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## Upcoming Events

- June Brokers Meeting – 6/8
- June Membership Meeting – 6/16

Newsletter sponsored by:



## June Membership Meeting: June 16th St. Paul's Great River Passage and the Impact on St. Paul

**11:30 am - 1:30 pm at Harriet Island Pavilion  
200 Dr. Justus Ohage Blvd, St. Paul**

**One CEU is Approved!**

**Click Here to Register**

As part of the City of St. Paul's Great River Passage Initiative, the River Balcony is a proposed 1.5 mile promenade along downtown Saint Paul's river bluff, connecting public spaces, civic landmarks, and development sites, while providing new connections to the river and sparking economic development along the riverfront.

Join us as along the river as **Mary deLaitre**, Executive Director shares the history of the River Balcony initiative, the Great River Passage Master Plan, the creation of the Great River Passage Conservancy and the partnership with the City and other key stakeholders.

**TIME:** 11:30 AM – Networking  
12:00 Noon – Lunch & Program

# CHAIR'S REPORT – *Heide Kempf-Schwarze*



June marks the end of an era for Greater Saint Paul BOMA with the pending retirement of our fearless leader, **Joe Spartz**, at the end of the month. It has been an honor to work with Joe over the past several years and I will miss his calm and considerate demeanor. He was instrumental in establishing a partnership between GSP BOMA and the Community Ambassadors which set the stage for more collaboration across sectors that greatly benefited commercial real estate stakeholders through the most challenging of times in 2020. Please join me in sending Joe off into this next leg in his journey.

As Joe turns the page of his story, we too, are embarking on a new chapter as an Association. It is my pleasure to welcome **Tina Gassman** who will be officially onboard as GSP BOMA's incoming President on June 9<sup>th</sup>. Tina comes to us with more than 20 years of association management experience. Most recently she served as Executive Director for Captive Insurance Companies Association and Operations Director for National Cooperative Procurement Partners. In addition, Tina was Director of Public Relations for the Minnesota Multi Housing Association for more than 12 years. Tina impressed the Search Committee not only with her breadth of association management background, but she also struck us as a thoughtful leader who shares our commitment to building upon the strong foundation established by her predecessors.

**I hope many of you will take advantage of the opportunity to meet Tina in person at our June membership on Thursday, June 16<sup>th</sup> at Harriet Island.** For those unable to attend, never fear, Tina will be reaching out to members as she steps into her new role to learn how GSP BOMA can continue to support its member and increase the value of your membership.

~ Heide



*Incoming President: Tina Gassman*



# MN Legislative Update

With Sonnie Elliott



## 2022 Regular Session – Wrap Up

### MN Divided Legislature Brought Disappointments and Success



**Winners:**

- **Liquor Lovers** – More ways to enjoy Craft Distilleries and Breweries.
- **Hunters and Environmentalists** – Millions in funding for our Minnesota Habitat.
- **Farmers and Rural Minnesotans** – The Ag/Broadband omnibus bill had \$210M for broadband grants and \$18.4M for drought relief.



**Losers:**

- **Odds Makers** – Legalized sports betting didn't cross the finish line.
- **"Mini-sotans"** – The education omnibus bill, with funding for special education cross-subsidy and literacy didn't pass.
- **Grandpa and Grandma** – The tax bill had included elimination of the social security tax, but didn't pass.

### Budget Surplus of \$9.3 Billion + \$1.2 Billion in Federal Covid-19 Relief

**PASSED INTO LAW**

- **\$2.7 Billion for Unemployment Insurance** – Legislators agreed to spend \$2.7B to replenish the unemployment insurance trust fund and pay back the Federal Government.
- **\$500 Million for Frontline Worker Hero Pay** - \$500M designated for "hero pay" to reward frontline workers with \$750 bonus checks.
- **\$890 Million for Reinsurance** – The MN Premium Security Plan was extended for three years and included some policy changes to help stabilize the individual and small-group health insurance market.

A \$12 Billion (over three years) global agreement was reached with one week before session was to adjourn.

- \$4 Billion Tax Cuts
- \$4 Billion Spending
- \$4 Billion Bottom Line

In the past several years leadership has come to a "global agreement" as a framework to complete the work for the session. The agreement is brought forward by the House Majority DFL, the Senate Republican Majority and the Governor.

This year they were unable to meet the adjournment deadline despite the global agreement. Almost all of the remaining funds will fall to the bottom line to be available next year.





# MN Legislative Update

With Sonnie Elliott



## 2022 Regular Session – Wrap Up

### Other Issues

#### Taxes

A deal was struck by the conference committee that included elimination of the social security tax, a significant renters' credit and a reduction in the general levy. Despite the agreement the conference committee report was never brought to a vote.

