

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Cup Foods, Inc., Menthol Tobacco, LLC,
Southside Electronics, Inc., NMA Investments,
LLC, and 3759 Chicago Ave, LLC,

Plaintiffs,

vs.

City of Minneapolis,
Mayor Jacob Frey,

Defendant(s).

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

Civil No: _____

TO: THE ABOVE-NAMED DEFENDANTS BY AND THROUGH THEIR ATTORNEY OF
RECORD: MINNEAPOLIS CITY ATTORNEY'S OFFICE

Plaintiffs hereby allege as follows:

PARTIES

1. Cup Foods, Inc., is located at 3759 Chicago Ave. S., Minneapolis, Minnesota 55407.
2. Menthol Tobacco, LLC, is located at 3759 Chicago Ave. S., #101, Minneapolis, MN 55407. Menthol Tobacco is located inside of Cup Foods.
3. Southside Electronics, Inc., located at 3759 Chicago Ave. S., #2, Minneapolis, Minnesota 55407. Southside Electronics is located inside of Cup Foods.
4. NMA Investments, LLC, located at 3759 Chicago Ave. S., Minneapolis, Minnesota 55407.
5. 3759 Chicago Ave, LLC, is a Minnesota LLC which owns businesses in Minneapolis at or near the intersection of 3800 Chicago Avenue South.

6. Defendant the City of Minneapolis (“the City”) is a municipality incorporated in the State of Minnesota and includes all city employees and/or officials who communicated with Mayor Jacob Frey as discussed herein.
7. Defendant Jacob Frey (“Mayor”) is the mayor and chief executive of the City and resides in Minneapolis, Minnesota.

JURISDICTION AND VENUE

8. Jurisdiction is proper in Hennepin County, Minnesota, because Plaintiffs reside in Hennepin County, and the events giving rise to these claims arose in Hennepin County, Minnesota, in the Fourth Judicial District of Minnesota.
9. This Court has subject-matter jurisdiction over this case under Minnesota Statute § 484.01.
10. Venue is proper in this Court pursuant to Minnesota Statutes §§ 542.03 and 542.09 because the causes of action arose in this judicial district and one or more of the Defendants reside in this county.

OVERVIEW

11. This suit is strictly directed toward the City for damages suffered by Plaintiffs Cup Foods, Menthol Tobacco, LLC, Southside Electronics, and NMA Investments, LLC, 3759 Chicago Ave, LLC, collectively (“Plaintiffs”), as a result of three actions by the City:
 - a. The murder of George Floyd by City Police Officer and agent Derek Chauvin;
 - b. The City’s decision to surround Plaintiffs’ businesses with concrete barriers, and the City’s refusal to remove the barriers for a period of more than one year; and

- c. The City's failure to provide police protection as required by the City's charter as required by law and described herein.
12. After George Floyd's death, the City placed cement barricades around the area where Mr. Floyd died. The City has actively supported the erection of the barricades and has refused to remove the barricades despite countless requests from local residents and local businesses, including Plaintiffs. As a result, Plaintiffs have suffered tremendous economic hardships as well as threats and actual harm to the physical well-being of its owners and tenants. The barricades have surrounded Plaintiffs for over one year and have physically prevented business patrons from visiting the area, and the area has turned in to a hub for violent crime.

FACTUAL ALLEGATIONS

A. Background

13. On May 25, 2020, George Floyd visited Cup Foods – a convenience store – when an employee of Cup Foods called 911 after George Floyd allegedly tried to use a counterfeit twenty-dollar bill. Minneapolis police officers responded to the scene, took Mr. Floyd into custody, and officer Derek Chauvin subsequently murdered Mr. Floyd by kneeling on his neck for over nine minutes, just outside of Cup Foods.
14. Derek Chauvin was an employee and agent of Defendant City of Minneapolis at the time Chauvin murdered Mr. Floyd.
15. Mr. Floyd's death started a nationwide racial justice movement with the City of Minneapolis becoming its epicenter.

