
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

DISTRICT COURT
SIXTH JUDICIAL
DISTRICT

Case Type: Other Civil

Respect Starts Here, a membership organization;
Eric Ringsred, an individual citizen, residing in the State of Minnesota;
And the State of Minnesota by Respect Starts Here and Eric Ringsred

Plaintiffs,

vs.

Duluth Economic Development Authority and
The City of Duluth,

Defendants.

Court File No: _____

COMPLAINT

For their Complaint, the Plaintiffs state and allege as follows:

Parties

1. State of Minnesota by law has proclaimed the protection and preservation of its natural, cultural, and historical resources to be its “paramount interest”, and has enacted legislation which depends upon citizen enforcement of that “paramount interest”, in the name of the State of Minnesota.
2. Respect Starts Here is organized on behalf of the men and women in our past, who sacrificed and built that we might enjoy the products of their labors, and our American way of life.

3. Eric Ringsred is a private individual, a Minnesota resident, empowered by the State of Minnesota, under the Minnesota Environmental Rights Act, MS116.B et. seq., (hereinafter MERA), to enforce by civil action the State's "paramount interest" in protection of its resources.
4. City of Duluth is a Minnesota home-rule charter city organized and governed by the laws of the State of Minnesota.
5. Duluth Economic Development Authority is an authority organized under State law by the City of Duluth, with its governing board appointed and executive director appointed by the Mayor of the City of Duluth.

FIRST CAUSE OF ACTION

6. The "Duluth Historic Arts and Theater District", (hereinafter Historic District), is a demarcated area of downtown Duluth which has been evaluated by the US Department of the Interior and listed on its "National Register of Historic Places", (hereinafter National Register).
7. The Historic District is a grouping of buildings which meet the Dept. of Interior's criteria for "integrity" and "significance" in our nation's history.
8. The Historic District is an important State of Minnesota resource given protection under the MERA.
9. Quoting from the Minnesota Supreme Court:

"The Minnesota Supreme Court, in deciding which historical resources are protected under MERA has adopted the Dept of Interior criteria in State by *Powderly v. Erickson*, 285 N.W.2d 84 (Minn. 1979), we identified certain factors that should be taken into account in determining whether a building falls under the protection of MERA, looking principally to the criteria used to determine what buildings are included on the National Register of Historic Places:

'The quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings, structures and objects of State and local importance that possess integrity of location, design, setting, materials, workmanship, feeling and association and:

- (1) That are associated with events that have made a significant contribution to the broad patterns of our history; or
- (2) That are associated with the lives of persons significant in the past; or
- (3) That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (4) That have yielded, or may be likely to yield, information important in history or prehistory.’”

10. This protection under Minnesota law, for properties or districts listed or eligible for listing on the National Register has also been adopted by the Minnesota Environmental Quality Board codified in Minnesota Administrative Rules Chapter 4410:

“4410.4300 MANDATORY EAW CATEGORIES.

Subpart 1.

Threshold test.

An EAW must be prepared for projects that meet or exceed the threshold of any of subparts 2 to 37, unless the project meets or exceeds any thresholds of part 4410.4400, in which case an EIS must be prepared.

Subp. 31.

Historical places.

For the destruction, in whole or part, or the moving of a property that is listed on the National Register of Historic Places or State Register of Historic Places, the permitting state agency or local unit of government shall be the RGU, except this does not apply to projects reviewed under section 106 of the National Historic Preservation Act of 1966, United States Code, title 16, section 470, or the federal policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to United States Code, title 49, section 303, or projects reviewed by a local heritage preservation commission certified by the State Historic Preservation Office pursuant to Code of Federal Regulations, title 36, sections 61.5 and 61.7. This subpart

does not apply to a property located within a designated historic district if the property is listed as "noncontributing" in the official district designation or if the State Historic Preservation Office issues a determination that the property is noncontributing.

11. The US Dept. of Interior listing document evaluates every building within the Historic District as either "contributing" or "non-contributing" to the historical integrity and significance of the Historic District.
12. The Pastoret Terrace building at 127-129 E. 1st Street, and the Paul Robeson Ballroom at 125 E. 1st Street, are both listed as "contributing structures" in the Historic District.
13. In addition, the Pastoret Terrace possesses qualities which make it significant by itself.
14. In 2010 a fire damaged a portion of the Pastoret Terrace building. It was subsequently condemned for habitation by the City of Duluth.
15. In January 2016 the Pastoret Terrace building and Paul Robeson ballroom building became tax-forfeit and in July 2016 were acquired by DEDA.
16. In September 2016 a study by LHB Architects and Engineers found the Pastoret Building to be structurally sound and suitable for rehabilitation and re-use.
17. In March 2017 DEDA rejected 3 separate proposals by developers to rehabilitate the Pastoret Terrace Building, on the basis that "each proposal projected low job creation and unattractive housing options".
18. In rejecting the 3 development proposals, DEDA gave no consideration whatsoever to the State's "paramount concern" in preserving its historical and cultural resources.
19. DEDA also failed to include the City of Duluth's Historic Preservation Commission, hereinafter simply the "HPC", in any of the deliberations regarding the Pastoret Terrace and Paul Robeson buildings.
20. The HPC was established by the City, the State, and the US government as the official local governmental body with the purpose of preserving and advocating for historic and cultural resources within the City, with its membership appointed by the Mayor of Duluth, Planning Commission, and St. Louis County Historical Society.