#### Bonding Bill

While no official public statement was made by either Chair, conflicting reports from insiders led us to believe there was not an agreement when session adjourned.

#### Public Safety

The House DFL focused on community supports and investigatory services, while the Senate GOP cornerstone issue was more funding for law enforcement. Both sides were unable to come to an agreement and the bill stalled.

#### Paid Family and Medical Leave & Child Care

The answer to the question of Paid Family and Medical Leave will not be resolved this year. The tax agreement also contained an increase in the child and dependent care tax credit which was not passed with because it was part of the tax bill.

**Please note:** At the time of this writing, the legislature is adjourned until January 3, 2023. The Governor may call the legislature back at any time for Special Session. During the Special Session, the legislature may set the agenda and adjourn at it's discretion. Traditionally there is a pre arranged agreement with leadership before the Governor will call a Special Session.

Nearly a quarter of legislators are leaving the legislature (45 members).  
In addition, 11 House members are running for the Senate and one Senator is running for the House.





## St. Paul BOMA Government Affairs

BOMA has been busy on several fronts supporting initiatives at both the state and St. Paul City levels. Ramsey County requested support by BOMA for state funding for sheltering homeless individuals. The BOMA office and **Sonnie Elliott** crafted a letter that was sent to key legislative committee chairs and members seeking support for the Ramsey County request. Funding was included in the spending package, but unfortunately, the tax and spending bills didn't get passed during the regular session. Hopefully, it would be included in a special session if one occurs.

Within the City of St. Paul, the Hillcrest Master Plan was sent to the City Council for approval. Per a request by the Port Authority, BOMA sent a letter to the City Council indicating support for the proposed Master Plan. On June 1st, the City Council approved the Master Plan allowing this important development to move forward.

## New Tenant at Treasure Island Center

On May 17<sup>th</sup>, **Angie Helms**, a BOMA board member, and the property manager at Treasure Island Center, helped to host an open house for a great new tenant, IDTS Medical. This clinic is dedicated to providing respiratory treatment for those unable to afford the proper care while supporting the advancement of research, education, and treatment in respiratory health where the outcomes support the betterment of humanity.

**Welcome IDTS Medical to downtown St. Paul.**



*From right to left: B Kyle (St. Paul Chamber), Mario Nozarella (IDTS Medical), Tina Gassman (St. Paul BOMA), Joe Spencer (St. Paul Downtown Alliance), Jaimee Hendrikson (Visit St. Paul).*

# New Trends Shaping the Workplace



On May 9<sup>th</sup>, **Deanne Erpelding** from Gensler, presented information on key design trends in commercial real estate. These trends are being driven by the pandemic, changes in social perspectives and cities trying to create more convenient and walkable neighborhoods.

## Some of these trends include:

- Employers and tenants trying to create a supercharged experience to get employees to want to spend more time in the office.
- Designing space to connect more to the outdoors.
- Leveraging the ground floor to connect with the local community.
- ESG (Environment, Social and Governance) investments that shape an organization's priorities in how it runs and uses its space.



## New Trends Shaping the Workplace ... *cont'd*



**In addition to these trends, survey data are indicating that:**

- Top performing companies are increasing their total space,
- For Gen Z and millennials, being visible in the office setting is important for getting promoted, and
- Regarding occupancy, 1/3 of employers are requiring a f/t presence at the office, while 2/3 are providing some type of hybrid flexibility.

Bottom line, as long as there is a shortage of employees, the workforce will be driving the market. This will require employers, tenants and building owners to creatively respond with design solutions that develop attractive environments which encourage workers to spend more time in the physical office space.



*Guest Speaker: Deanne Erpelding*



## Broker's Meeting: Wednesday, June 8<sup>th</sup>



### **River Bend Business Park 355 Randolph Avenue, Suite 200, St. Paul**

**Kori De Jong** with Wellington Management will be hosting this meeting at River Bend Business Park on June 8th at 11:45am. Free parking will be available on site.

River Bend Business Park is a joint venture between Wellington Management, Inc. and the Saint Paul Port Authority. The 22-acre site is situated between Shepard Road and the Mississippi River at Randolph Avenue, just blocks from the revitalized West 7th Street Business District and within five minutes of downtown. Developed by Wellington between 2006 and 2011, the three-building complex is located on the Mississippi's east bank and offers panoramic views of the river valley.