16. In response to Mr. Floyd's death, a memorial was created for Mr. Floyd at the intersection of 38th and Chicago near the entry way to Cup Foods. The owners of Cup Foods were not consulted with nor provided an opportunity to consent or object to this.
17. On June 2, 2020, in response to the rioting and protesting, the City – under the control and direction of Mayor Frey – placed large concrete barricades around the intersection surrounding Cup Foods where Mr. Floyd died, which blocked all traffic access to the stores, including Plaintiffs' stores, and severely limited pedestrian traffic.¹ The City did not remove the barricades until June 3, 2021.
18. On November 4, 2020, Zack Farley – Administrative Director to Mayor Jacob Frey – sent Plaintiffs an email confirming that the City authorized the implementation of the barricades.
19. Cup Foods is located on 3759 Chicago Avenue South in Minneapolis, Minnesota. Southside Electronics and the Menthol Tobacco are located within Cup Foods. NMA Investments is located at the intersection impacted by the barricaded area. One family owns all the businesses listed as Plaintiffs.

B. Detrimental Effects Of The Barriers

20. The City's affirmative decision to erect the barriers and allowing them to stand for over one year violated Plaintiffs' property rights. The City also allowed crime to overtake the barricaded area, which led to severe physical and economic consequences for businesses within the area, including Plaintiffs.

1. Impeded access to and use of Plaintiffs' Property

¹ <https://www.minnpost.com/metro/2022/05/two-years-after-his-death-in-minneapolis-george-floyds-words-and-image-live-on-in-art/>

21. The City's cement barricades are substantially impairing access to Plaintiffs' property.
The City placed the barricades on 38th Street – to the east and west of Cup Foods – and on Chicago Avenue – to the north and south of Cup Foods. The barricades completely surrounded Plaintiffs' property.
22. The barricades redirect vehicle traffic and public transit away from Plaintiffs' property, prevent vehicles from easily accessing the intersection in front of Plaintiffs' property, and prevent vehicles from accessing parking spaces in front of Plaintiffs' property.
23. Consequently, the barricades physically deter patrons and contractual partners from visiting Plaintiffs' businesses. Patrons and contractual partners also avoid Plaintiffs' businesses because the barricaded area has become an inherently dangerous place for civilians due to the frequently occurring violent crime and the failure of the City to provide police protection.
24. Plaintiffs, their patrons, and their contractual partners do not have the ability to use public rights-of-way on 38th Street and Chicago Avenue to access Plaintiffs' property.
25. Plaintiffs have pleaded to the City repeatedly since they were erected that the barricades be removed because of the severe economic hardship the barricades imposed on them.
26. The City, however, defended its decision by leaving the barriers in place. The City allowed the barriers to stand for over one year, while ignoring the severe economic consequences it imposed on Plaintiffs.

2. Drastic Increase in Violent Crime

27. The City has permitted criminals to take over the barricaded area. The Mayor, the City, the City Council, and the Minneapolis Police Department collectively agreed to severely limit police response in the barricaded area surrounding Plaintiffs' businesses. The police

only responded to the most serious calls and actively avoided the area, even going as far as asking volunteer medics to go inside the barricaded area and bring victims out to them.²

28. Instead, the City allows civilian occupiers to “guard” the zone, which has caused deadly and disastrous results.

29. Criminals know the area lacks police protection, and they have now made the area so dangerous that it is has become known as the “No Go Zone.”³

30. Minneapolis residents are aware of the “No Go Zone” and actively stay away from the neighborhood and take their business elsewhere.

31. Many violent crimes have occurred within the “No Go Zone.”

32. On one occasion, a tenant at one of Plaintiffs’ businesses was hospitalized after being shot and brutally assaulted just outside the property. The assault led to the tenant and all other tenants on the property to vacate the premises, causing Plaintiff severe economic injury.