21. DEDA has allowed ongoing deterioration and neglect of the Pastoret and Paul Robeson buildings. For example, they have neglected roof inspections, allowed roof drains to become plugged, ignored water accumulations to the point that a portion of the roof has collapsed on the Paul Robeson Ballroom. They have failed to take any action to remedy that situation. They have failed to involve the HPC for expertise and assistance.
22. DEDA has given occasional lip service to the idea of renovating the Pastoret Terrace and Paul Robeson buildings, but their actions have made clear their true intention, from the very beginning, to ignore State mandates and demolish the structures.
23. Demolition was their stated intention when they requested to acquire the property from St. Louis County in January 2016. This continues to be their objective and their intention at present, in contracting with Wenck Associates to undertake an Environmental Assessment Worksheet (EAW) pursuant to building demolition.
24. In addition to the Pastoret and Paul Robeson buildings, there are other plans afoot in the Historic District which involve demolition of historic structures officially listed as “contributing structures” to the integrity, character, and quality of the Historic District.
25. Specifically, the Hobart Manufacturing Co. Building (ca 1908) at 31 E. 1st Street and Duluth Marine Supply Building (ca 1905) at 102-108 East Superior Street have been purchased in 2017 with their demolition in mind.
26. DEDA’s disregard for preservation of the Pastoret Terrace and Paul Robeson Buildings, and its disregard for the State’s “paramount concern” in protecting historic resources, threaten by piecemeal destruction the integrity of the entire Historic District.
27. DEDA’s actions in allowing the ongoing deterioration of the Pastoret Terrace and Paul Robeson Buildings, in planning for their demolition, in abrogating the responsibility of the HPC, constitute a material impairment of the Historic District, which is a protected resource within the meaning of MERA.

28. DEDA has rejected development proposals which are “prudent and feasible alternatives” to demolition of the Pastoret and Paul Robeson Buildings, within the meaning of MERA.

SECOND CAUSE OF ACTION

Plaintiffs for their Second Cause of Action hereby incorporate paragraphs 1-28 above, and further state and allege as follows:

29. DEDA has committed public dollars and contracted with Wenck Associates for an EAW which proposes the demolition of the Pastoret Terrace and Paul Robeson Buildings.
30. DEDA has failed to consult the HPC as required by the Duluth City Code Sec. 28A, which reads in part as follows:

“Sec. 28A-5. Review of construction and demolition activity.

- (a) Type of activity. The commission shall review and approve or disapprove of construction and demolition activities, including all street and utility activities, within any heritage preservation landmark or district. In addition, the commission shall review and approve or disapprove the issuance of city permits to do any of the following in a heritage preservation landmark or district in the city of Duluth.

Sec. 28A-7. Violations.

An owner or occupant of any area, place, building, structure or other object within a locally designated historical preservation landmark or district who violates the provision of this Chapter shall be guilty of a misdemeanor. Any person or corporation who assists in the commission of a violation of this Chapter shall be guilty of a misdemeanor.”

PRAYER FOR RELIEF

Whereupon Plaintiffs request of this Court an Order granting relief as follows:

1. Enjoining DEDA or its assigns against demolition of the Pastoret and Paul Robeson Buildings.

2. Enjoining DEDA to commence any and all necessary repairs to secure the buildings and prevent their further deterioration.
3. Declaring null and void DEDA's action to prepare an EAW for demolition of the Pastoret & Paul Robeson buildings.
4. Ordering Defendants to consult with The City of Duluth Heritage Preservation Commission regarding any proposals, plans, or proceedings affecting the Pastoret Terrace and Paul Robeson Buildings.
5. Granting to Plaintiffs their reasonable costs and attorney's fees.

Respectfully submitted,

Signature: _____

Date: _____

Respect Starts Here, membership organization, and
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ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded, pursuant to Minn. § 549.211, to the party against whom the allegations in this pleading are asserted.

Dated: April 18, 2018

Signature: _____
Eric J. Ringsred