

Old Town high-rise battle shifts gears into the fast lane



The Home Front
by Don DeBat

First of two articles on the challenges of high-rise development in the Old Town neighborhood.

The battle against a planned 44-story skyscraper on the northeast corner of North Ave. and LaSalle St. in the Old Town neighborhood has shifted gears and moved into the fast lane.

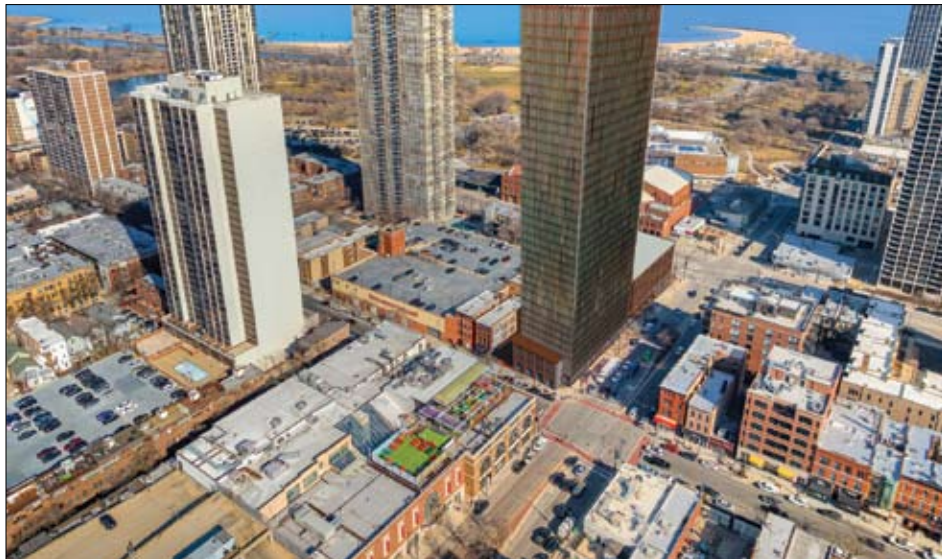
“As we continue our community-engagement process, we are pleased to provide an update on our plans to address one of the main concerns we’ve heard from neighbors and residents—traffic,” chirped a press release authored by developer Nick Anderson, president of Fern Hill Co.

“Traffic and congestion have always been top-of-mind for us, and we have remained committed to ensuring our proposal does not negatively impact traffic patterns in the neighborhood,” Anderson said.

According to Anderson, that’s why Fern Hill “recruited one of the nation’s leading traffic-engineering firms, Kenig, Lindgren, O’Hara, Aboona, Inc.,” to develop a comprehensive traffic-improvement plan based on an independent traffic study of the area.

The complicated “traffic-improvement” plan—outlined in the adjoining sidebar story—includes demolishing both the Shell and BP Gas Stations on LaSalle, eliminating 12 curb cuts along the LaSalle and North Ave. Corridor, installing 18 curb “bump outs” along the corridor across five separate intersections, and installing a dedicated protected right turn lane from LaSalle to North Ave. to “reduce queuing time,” according to Fern Hill.

Timothy J. Carew, a concerned Old Town resident and retired banking and real estate professional, blasted Fern Hill’s plan as an



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“Their detailed proposal—bending traffic-management techniques to fit their aims—is an affront to the history of Old Town,” Carew charged. “It is a taking of economic use from existing residents and commercial interests. The plan looks like the infamous City of Chicago parking-meter lease deal all over again. The gift that keeps giving.”

“audacious proposal to block manage” the traffic area surrounding their proposed mega high-rise development in Old Town as the latest in developer overreach.

“This is a blatant example of carving up the public right-of-way to serve private commercial interests,” Carew said. “No amount of gimmickry traffic-bump-out sidewalks will decrease traffic on the street or make it move faster and safer.”

Under Fern Hill’s neighborhood-take-over plan for the Old Town Canvass development, pedestrians will get less time and less room on the sidewalks to freely move through the historic neighborhood, or gain access to Lincoln Park, Carew insists.

“Their bunched-up street modifications fail on all fronts. It fails to provide pedestrian safety. It further crowds sidewalks. It

fails to recognize reality,” Carew said.

