

Opus sues city over Nicollet Mall deal

Public financing for Ryan challenged

Janet Moore, Staff Writer - *Star-Tribune Newspaper of the Twin Cities Mpls.-St. Paul*

BUSINESS 06/27/1997 PAGE 01D Copyright © 1997

Opus Corp. filed suit late Thursday against the city of Minneapolis and its development agency, challenging the public financing that may be used to help build a downtown office tower and Target store proposed by a rival developer.

No one was terribly surprised by the filing - attorneys for Minnetonka-based Opus have hinted for months that a legal battle was likely.

The complaint, filed in Hennepin County District Court, claims that the Minneapolis Community Development Agency did not meet certain statutory guidelines when it approved about \$23 million in tax-increment financing for the redevelopment project on the south end of Nicollet Mall.

The intended recipient of the financing - Minneapolis-based Ryan Companies Inc. - has proposed a two-story Target store and a 14-story office tower for the 900 block on the mall, part of which is owned by Opus. City officials, who long have coveted a downtown Target store, favor Ryan's proposal.

But Opus also has plans for the same site: a 30-story office tower, with some retail shops on the street level. On Thursday, Opus said it has secured \$103 million in financing for the project, though its news release did not specify the source of the financing. Company officials could not be reached for comment.

Opus also declared that it would begin construction of the office tower by Nov. 1 and that it has won "strong interest" from prospective tenants. In a prepared statement, Opus Chairman Gerald Rauenhorst said the company is "bullish on the downtown Minneapolis office market as we saw vacancies tighten and renewal rates spike."

However, the property on which Opus plans to build, now occupied by the Arcade Building, has been condemned by the city. (Opus has an option on the Kate Dunwoody buildings on the same block - which also have been condemned.)

Opus attorneys currently are fighting the condemnations in Hennepin County District Court using many of the same arguments cited in the suit filed Thursday.

In order for the city to extend tax-increment financing to a developer, there must be a finding that development would not have occurred through private investment, according to Minnesota law.

The fact that Opus is "ready, willing and able" to build without a public subsidy proves that the city and the MCDA have violated the law, said Douglas Kelley, a Minneapolis attorney who is representing Opus.

Beyond the \$23 million in tax-increment financing, which temporarily freezes the property's tax capacity, the Ryan proposal is financed with \$95 million in private funds and nearly \$10 million in city-backed parking revenue bonds.

Opus' suit also claims that the city relied on 11-year-old information in granting the tax-increment financing to Ryan - information that it knew was "completely void of factual support."

Further, the MCDA violated its "policy that it will not subsidize downtown Minneapolis office development with tax-increment revenues," the suit said.

Attorneys for the city and MCDA declined to comment on the suit Thursday, saying they had not had time to review it.