

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

DONALD PADOU	)	
ABIGAIL PADOU	)	
	)	
Plaintiffs	)	Civil No. 2008 CA 008274 B
	)	Judge Retchin
vs.	)	Next Date: Initial Scheduling
	)	Conference
DISTRICT OF COLUMBIA	)	March 13, 2009
FRANK SEALES, JR.	)	
WILLIAM HOWLAND, JR.	)	
	)	
Defendants	)	

**DECLARATION OF MATTHEW T. BROWN**

I, Matthew T. Brown, under penalty of perjury, hereby declare:

1. I am employed as the Deputy Director for Resource Allocation for the District of Columbia Department of Transportation ("DDOT"). I have served in this position since August 31, 2008.
2. The Utility Line Emergency Act of 2008 ("Act"), D.C. Act 17-568, states that the Mayor of the District of Columbia ("District" or "DC") shall require all utility lines over 12<sup>th</sup> Street, N.E., between Rhode Island Avenue, N.E., and Michigan Avenue, N.E., in Ward 5, be placed underground and that the District assume fees associated with connecting the utility lines to private businesses, churches, and homes, provided that funds are sufficient in the budget for the 12<sup>th</sup> Street, N.E., streetscape project in Ward 5 to accomplish this work. Moreover, the Act provides that "[t]he Mayor shall use all unexpended funds designated for the 12<sup>th</sup> Street streetscape improvements in Ward 5 for the purposes described in . . . . this section."

3. DDOT is the District agency responsible for the 12<sup>th</sup> Street, N.E., streetscape project in Ward 5 ("Project").
4. I am the DDOT employee responsible for overseeing the budget for the Project.
5. The total budget for the Project is \$10,500,000.00. As of January 7, 2009, \$4,940,310.40 has been contracted via four separate purchase orders. Construction began on the Project in August 2008. The projected final cost of the Project is \$8,672,403.52. Those funds should be expended by December 31, 2009 for the following items and work that still must be completed: paving and the installation of new lighting fixtures, upgraded traffic signals, new sidewalks, new granite curbs with concrete gutters, upgrade storm drains and new landscaping. Additionally, bulb-outs will be installed at some intersections to improve pedestrian flow.
6. Additional costs may be incurred in the event that the work is stopped or delayed due to legal action. The District could be liable for delay costs to contractors. DDOT contracts contain provisions whereby construction is expected to be completed by intermittent dates. The contractors' inability to comply with those intermittent deadlines based on the District's orders could result in District liability for mobilization and other costs.
7. Pepco has estimated the cost to underground the power lines on 12<sup>th</sup> Street, N.E. between Rhode Island Avenue, N.E. and Michigan Avenue, N.E. at either \$14.2 million or \$15.8 million. *See Exhibit A, September 30, 2008 Correspondence from Councilmember Thomas to Mayor Fenty with attachment.* On top of the cost of burying the lines, Pepco has informed District officials of additional incidental costs associated with undergrounding the power lines. *See Exhibit B, August 22, 2008 Correspondence*

from Pepco to Councilmember Thomas. These estimates exceed the entire budget of the streetscape project.

8. As such, there are not sufficient unexpended or excess funds in the Project's budget that will allow all utility lines over 12<sup>th</sup> Street, N.E., between Rhode Island Avenue, N.E., and Michigan Avenue, N.E., in Ward 5, to be placed underground and the District to pay the costs associated with connecting the utility lines to private businesses, churches, and homes.

9. I make this declaration based on my own personal knowledge after having reviewed the applicable records.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 7, 2009.

  
Matthew T. Brown