



Title: Resolution consenting to Ballard Spahr representation for 325 Blake Road

Resolution number: 26-022

Prepared by: Name: Louis Smith
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Reviewed by: Name/Title: Michael Hayman, Director of Project Planning

Recommended action: MCWD legal counsel recommends that the Board of Managers consent to Ballard Spahr representation for the 325 Blake Road transaction and thereby waive potential conflict with Ballard Spahr's representation of NHP Foundation in a Colorado project.

Background:

Alex Sellke of Ballard Spahr LLP has served as real estate counsel for the Minnehaha Creek Watershed District (MCWD) for a number of years and has substantial involvement in counseling the MCWD concerning potential real estate transactions for the property MCWD owns at 325 Blake Road and drafting related agreements. NHP Foundation (NHP) has developed an offer as a potential purchaser and developer of a portion of 325 Blake Road, and Mr. Sellke has alerted the MCWD that Ballard Spahr LLP serves as legal counsel to NHP in the site acquisition and financing of an affordable housing project in Denver, Colorado.

MCWD legal counsel Louis Smith advises that Rule 1.7 of the Minnesota Rules of Professional Conduct provides that, notwithstanding such a conflict, a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing.

Mr. Sellke has stated that he is not involved in the NHP Foundation representation for the Colorado project, and no personnel from that team will participate in the 325 Blake Road matter. Therefore Mr. Sellke reasonably believes that he will be able to provide competent and diligent representation to MCWD, while other attorneys in his firm separately represent NHP for an affordable housing project in Denver. Mr. Smith has stated that he concurs with this conclusion and further has stated that such representation is not prohibited by law and does not involve asserting claims by one client against another client by the same lawyer.

Mr. Smith has therefore recommended that MCWD consent to Mr. Sellke and Ballard Spahr's representation of MCWD in the potential transaction with NHP, notwithstanding Ballard Spahr's representation of NHP in Colorado, with the separation from the Colorado team that Mr. Sellke has affirmed.



RESOLUTION

Resolution number: 26-022

Title: Resolution consenting to Ballard Spahr representation for 325 Blake Road

WHEREAS Alex Sellke of Ballard Spahr LLP has served as real estate counsel for the MCWD for a number of years, and has substantial involvement in counseling the MCWD concerning potential real estate transactions for the property MCWD owns at 325 Blake Road and drafting related agreements;

WHEREAS NHP Foundation (NHP) has developed an offer as a potential purchaser and developer of a portion of 325 Blake Road, and Mr. Sellke has alerted the MCWD that Ballard Spahr LLP serves as legal counsel to NHP in the site acquisition and financing of an affordable housing project in Denver, Colorado;

WHEREAS MCWD legal counsel Louis Smith advises that Rule 1.7 of the Minnesota Rules of Professional Conduct provides that, notwithstanding such a conflict, a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing;

WHEREAS Mr. Sellke has stated that he is not involved in the NHP Foundation representation for the Colorado project, and no personnel from that team will participate in the 325 Blake Road matter; therefore Mr. Sellke reasonably believes that he will be able to provide competent and diligent representation to MCWD, while other attorneys in his firm separately represent NHP for an affordable housing project in Denver; and

WHEREAS Mr. Smith has stated that he concurs with this conclusion and further has stated that such representation is not prohibited by law and does not involve asserting claims by one client against another client by the same lawyer; Mr. Smith has therefore recommended that MCWD consent to Mr. Sellke and Ballard Spahr’s representation of MCWD in the potential transaction with NHP, notwithstanding Ballard Spahr’s representation of NHP in Colorado;

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby consents to Mr. Sellke and Ballard Spahr’s representation of MCWD in the potential transaction with NHP, notwithstanding Ballard Spahr’s representation of NHP in Colorado, with the separation from the Colorado team that Mr. Sellke has affirmed.

Resolution Number 26-022 was moved by Manager _____, seconded by Manager _____. Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: 2/12/2026

 Secretary Date: _____