33. On August 14, 2022, one person was killed, and another person was severely injured in a shooting near the intersection of 38th Street and Chicago Avenue; sadly, another man – Mohamed A. Omar – was shot and killed near the intersection only one week earlier on August 7, 2022.⁴

34. On August 5, 2020, an owner of an autobody shop was attacked outside of his shop. The owner told reporters that some of his mechanics have quit because of safety concerns,

² <https://minnesotareformer.com/2020/07/14/residents-say-area-around-george-floyd-memorial-has-become-a-no-go-zone-for-cops/>.

³ *Id.*

⁴ <https://www.startribune.com/one-dead-another-injured-in-shooting-near-38th-and-chicago/600198298/>.

and the owner further stated that “[w]hen I get here in the morning, I don’t know if I’m going home.”⁵

35. On July 5, 2020, a man shot and killed Leneesha Columbus and her baby. Ms. Columbus was twenty-seven-years old and was pregnant with the man’s child.⁶

36. On March 6, 2021, a man shot and killed Imez Wright in broad daylight. Mr. Wright was thirty-years old and regarded as a community leader within the 38th Street and Chicago Avenue area.⁷

37. On March 10, 2022, three suspects kidnapped a man and took him to an abandoned gas station at the corner of 38th and Chicago where the suspects allegedly assaulted the man and tried to rob him.⁸

38. The series of crimes and destruction within the intersection has caused one business owner to describe the “No Go Zone” as a “third-world country.”⁹

3. Drastic Loss in Rental Income and Real Estate Value

39. Due to Floyd’s murder by Minneapolis Officer Chauvin, the barriers restricting business, and abandonment of law enforcement of the area with the resulting increase in crime, the Plaintiffs had tenants abandon rented spaces.

40. Properties which went vacant and owned by Plaintiffs included but are not necessarily limited to 3757 Chicago Avenue South, units 1-4, 810 East 38th Street, and 812 East 38th Street, Minneapolis, Minnesota.

⁵ <https://amp.kstp.com/articles/police-say-autonomous-zone-blocked-emergency-response-to-brutal-assault-citizens-group-disagrees-5866263.html>.

⁶ <https://minnesotareformer.com/2020/07/14/residents-say-area-around-george-floyd-memorial-has-become-a-no-go-zone-for-cops/>.

⁷ <https://www.washingtonpost.com/nation/2021/06/03/george-floyd-square-reopen/>.

⁸ <https://www.fox9.com/news/charges-man-robbed-held-captive-at-george-floyd-square-gas-station>.

⁹ <https://www.startribune.com/business-owners-at-george-floyd-square-just-want-things-back-to-normal/600176054/>.

41. Prior to the murder of George Floyd and the following events, the properties owned by Plaintiffs on the block of 3800 Chicago Avenue was \$2,000,000 based on information and belief. Following Floyd's murder, the installation of restrictive barriers and police abandonment, the value now is less than \$200,000 based on information and belief.

C. The City Knew That The Barricades Severely Harmed Plaintiffs' Businesses

42. The City had full knowledge of the economic and non-economic injury caused by the barricades, yet allowed the barricades to remain in place for one year.

43. The City has admitted that its failure to remove the barricades placed an unfair and severe economic burden on Plaintiffs' businesses.

44. On November 9, 2020, the City published a letter stating that:

The continued full closure of the street is harming local business, and some may not be able to survive much longer under the current conditions. Many residents, while supportive of creating space for the memorial, would also like to see the neighborhoods reconnected. We take very seriously our responsibility to provide city services to all of our residents and businesses.¹⁰

45. In fact, the barricades created such a serious economic downfall for local businesses that the City approved a one-time, \$50,000 forgivable loan program for businesses within the area.

46. The Mayor stated that the City gave the loans to "businesses that have been substantially impacted over these last seven, eight and nine months."¹¹

47. Erik Hansen, the director of economic policy and development for the City, admitted that the City created the loan program to help businesses harmed, in part, by the

¹⁰ <https://www.minneapolismn.gov/media/-www-content-assets/documents/Nov-9-2020-response-letter-from-City-leaders.pdf>.

