation Program to the DNL 60-65 dB noise contour and its obligations to provide adequate sound insulation, MAC has indicated that it will not fulfill these obligations.

61. In 1999, the MAC began a review of the noise insulation program at MSP.

62. In August 2001, the MAC voted to approve the extension of the Sound Insulation Program - including the full five-decibel insulation package - for the DNL 60-65 dB contours, subject to a \$150 million cap.

63. In December 2001, the MAC rescinded its August 2001 decision for further review.

64. In April 2002, the MAC approved a revised program for the DNL 60-65 dB contours. Under this revised program, the MAC would have provided the full five-decibel package for homes in the DNL 63-65 dB contours, but would only provide air conditioning in the DNL 60-62 contour (with additional mitigation, if necessary, to help houses achieve an interior noise level of DNL 45 dB).

65. In May 2002, the MAC committed to spend \$150 million for the revised DNL 60-65 dB sound insulation program.

66. However, MAC subsequently backed away from even this commitment. At its November 20, 2004 meeting, the MAC decided that it would only provide air conditioning to those homes that do not have air conditioning.

67. In addition, contrary to its obligations, MAC would now require co-payment of up to fifty percent from homeowners in the DNL 60-65 contours to receive any relief.

68. Together, MAC's retreats from its noise insulation obligations mean that homes in the DNL 60-65 dB contour would receive no actual insulation and would be required to pay MAC even for the incomplete air conditioning plan.

69. For most of the year when residents are likely to have their windows closed due to the weather, MAC's program would provide no benefit. It would also provide no benefit to the many homeowners who already have air conditioning and are affected by MSP noise.

70. MAC's current program will not result in sufficient noise relief for affected homes and will not discharge MAC's mandatory duties under Minnesota and federal law.

71. Property owners within the DNL 60-65 dB contours have relied to their detriment on MAC's noise mitigation commitments in making home investment, location and other choices.

**J. Implementation of the Five-Decibel Noise Insulation Package in the DNL 60-65 dB Contour Is Required by Law, Beneficial to Affected Residents and Feasible**

72. Provision of the full five-decibel noise insulation package is economically and technically feasible.

73. Provision of the full five-decibel noise insulation package would allow MAC to minimize noise impacts – as required by law – without affecting aircraft operations at MSP.

74. Supplying adequate noise insulation would not interfere with growth in airport operations, affect how aircraft are flown in or out of MSP, or affect the types of aircraft that can be flown.

75. Implementation of the five-decibel noise package in the DNL 60-65 dB would meet the Legislature's clear requirements to reap the economic benefits of MSP's operations at its current location, while reducing serious impacts to affected residents.

## CAUSES OF ACTION

### **FIRST CAUSE OF ACTION (For Declaratory and Equitable Relief)**

#### **FOR A DECLARATION THAT THE MAC HAS CAUSED AND IS LIKELY TO CAUSE POLLUTION, IMPAIRMENT OR DESTRUCTION OF A NATURAL RESOURCE IN VIOLATION OF THE MINNESTOTA ENVIRONMENTAL RIGHTS ACT SECTION 116B.03(1) AND FOR ASSOCIATED EQUITABLE RELIEF**

76. The Cities and MPHA incorporate by reference and re-allege Paragraphs 1 through 75 of this Complaint as if restated here in full.

77. The Cities and MPHA are political subdivisions of the state and are entitled to maintain a civil action for declaratory or equitable relief under MERA. Minn. Stat. § 116B.03 (1).

78. The MAC is a public corporation and is a “person” subject to suit by the Cities and MPHA in the name of the State under MERA Section 116B.03(1).

79. The quietude of the neighborhoods within the Cities and properties owned by MPHA that are located in the DNL 60-65 dB contour is a protected “natural resource” under MERA. Minn. Stat. §116B.02(4).

80. Noise pollution from MSP materially adversely affects the environment by impairing the natural resource of quietude.

81. MAC’s failure and announced intention to continue to fail to implement an adequate noise insulation program in the 60-65 DNL will materially adversely affect the environment and fails to minimize the impact of MSP operations on the environment.

82. The noise impacts from MSP in the 60-65 DNL dB contour are repeated and aggravated. Aircraft land and take off throughout the day and night and fly at low altitudes in the airspace above the DNL 60-65 dB contours in the Cities and over MPIIA properties.

83. The noise from MSP flights causes disruption of sleep; interrupts and prevents normal conversation and communication; interferes with use and enjoyment of telephones, television and radio; and disrupts entertainment and normal peaceful enjoyment and use of property in the 60-65 DNL dB contours.

84. Unless appropriately mitigated, these impacts can be reasonably expected to continue in the future. It is anticipated, as projected by the MAC, that there will be substantial increases in the total number of operations and that these impacts will increase in the future.

85. MAC’s truncated noise insulation program does not adequately protect quietude in the DNL 60-65 dB contour.

86. At least one feasible and prudent alternative is apparent: the MAC can implement a complete mitigation program in the 60-65 DNL to preserve the quietude protected by MERA as to interior spaces, without in any way effecting air operations.

87. Plaintiffs do not seek in any manner through this suit to affect the operation of aircraft at MSP. Provision of adequate noise insulation will not affect the numbers of operations at MSP, how aircraft are operated or the aircraft themselves.