**Date: Wednesday, June 8th**

**Time: 11:45 am to 1:00 pm**

**Location: River Bend Business Park, 355 Randolph Ave, Suite 200, St. Paul**

[Register Here](#)



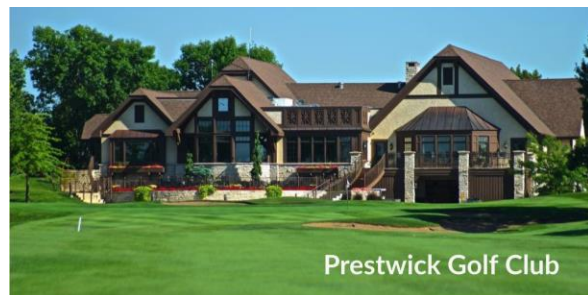
## 35<sup>th</sup> Annual Golf Tournament: Monday July 18<sup>th</sup>

**Prestwick Golf Club**  
**9555 Wedgewood Dr, Woodbury**  
**Time: 12:00 Noon – Shotgun Start**  
**5:30 pm - 7:00 pm – Dinner**

**The BOMA office still has one twosome available for this year's tournament. If you are interest, please call Denise at the BOMA office.**

Did you miss the chance to join a foursome? Well, not to worry because you can still partake in the day's festivities!

If an evening of camaraderie, delicious food, and networking with BOMA members sounds good to you, then make sure you sign up for the banquet.



Prestwick Golf Club

**If you have any questions about registering or sponsoring, please contact Denise at 651.291.8888 or [denise.jenkins@bomastpaul.org](mailto:denise.jenkins@bomastpaul.org).**

### Call for Articles

Every month, we feature an article written by one of our service provider members. This month's content features information on the attorney fee conundrum written by **Patrick Kelly** of Thompson Coe. If you are interested in submitting an article for a future edition of the newsletter, please email [stpaulboma@bomastpaul.org](mailto:stpaulboma@bomastpaul.org).

**THOMPSON**  
**COE**

## The Attorney Fee Conundrum



Typically, prevailing parties cannot collect attorneys' fees even if they are successful in court. However, contractors who improve real estate properties can use mechanics' liens to ensure they get paid. Not only does that statute allow the contractor a lien on the property, but it also allows the contractor to claim interest and attorneys' fees required for filing and foreclosing on the lien (experienced contractors will include a contractual provision to allow them to collect interest on late payments and attorneys' fees required to collect). The problem can arise, however, when the amount owed is relatively small. What if the amount of the attorneys' fees is high, perhaps even higher than the amount the contractor sought to collect?

A primary difficulty construction companies (and others) have in litigation is justifying the expenses involved with asserting the right to payment or other remedies. This is particularly so when the amount in controversy is small, but the debtor disputes the amount owed. This often leads to protracted and complex litigation. This results in high attorneys' fees and other expenses – sometimes exceeding the amount of the underlying debt. In such cases, courts can be reluctant to grant the full amount of attorneys' fees incurred.

Attorneys attempting collection on mechanic's liens and other debts should start with a candid assessment of the case. Just as importantly, the attorney must communicate that to the client. Attorneys need to make certain that the client be prepared to resolve the case early if the opportunity presents itself. Making an offer early in the case establishes a willingness to resolve the case before attorneys' fees accumulate. It can also be helpful to give the debtor a clear warning that if the matter does not resolve, the attorneys' fees will likely exceed the amount in controversy. Such warnings, coupled with a documented effort to resolve the case at an early stage, will go a long way toward convincing the court that the fees were necessary to obtain judgment.

## The Attorney Fee Conundrum ... *cont'd*

Early in the litigation, the attorney should have a clear idea of the issues in the case and understand any specific defenses the other party may assert. Written discovery should be narrowly tailored to those issues. Parts of discovery can certainly be forms for some of the typical questions – and those should not take a great deal of time to prepare. Interrogatories (written questions) and



Document Requests will go a long way toward understanding the issues in a case with a minimal investment of time.

