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WILL RESIST PAYING WARRANTS

PROPERTY OWNERS COMBINE TO GO INTO COURT.

CLAIM HOMES ARE RUINED

Grading on West Side Is Said to Have Been Improperly Done.

(Continued from Page One.)

hopeless predicament of having to pay for grading which put him out of business. He ran a grocery, now closed, because the street has been dug away several feet, leaving his store high and dry without place to build steps to the front door, except from the road, and, of course, this would not be permitted.

Frank Malley, owning two lots on West Platinum street, where grading was done, has already paid $149, the first installment of five to be paid on the special assessment.

A Suit To Recover.

Papers are being prepared to recover the amount from the city on the ground that the tax, levied according to the linear feet of street frontage, the system adopted by the council in that district, was illegal. Instances were noted where property owners have been assessed as high as $900 for the grading and sewer, others $700, while there are many cases where a person owning but one lot, 30 feet wide and 100 feet deep, has been taxed $225. Then, in numerous instances, these very property owners now enjoy the possession of lots, once desirable residence ground, now a deep gulch, sunk anywhere from a half dozen to a dozen feet below the level of the street.

As a result of the meeting held in Brérn & Hogevoll's office, the decision was taken to institute the injunction proceedings against the city, the following paper being signed as documentary evidence of that intention:

"We the undersigned favor resisting the payment of the tax assessment for grading:

(Signed) Mrs. Mary E. Boyle, 1017 Lewisohn street.
W. J. Drew, 912 Lewisohn street.
A. K. Nedved, 914 Lewisohn street.
Lewis Prater, 721 North Henry street.
H. W. Fales, 1003 Waukesha street.
William Flavin, 1018 Lewisohn street.
T. F. O'Leary, 1016 Lewisohn street.
David and Jane Paul, 1007 Lewisohn street.
Mrs. E. Grose, 1001 Lewisohn street.
Mrs. Annie Tipple, 1013 Lewisohn street.
Coleman J. Allen, 1034 Antimony street.
Dennis Wortham, 624 North Henry street.
Howard Wentworth, 918 Lewisohn street.
C. E. Reinig, 1133 Antimony street.
Harry M. Pedlar, 701 Henry street.

Others Will Act.

Several others also have signified their intention, it is said, of participating in the petition for the injunction and it is predicted many more will flock under the same banner of exemption immediately the step contemplated is made public. Said Mr. Hogevoll, commenting on the matter:

"In looking up the law on the question I find there are four or five different grounds on which the assessment can be annulled. There are many irregularities in the manner the improvement districts were established and in making the assessment. It is very evident the city council was ill-advised as to the law on the subject. In gathering data I discovered that the present administration is much worried over the status of affairs."

Asked on what legal points errors were made, the attorney said:

The Procedure.

"The statutes specifically provide the procedure to be followed when improvements are contemplated. After determining the boundaries of the district where grading was thought desirable the city council should have ascertained in how far each property holder was to be benefited and made the assessment proportionately. The statutes do not permit of a tax levy according to lineal feet of street frontage, as on Platinum street, nor is the method of figuring the assessment on the area of the property abutting on the street where grading is done legalized. This is the procedure followed in the extensive grading on the west side and in some other sections of the city.

"The statutes define the proper procedure, providing for the appointment of appraisers to determine the benefit that each property owner will receive from the improvements. Failing to secure the desired end in this way the property should have been condemned.

"By the method employed, the city has become nothing less than a trespasser. It is common law that a property holder owns to the middle of the street. Of course, he cannot obstruct the street, but he shall have a voice in saying what changes may be made.

"The grading was forced on the residents much as the last city administration compelled annexations without any special regard for the interests of the residents concerned. It was money, money, money."

Asked if a restraining order would be sought to prevent the collection of the special tax for the construction of new sewers, he answered in the negative, explaining that a sanitary sewer was a desired improvement of certain benefit to every property owner and for which those seeking the injunction were ready to pay. No attempt will be made to dodge the assessment for the sewers constructed. The question is confined to the grading.

Improvement Districts.

The city assessment for grading in the improvement districts established the following:

District No. 71, Waukesha street, between Excelsior and Emmet, $6,120.80; District 49, Lewisohn street, between Excelsior and Emmet streets, $7,258.65; District 70, Antimony street, between Western avenue and Excelsior street, $7,812.10; District 67, Henry street, between Empire and Woolman, $8,664.65; District 68, Emmet street, between Woolman and Antimony street, $824.84; District 78, Excelsior street, between Antimony and Waukesha, $1,653.80; District 90, Park street, between Excelsior and Prospect.

This completes the list of the improvement districts where grading was done, but other grading was ordered by the city under another system, the assessment being made according to the lineal frontage on the street, as follows:

Platinum street, $786; Broadway, between Western and Excelsior, $7,456.50; Crystal street, between Park and Diamond, $1,717.40; Galena alley, $426; Gold street, between Washington and Montana, $1,024.35; Woolman street, between Main and Wyoming, $801.50. On this latter grading the city will pay 25 percent, while the property holders in the improvement districts are taxed for the full amount of the work.

The assessments are divided into five equal annual installments, the first one of which is due now and must be paid by 5 o'clock in the afternoon of November 30. Delinquents will be assessed 10 percent per annum while the assessment is not paid. Besides that, all future installments carry interest of 6 percent, dating from this year. The council resolution providing for this assessment reads:

"It is resolved that the property in improvement districts shall be assessed for the grading thereof in proportion to the square foot of the whole of said property, and that the levy for this purpose shall be made as soon as practicable after the completion of the grading; that payment shall be for one-fifth of total assessment, and that it shall be placed on the tax roll of the city and paid in the same manner as other taxes."



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