



October 13, 2020

City of Minneapolis
350 S. 5th St.
Minneapolis, MN 55415

RE: REALTORS® Request Delay to Improve Commercial Property Advanced Notice of Sale

Dear Mr. Mayor, President and Members of the City Council:

The Minneapolis Area REALTORS® (“MAR”) is a professional association representing more than 9,000 REALTORS® who live and work throughout the Twin Cities. The Minnesota Commercial Association of REALTORS® is the pre-eminent commercial real estate brokerage organization representing members in all aspects of commercial real estate. Collectively, our overall goal is to support the healthy growth of the Twin Cities’ real estate market and help consumers make informed real estate decisions.

We recognize current community challenges and their potential impact on Commercial Real Estate. The pandemic and civil unrest following the killing of George Floyd has had substantial impact on businesses and commercial property owners.

This proposed ordinance came to our attention upon the publication of the agenda for Business, Inspections, Housing and Zoning committee on September 22, 2020. Prior to this time, we had not had an opportunity to review the ordinance language or share it with our respective memberships. Doing so deprived our members the opportunity to provide thoughtful and meaningful feedback. Commercial practitioners may have been able to respond, participate in the policy-making process, and even proposed solutions that might have more appropriately addressed the underlying concerns of the city council.

- **Consider Delay to Improve Ordinance:** We do request the city consider further delay the vote to approve this ordinance, at this time. We do seek the opportunity to continue to work with councilmember authors on this proposal to improve the ordinance.
- **Limit the Scope of Applicable Properties:** We do recommend the council consider limiting the scope of this ordinance. Council could consider unrest impacted properties, geographic zones, properties of a certain size or type, excluding the downtown business district, or some combination thereof.

The Minneapolis Area REALTORS® and Minnesota Commercial Association of REALTORS® thanks you for your attention to this important real estate issue. As stated, our overall goal is to support the healthy growth of the Twin Cities’ real estate market and help consumers make informed real estate decisions. We are happy to continue to be a resource and a partner in helping improve ordinances related to real estate, housing, or private property rights. Please feel free to reach out to us regarding other Minneapolis real estate issues.

A handwritten signature in cursive script, appearing to read "Eric J. Myers".

Eric J. Myers
Director of Government Affairs
Minneapolis Area Association of REALTORS®
5750 Lincoln Drive
Edina, MN 55436
p. 952.988.3124
ericm@mplsrealtor.com

A handwritten signature in cursive script, appearing to read "Matt Anfang".

Matt Anfang
Executive Director
MN Commercial Association of REALTORS®
6600 France Avenue, Suite 485
Edina, MN 55435
p. 952-908-1780
matt@mncar.org

MINNEAPOLIS AREA REALTORS® & MINNESOTA COMMERCIAL ASSOC. OF REALTORS®
COMMERCIAL ADVANCE NOTICE OF SALE – TALKING POINTS

- **Violates Private Property Rights:** Requiring commercial property owners to notify the city (60) days prior to listing a commercial property for sale violates private property rights. Fundamental to property ownership is the right to buy, sell, or let for rent real property without unnecessary interference.
- **Interferes with Contractual Relationships:** Many commercial leases are quite intricate in nature. Commercial leases strive for clarity in contemplation of potential future events. Escalation clauses and termination clause are common, already quite specific, and tend to provide extreme clarity to both commercial property owners and business owner (lessees). Requirements to notify the city and lessee provide no additional benefit to either party and further complicate and interfere with contractual relationships and the protections afforded therein.
- **Fundamental Fairness:** The public listing of any property for sale depends on a fundamental fairness where the market learns of available property simultaneously. The requirement to notify government first creates an unfair market advantage favoring government, its partners, or other institutional investors.
 - We are especially concerned this ordinance may increase institutional investors, skilled at combing government public data, and result in less community-oriented development, contrary to council intent.
 - Does the city argue it deserves advanced notice of sale; an unfair market advantage afforded to no other party? Should not the interest of the city be to promote fair competition with the open market?
- **Lacks Public Interest:** A requirement to notify the city of a potential commercial property listing lacks any relevant public policy interest. Notifying the city (60) days prior to potentially listing a commercial property is not definitive, at best it only describes momentary intent. In contrast, the current practice of officially listing a property is definitive and serves to inform the entirety of the market in a straightforward manner.
- **Impractical Compliance Requirements:** The ordinance requires the current owner to notify the city and all current commercial tenants and provide contact information for all tenants to the director of Community Planning and Economic Development. This task is not only impractical in its administration but may be deleterious to the ability to complete the commercial sale transaction itself. Furthermore, it fails to contemplate the various types of sale transactions that might occur including but not limited to foreclosure, short sale, portfolio sales, probate, etc. These transactions may not lend themselves to a 60-day advance notice requirement and commercial tenant notification might lead to devaluing of the property asset itself.
- **Existing Review and Approval Process is Sufficient:** The city of Minneapolis’s current site review and approval process is already more than sufficient to provide for the safety and protection of new construction and remediated construction on current sites. The comprehensive plan, zoning, and city requirements are already exceedingly comprehensive.
- **Differing Compliance:** It should be noted, as proposed, that current owners would be required to submit their notices to Director of Community Planning and Economic Development while new owners would be required to submit their notices to the Director of Regulatory Services. The division of these two requirements between two separate city departments is confusing, inefficient, and inherently bureaucratic in its administration.
- **Collects Facts Unrelated to Current Regulations:** The notice of sale, 353.30, section specifically requires new owners to submit facts that have no relation to any known or current city policy, legislation, or rule. It states, “(3) Whether the new owner intends to increase rent, require existing tenants to be rescreened, or terminate or not renew lease agreements without cause.” REALTORS® note the city has no current ordinance on rent increases, commercial re- screening of tenants, or just cause. We do note that state law already protects leaseholders. The remaining provisions of this section require facts from the new owner that are considered proprietary by industry practice. More importantly, this section is collecting facts unrelated to any current city regulation or ordinance