**SECOND CAUSE OF ACTION  
(For Declaratory and Equitable Relief)**

**FOR DECLARATORY JUDGMENT THAT THE MAC VIOLATED  
ENVIRONMENTAL QUALITY STANDARDS, LIMITATIONS, RULES,  
ORDERS, LICENSES, STIPULATION AGREEMENTS OR PERMITS  
PROMULGATED BY A STATE REGULATORY AGENCY  
AS DEFINED BY MINNESOTA LAWS SECTION 116B.03(1)  
AND FOR ASSOCIATED EQUITABLE RELIEF**

88. The Plaintiffs incorporate by reference and re-allege Paragraphs 1 through 87 of this Complaint as if restated here in full.

89. The MERA definition of “pollution, impairment or destruction” includes “the violation of “any environmental quality standard, limitation, rule, order, license, stipulation agreement or permit promulgated or issued by a state regulatory agency or any instrumentality, agency, or political subdivision thereof which was issued prior to the date the alleged violation occurred or is likely to occur.” Minn. Stat. § 116B.02(5).

90. By failing to implement an effective noise mitigation program in the DNL 60-65 dB contours of MSP, MAC has violated environmental quality standards, limitations, rules, orders, licenses, stipulations, agreements or permits, including but not limited to:

- The 1996 Noise Mitigation Program;
- The mitigation requirements of the 1998 FEIS;
- The statutory obligation to minimize noise from MSP; and
- The 2002 Metropolitan Council approval of the MSP 2010 capital program.

**THIRD CAUSE OF ACTION  
(For Writ of Mandamus)**

**FOR A WRIT OF MANDAMUS TO REQUIRE THE MAC  
TO EXERCISE ITS DUTIES REQUIRED BY LAW**

91. The Plaintiffs incorporate by reference and reallege Paragraphs 1 through 90 of this Complaint as if restated here in full.

92. The MAC has failed to exercise its mandatory duty to provide an adequate noise insulation program to homes in the DNL 60-65 dB contours of MSP.

93. The MPHA is specifically injured by the MAC's failure to insulate homes in the 60-65 DNL contour, because it owns about 15 homes within the DNL 60-65 dB contour that will not receive the full noise insulation that MAC is obligated to provide and it would have to make a co-payment.

94. In the event that the court determines that the MPHA has no remedy under the two MERA causes of action alleged above, mandamus is the only adequate legal remedy available to the MPHA to force the MAC to exercise the duties imposed on it by law.

95. MAC's actions in this case demonstrate that pursuing this administrative remedy would be futile. Given the MAC's decision to truncate its promised noise program, in the face of extensive comments and specific objections from the Cities and others, it is evident that any petition for reconsideration would be summarily rejected and would not serve any useful purpose.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs pray for the following relief:

1. For an Order requiring the MAC to implement, at a minimum and at no cost to residence owners or the Plaintiffs, a noise insulation program for residences in the 60 to 65 DNL contours that will provide at least a five decibel noise reduction from the existing conditions in all portions of such residences in order to prevent the MAC's ongoing and future pollution, impairment and destruction of the natural resource of quietude in that area, pursuant to Minn. Stat. § 116B.03.

2. a. For an Order enjoining the MAC from violating:

1. The residential noise insulation requirements in the MAC's 1996 Noise Mitigation Program;
2. The 1998 FIS requirements to implement the 1996 Noise Program; and
3. The March 2002 Metropolitan Council's conditions of approval for the 2002 "significant effect" projects.

b. For an Order to enjoin the MAC from implementing anything less than the noise program provided in the DNL 65 and greater contours for homes in the 60-65 DNL contours and enjoining any attempts to shift the cost of such a program to property owners or any local government in order in order to prevent ongoing and future pollution, impairment and destruction of quietude in that area, pursuant to Minn. Stat. § 116B.03.

3. In the alternative, for a writ of mandamus, requiring the MAC to implement, at its own cost, a noise insulation program for residences in the 60 to 65 DNL contours that will

provide at least a five decibel noise reduction from the uninsulated condition in all portions of such residences.

4. For such other and further relief as the Court may deem just and proper, pursuant to Minn. Stat. § 116B.07.

Dated: April 6, 2005



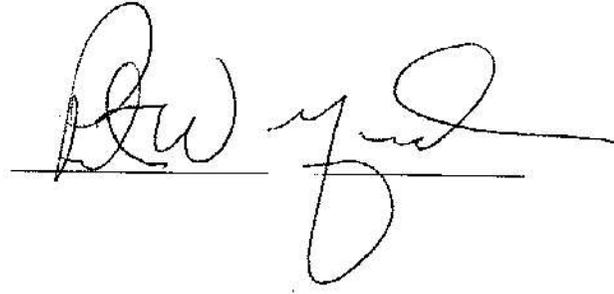
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MINNEAPOLIS

## ACKNOWLEDGMENT

The undersigned acknowledges that: I am familiar with the terms of Minn. Stat. § 549.211, and that costs, disbursements and reasonable attorney and witness fees may be awarded to the opposing party pursuant to subd. 2 thereof, in the event a party or an attorney acts in bad faith; asserts a claim or defense that is frivolous and that is costly to another party; asserts an unfounded position solely to delay the order and course of the proceedings or to harass; or commits a fraud upon the Court.

A handwritten signature in black ink, appearing to read "Dwight", is written over a horizontal line. The signature is cursive and stylized, with a long horizontal stroke extending to the right.



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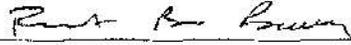
Dated: April 6, 2005



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HOUSING AUTHORITY IN AND  
FOR THE CITY OF  
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Dated: April 6, 2005



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ATTORNEYS FOR PLAINTIFF  
CITY OF EAGAN

Dated: April 6, 2005

**ACKNOWLEDGMENT**

The party above-named represented by the undersigned, hereby acknowledges that sanctions may be imposed pursuant to MINN. STAT. §549.211.



Robert B. Bauer