¹¹ <https://www.foxbusiness.com/lifestyle/minneapolis-businesses-george-floyd-square-autonomous-zone-1m-bailout-forgivable-loans>.

implementation of the concrete barriers. Hansen told the Star Tribune that “[a]ll the businesses in that intersection are still struggling. We’re going to continue to participate in seeing how we can drive resources to that intersection.”¹²

48. Cup Foods received a \$50,000 loan from the City in August 2021, but that amount is not nearly enough to compensate Cup Foods for the economic turmoil caused by the barriers. Even worse, the City continued to allow the barriers to surround Cup Foods after awarding \$1 million dollars’ worth of loans to businesses within the barricaded area.
49. Furthermore, Cup Foods relied on the loan, and the loan incentivized Cup Foods to remain on 38th Street and Chicago Avenue because the loan was only forgivable if the business stayed opened for one year.
50. In regard to re-opening the intersection, Mychal Vlatkovich – a spokesperson for the Mayor – publicly stated that the “[Mayor] . . . acknowledges that action must be taken to provide safety and service to residents and surrounding businesses.”¹³
51. The City has also acknowledged that violent crime is a serious problem in the zone.
52. The Minneapolis Police Chief at the time, Medaria Arradondo, stated that in 2019 there were three shootings with gunshot victims in the 38th Street and Chicago Avenue area but that number increased to eighteen in 2020.¹⁴ Additionally, ShotSpotter detected thirty-three firearm rounds in the area in 2019 and that number drastically increased to seven hundred rounds in 2020.¹⁵

¹² <https://www.startribune.com/business-owners-at-george-floyd-square-just-want-things-back-to-normal/600176054/>

¹³ <https://www.mprnews.org/story/2020/12/29/after-shooting-at-george-floyd-square-mpls-council-member-says-area-should-be-open-to-public>

¹⁴ <https://www.startribune.com/minneapolis-police-vow-to-restore-safety-at-george-floyd-square/600035496/?refresh=true>

¹⁵ *Id.*

53. Chief Arradondo publicly stated that the best solution to stop crime within the barricaded area is to reopen the intersection;¹⁶ however, the City refused to act and continued to allow businesses and residents to suffer.

54. After multiple fatal shootings within the area, Chief Arradondo stated at a news conference that “[t]he current situation at 38th and Chicago is unacceptable and will not and must not be tolerated. Violence in any part of our city must be addressed, and those contributing to the harm of our neighborhoods have to be held accountable.”¹⁷

55. To address the social and economic issues on 38th Street and Chicago Avenue, the City created the 38th Street THRIVE Strategic Development Plan. Page 51 of the THRIVE plan highlights the problems created by the concrete barriers:

[1.] Vehicle access impacts to businesses and residents near the intersection of 38th and Chicago. Adjacent residential streets such as Elliot Ave have experienced a significant amount of detour traffic, vehicle speeding and other public safety concerns.

[2.] Public safety impacts within the intersection of 38th and Chicago. Many reported concerns regarding gun shots, theft and a general feeling of unsafety, especially in the evening hours. This summer and fall has been an unprecedented uptick in violence.

[3.] Transit impacts regarding the lack of transit service to the intersection of 38th and Chicago. Most transit related responses expressed concern with the inability to access transit directly at the intersection of 38th and Chicago indicated that the current transit detour routing was adequate.

[4.] Concerns with emergency vehicle responsiveness to calls from residents within the immediate area of 38th and Chicago. People highlighted experiences in which emergency response calls were not fully addressed.¹⁸

¹⁶ *Id.*

¹⁷ <https://www.washingtonpost.com/nation/2021/03/18/george-floyd-autonomous-zone-open/>.

¹⁸ <https://www2.minneapolismn.gov/media/content-assets/www2-documents/government/38th-Street-Thrive-Strategic-Development-Plan.pdf>.

56. The City has acknowledged that its refusal to remove the barricades has caused local residents and local businesses, like Plaintiffs, to endure severe economic hardships and lack of safety.

