

An epic battle over a cracked retaining wall

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Elizabeth Howell has won a legal victory in a five-year battle pitting her against the City of Minneapolis over who is responsible for fixing a cracked retaining wall near her Linden Hills home.

Hennepin County District Judge Denise Reilly ordered the City of Minneapolis to repair the retaining wall and ruled the city can't charge Howell to fix it on Dec. 17.

Howell, who lives at the corner of 48th & Drew, received a citation from the city in September 2008 ordering her to fix the retaining wall. She sought an estimate for repairs and discovered replacing the wall would cost \$70,000 to \$90,000 — nearly as much as the \$100,000 she purchased her home for in 1989, she said.

"I just about fell over when I heard the cost," she said.

When she inquired about getting permits to replace the wall, she said a city employee informed her that the retaining wall was 8 feet off her property and located in the city's right-of-way.

So she decided to halt the repair project and challenge the city's ticket ordering her pay for repairs — a process she describes as a frustrating and confusing experience that led her to many dead ends and ultimately in a courtroom pleading her case before a jury.

Next she plans to pursue legal action against the city to reimburse her for the more than \$200,000 in legal expenses she incurred while dealing with the retaining wall saga.

"It will be nice to have this big battle over with. It's been very stressful, frustrating and expensive," she said.

Minneapolis City Attorney Susan Segal has a different view of the outcome of the case.

"This city is not trying to shift responsibility here, nor are we trying to make it more difficult for our residents," she said. "We are here to serve our residents. On the other hand, we have a responsibility to make sure the costs are being borne by individual property owners if that is the right place for them."

Segal said Howell's situation was fairly unusual in that the wall near her property is very large. From the perspective of the city's Public Works engineers, it appeared Howell's property substantially benefited from the wall.

"The jury disagreed with us, but that was the city's conclusion," Segal said.

Howell said she sought help from city officials before filing a lawsuit, but never got a response. She said she wrote more than 30 letters to city staff and leaders.

At one point Howell said the city informed her that they would fix the wall and put the bill on her property taxes. She was told she could appear before an administrative law judge to argue her side of the story. The hearing kept getting delayed and was ultimately cancelled, she said.

Howell said her final option was to take the dispute to court. Ultimately it ended up before a jury, which sided with Howell in October.

Kristin Rowell, Howell's attorney, said the city has issued hundreds of similar tickets to homeowners across Minneapolis and estimates the city could be liable for about \$50 million in repairs.

Segal said the city will "proceed on a case-by-case basis" to determine whether the city or a property owner is on the hook for retaining wall repairs.

"If the city just went ahead and said we're going to pay for all of these repairs then we're in essence shifting to all homeowners the cost of what really should be the responsibility of the homeowner," she said.

Rowell said she admires Howell's ability to stick with the case.

"I think this is a really good lesson in not taking the government's position at face value," she said. "Beth really rolled up her sleeves and did a lot of research on her own because what the city was telling her just didn't feel right in her gut."