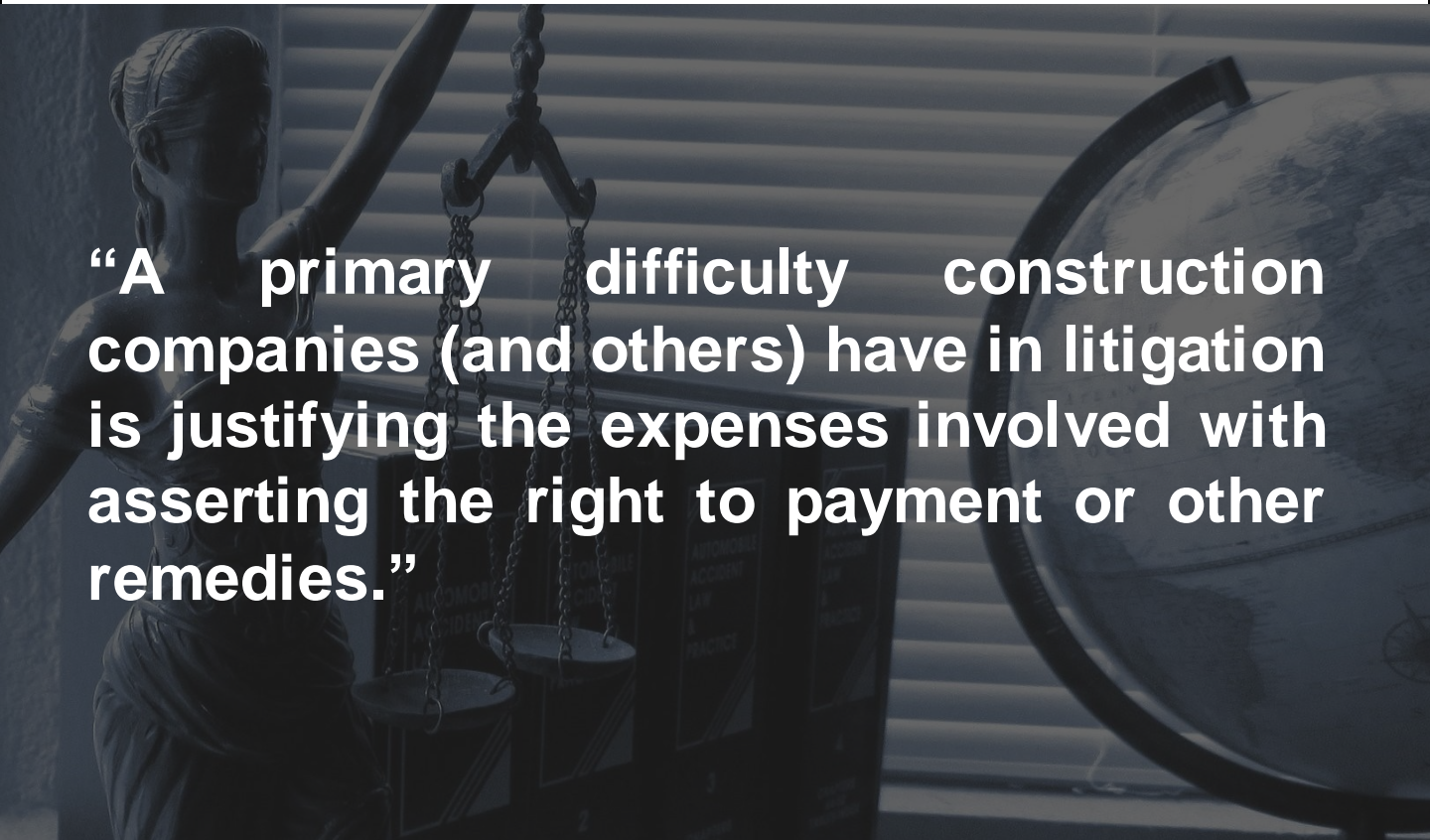
Evaluation of the responses to that written discovery will provide opportunities to prepare Requests for Admission to further narrow the issues. They serve as valuable admissions from which the defendant will have difficulty retreating during trial. They also can serve as a further justification for a request for attorneys' fees. By Rule, a party can be charged additional costs for amounts it takes to prove a Request that had been denied but was later proven. It will be more difficult for a judge to disallow fees when the attorney has taken steps to reduce the costs of litigation.

Additionally, invoices ought to contain sufficient information in the description so a judge reviewing the bill later can understand both what was done, and why it was done. Line after line of "Legal research regarding mechanic's lien foreclosure," especially if billed by a senior, higher billing attorney will be hard to justify. On the other hand, billing entries that describe specific tasks line by line will be easier to justify. If the Judge believes that more work was done than necessary, it is easier to strike specific line items. If the invoice is presented to the judge as "block billing," i.e., a single entry describing many specific tasks without an indication about how much time each task required, the judge will be more likely to strike large amounts of time indiscriminately.



## The Attorney Fee Conundrum ... *cont'd*

Some less scrupulous attorneys try to sign up clients by telling contractors that their litigation will be cost-free because the mechanics' lien law and all well drafted contracts allow them to collect fee. However, there are few guarantees in the law, and the judge will always have a great deal of discretion to award fees. The judge will look at the fees in the context of the entire case and examine how the parties behaved during the course of litigation. If parties engage in unproductive disputes and bicker over minor issues, the judge will consider whether the party seeking the fees played a role in that bickering. If discovery went well beyond what was required, the judge will likely reduce the fees to reduce amounts charged for unnecessary discovery. Attorneys must make sure Contractors understand the trade off between pursuing their legitimate claims without any willingness to resolve them and the corresponding reduction in an award of their attorneys' fees. This is not always something the Contractors or other clients want to hear, but they need this information so they can make informed decisions about pursuing their claims.



**“A primary difficulty construction companies (and others) have in litigation is justifying the expenses involved with asserting the right to payment or other remedies.”**

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