57. The City's conscious refusal to remove the barricades for over one year has caused Plaintiffs to lose thousands of dollars per month. Cup Foods has suffered at least \$191,449 in damages; Southside Electronics has suffered at least \$753,915 in damages; Menthol Tobacco has suffered at least \$474,280 in damages; and NMA Investments has suffered at least \$128,883 in damages. In total, Plaintiffs have suffered at least \$1,548,527 in damages.

D. The City Pledged To Support Minority-Owned Businesses On 38th And Chicago

58. The family that owns Plaintiffs' businesses are people of color, so family owns and operates multiple minority-owned businesses within the barricaded area.

59. On July 17, 2020, the Minneapolis City Council approved a resolution declaring that racism is a public health emergency.¹⁹

60. The City Council defines race equity as, "[t]he development of policies, practices and strategic investments to reverse racial disparity trends, eliminate institutional racism, and ensure that outcomes and opportunities for all people are no longer predictable by race."²⁰

61. Additionally, the City of Minneapolis vowed to eliminate the disproportionate impact of violence in BIPOC [Black, Indigenous, and People Of Color] communities; increase the number of Minneapolis-based businesses owned by BIPOC; increase businesses with BIPOC ownership that are still in business after 5 years; and allocate dollars in the Mayor's

¹⁹ <https://www2.minneapolismn.gov/media/content-assets/www2-documents/departments/resolution-declaring-racism-a-public-health-emergency-in-the-city-of-minneapolis.pdf>

²⁰ *Id.* (quotations omitted).

budget toward small business development to reverse and repair the harm experienced by BIPOC.²¹

62. The City of Minneapolis's website further highlights how the City vowed to take special care for minority-owned businesses on 38th Street and Chicago Avenue. The website states:

The City and community are making significant financial investments to support healing at 38th and Chicago[, including]:

- \$1.5 million in forgivable loans for businesses located within George Floyd Square.
- \$182,000 to the One Minneapolis Fund through the Department of Neighborhood and Community Relations for “Undoing Racism” training and future resources.
- \$150,000 for the Creative City Making program to hire a diverse team of artists and healers to lead community engagement processes.
- Redirected funds from the Sustainability Office to Sabathani Community Center for green jobs training.
- Increased funding in the 2021 City budget for a new Rebuild Resilient program. This program provides \$1 million for energy improvements for properties harmed by the civil unrest.
- Accelerated funding to reconstruct the 38th and Chicago traffic intersection. This includes working with the Metro D-Line rapid transit ²²project.
- Awarded \$870,000 in funding to four organizations serving renters in the 38th and Chicago area: Powderhorn Park Neighborhood Association, Hispanic Advocacy and Community Empowerment through Research, Lutheran Social Services and We Win Institute Inc.²³

²¹ *Id.*

²² <https://www.minneapolismn.gov/media/-www-content-assets/documents/Nov-9-2020-response-letter-from-City-leaders.pdf>

²³ <https://www.minneapolismn.gov/government/programs-initiatives/38th-chicago/>

63. Furthermore, on November 9, 2020, the City of Minneapolis published a letter addressing “racial justice and the intersection of 38th and Chicago” and listed a series of actions that the City has taken to address those issues, which included in part:

- The city adopting an ordinance establishing 38th Street as one of seven Cultural Districts with the goals of advancing racial equity, preventing displacement, preserving cultural identity, and fuel economic growth in communities significantly populated by people of color;
- the City Council passing a resolution declaring racism a public health emergency and that the City is committed to dedicate more resources to racial equity work;
- \$150,000 for the Creative City Making program to hire a diverse team of artists and healers to create, implement, and lead community engagement processes to guide the City’s community healing and rebuild with racial equity efforts for areas most impacted by civil unrest.

64. However, the City has gone against its promises made to minority-owned businesses on 38th Street and Chicago Avenue, such as Plaintiffs’ businesses.

65. Instead of helping Plaintiffs achieve racial equity and economic prosperity, the City consciously decided to allow concrete barricades to surround Cup Foods for over one year, which economically devastated a minority-owned business in a minority-dominant neighborhood. The City actively hindered Plaintiffs’ economic success and jeopardized the safety within and surrounding Plaintiffs’ businesses.

COUNT I

TAKING – Minn. Const., Art. 1, Section 13 & U.S. Const. Amends. V, XIV

66. Plaintiffs restate all other allegations in this complaint and incorporate them by reference herein.

67. Under Minn. Const., Art. 1, Section 13 and the Fifth and Fourteenth Amendments of the United States Constitution, Plaintiffs have a constitutionally protected property rights to use and enjoy their property, to exclude others from their property, to access their property by public rights-of-way, and receive just compensation for private property taken for public use.
68. Furthermore, under Minn. Const., Art 1, Section 13, Plaintiffs have the right to receive just compensation for private property destroyed, taken, or damaged for public use.
69. Plaintiffs have not received compensation for their property rights.
70. Mayor Frey and the City deprived Plaintiffs of their property rights to use, enjoy, exclude, and access their property by affirmatively allowing and assisting the placement of concrete barriers to surround Plaintiffs' businesses for more than one year.
71. The barriers acted as a blockade of the public rights-of-way which provided access to Plaintiffs' private property, and the blockade prevented Plaintiffs from accessing their property. *See Underwood v. Town Bd. of Empire*, 14 N.W.2d 459, 461 (1944) (concluding that “[a]n abutting landowner has, *in addition* to the public right of travel, the separate and distinct right of access to his property”).
72. The City refused to remove the barriers despite having full knowledge of the severe economic hardship imposed on Plaintiffs and having knowledge of the violent crime that deterred patrons and contractual partners from visiting Plaintiffs' businesses.
73. The Mayor and the City's actions constitute an unlawful taking for private use and/or an unlawful taking for public use without just compensation, which has caused Plaintiffs economic harm, including loss of property value, loss of business revenue, loss of investment-backed expectations, loss of business, and loss of future income.

74. The barriers violated Plaintiff's property rights and greatly diminished the economic value of Plaintiffs' businesses.

COUNT II

NEGLIGENCE

75. Plaintiffs restate all other allegations in this complaint and incorporate them by reference herein.

76. The City's affirmative act to implement concrete barriers around Plaintiffs' businesses and refusing to remove them for over one year placed Plaintiffs at a high and unreasonable risk of foreseeable harm, including but not limited to, property damage, lost income and revenue, public safety dangers, and loss of access to and diminished value of Plaintiffs' businesses.

77. Plaintiffs qualify as minority-owned businesses because a minority family owns and operates Plaintiffs. The City has a duty to protect minority-owned businesses located on 38th Street and Chicago, such as Plaintiffs, from the foreseeable and known harm caused by the concrete barriers.

78. The City's duty to protect Plaintiffs from economic harm arose, in part, from the following:

- the City of Minneapolis declaring racism as a public health emergency, and the City subsequently promising to invest in racial equity; eliminate disproportionate violence in BIPOC communities; increase the number of Minneapolis-based businesses owned by BIPOC; increase businesses with BIPOC ownership that have existed for at least five years; allocate dollars in the Mayor's budget toward small business development to reverse and repair the harm experienced by BIPOC; and the City dedicating \$150,000 for the Creative City Making program to help the community within the barricaded area heal and rebuild;
- public statements and plans, including the 38th Street THRIVE Strategic Development Plan, which expressed the City's dedication to help people

of color, especially minority-owned businesses, who were experiencing economic turmoil because of the barricades;

- the City awarding thirty loans totaling \$1 million dollars to businesses, including Cup Foods, who have endured severe economic hardship because of the barriers;
- the City adopting an ordinance establishing 38th Street as one of only seven Cultural Districts with the goal of advancing racial equity and increasing economic growth in communities significantly populated by people of color;
- the City passing a resolution declaring racism a public health emergency and dedicating \$150,000 for the Creative City Making program to help the community within the barricaded area heal and rebuild;
- and all other pertinent facts and allegations listed in this complaint.

79. The City breached its duty by surrounding Plaintiffs with concrete barriers and removing police protection from the area, which obstructed the public rights-of-way to Plaintiffs' businesses, allowed the area to be plagued by violent crime, and ultimately caused economic devastation to Plaintiffs.

80. The City's breach of its duties proximately caused harm to Plaintiffs, including but not limited to, property damage, loss of income and revenue, public safety dangers, increased expenses for security, and loss of property value.

81. Public statements made by Mayor Frey, Chief Arradondo, Mychal Vlatkovich, City Council members, as well as loans, letters, ordinances, resolutions, and plans published or implemented by the City, as stated earlier within this complaint, all demonstrate that the City had full-knowledge of the economic devastation Plaintiffs were forced to endure by being surrounded by concrete barriers for over one year.

82. Plaintiffs chose to remain on 38th Street and Chicago Avenue because of the City's public statements, letters, ordinances, and resolutions to help minority-owned businesses on 38th Street and Chicago; the City's \$50,000 one-time forgivable loan program (given to Cup Foods); and the City repeatedly saying that it would remove the barricades, but failing to do so over a one year period.

COUNT III

NUISANCE – Minn. Stat. § 561.01

83. Plaintiffs restate all other allegations in this complaint and incorporate them by reference herein.

84. The City's decision to surround Plaintiffs with concrete barricades physically blocked all vehicle traffic access to Plaintiffs' businesses and severely limited pedestrian traffic.

85. Blocking vehicle traffic and substantially impeding pedestrian traffic obstructed Plaintiffs' free use of their property and substantially interfered with Plaintiffs' use and enjoyment of their property.

86. The City created the nuisance by affirmatively deciding to place barricades at the intersection of 38th Street and Chicago and intentionally allowed the barricades to surround Plaintiffs for over two years.

87. The City created nuisance caused Plaintiffs severe economic harm, including but not limited to, property damage, loss of income and revenue, public safety dangers, increased expenses for security, and loss of property value.

COUNT IV: Violation of City Charter

88. Plaintiffs restate all other allegations in this complaint and incorporate them by reference herein.

89. That Pursuant to Spann v. Minneapolis City Council, 979 N.W.2d 66, 77 (Minn. 2022), the term “Police Force” is interpreted to include only sworn officers.
90. That according to census data, the population of Minneapolis as of April 1, 2020, was 429,954 people.
91. That pursuant to Spann v. Minneapolis City Council, 979 N.W.2d 66, 77 (Minn. 2022), the mayor has a duty to continuously employ 731 police officers to maintain a level of .0017 police officers per Minneapolis resident given the most recent census data.
92. That pursuant to Spann v. Minneapolis City Council, 979 N.W.2d 66, 77 (Minn. 2022), the mayor has a duty to continuously provide funding for 731 police officers to maintain a level of .0017 police officers per Minneapolis resident given the most recent census data.
93. That according to the records provided by the Minneapolis Police Department, the mayor has not employed the requisite 731 sworn officers in accordance with the most recent census data and the Minneapolis City Charter.
94. That according to records provided by the City of Minneapolis, the Mayor has failed to fund or employ the required number of officers in Minneapolis and in particular the south Minneapolis area in which Plaintiffs owned businesses.
95. That as a result of a lack of police presence and stemming from the mayor’s failure to continuously fund and/or employ a minimum of 731 sworn officers, the Plaintiffs have suffered substantial damage to their properties. Additionally, the significant increase in criminal activity in the immediate area has resulted in a dramatic decrease in the Plaintiffs’ profits.

JURY DEMAND

Plaintiffs demand a trial by jury.

PRAYER FOR RELIEF

- I. Judgment in favor of Plaintiffs and against Mayor Frey and the City for actual damages in excess of \$1,548,527;
- II. Prejudgment interest at the maximum rate allowed by law;
- III. Plaintiffs' costs of investigation, costs of suit, and reasonable attorney's fees; and
- IV. All such other and further monetary, injunctive, and declaratory relief as the Court may deem just and proper.

Dated: 11/18/2022

WAGNER, FALCONER, & JUDD, LTD.

s/ Michael B. Healey

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