“The reality is that their assemblage of sites does not give them an entitled right to build massive towers,” Carew said. “We do not need to accommodate Fern Hill’s economic interests by trading away or abandoning the public right-of-way interests currently granted in Old Town by its long-honored street layout and residential historical building usage.”

Carew has a good view of the North and LaSalle corner from his condominium

unit. “Bikes, scooters, motorcycles, packs of runners from running clubs and schools, drag racers, mini-bike and Harley bikers, are constantly on the roll. Some on street, others on sidewalks. It is almost Second-City comical material,” he said.

Carew noted that a few months ago Walgreens started off-loading its trucks on North Ave. “They clearly wanted to wean their delivery trucks off the enclosed North Ave. entrance, which required cross lane maneuvering. So, now those trucks have joined the beer trucks.”

There is no need to clear the way for developer ambitions, Carew believes. “They have alternate scale developments available to them but simply refuse to listen to community opposition,” he said.

“Access via Illinois state highways 41, Lake Shore Dr. and Illinois route 64 (North Ave.) into and through Old Town must be preserved and not altered to accommodate high-rises. The existing small businesses need foot traffic, not faster and denser street traffic,” Carew said.

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“The proposed traffic-management plan is an affront to our constitutional rights to own property and protect us from public nuisances. These are actions of those seeking to usurp public right-of-way land dedicated to interstate commerce and to serve the neighborhood,” Carew said.

“The proposed traffic-management plan

BATTLE see p. 4

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Edgewater home tour Sept. 22

Nosy poke's won't have to peek through the shutters, now that there is a guided tour through some of the antique homes in Edgewater.

The Edgewater Historical Society has been offering at least one Home Tour every year since 1989. The next one is on Sunday,

Sept. 22, (rain or shine), featuring the West Edgewater neighborhood where guests will receive a guided tour through several of its historic homes.

The cost of the tour is \$25 per person, and tourists will also receive a souvenir Tour Booklet containing a map of the neighborhood and descriptions of each home on the tour.

At each home, a volunteer docent will greet you and tell you something about the exterior of the house. You will then be escorted with others in a group to tour the inside of the house, where another volunteer docent will highlight some of the features of the interior.

Reservations are not required, and guests can register at the Rosehill Cemetery West Gate Entrance, at 5800 N. Ravenswood between noon and 4 p.m. The homes are on Rosehill, Edgewater, Hollywood and Bryn Mawr, and will be open from noon until 5 p.m.

To visit all featured homes involves walking approximately one mile (starting at the registration table).



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Chicago off the hook for big payout for red light ticket refunds

BY SCOTT HOLLAND
Cook County Record

A state appeals panel has determined the city of Chicago doesn't have to pay refunds for red light camera tickets despite an earlier finding it didn't follow state law when collecting the fines.

In the underlying lawsuit, Cafferty Clobes Meriwether & Sprengel, of Chicago and Media, PA, sued on behalf of named plaintiffs Fred Hampton and Glenn Williams, and a potential class of hundreds of thousands of additional plaintiffs whose red-light tickets predated 2010. Collectively the city collected more than \$235 million in fines from those tickets.

The litigation dates to 2019, less than a year after City Hall settled a different class action over legally defective red-light and speeding camera tickets sent from 2010-2015.

Cook County Circuit Court Judge David Atkins repeatedly denied the city's motion to dismiss the lawsuit, in which the plaintiffs alleged the city violated its own municipal code by failing to fulfill its obligation to issue second notices to vehicle owners accused of running red lights, instead proceeding to determination of liability.

In arguing for dismissal, the city insisted that although there was no limitation on when a plaintiff could seek a determination they weren't liable for the traffic violation, the law still limits their ability to pursue a refund for any fines they may have paid, even if the courts determine they shouldn't have been forced to pay it.

When Atkins denied the motion a second time, the city asked the Illinois First District Ap-

ellate Court to weigh in on the question.

Justice Carl Walker wrote the panel's opinion, filed Aug. 23; Justices Sharen Oden Johnson and Sanjay Tailor concurred.

The panel opened its analysis by calling overly broad the city's submitted question: "May a party seek return of fines paid to a government entity pursuant to void judgments at any time, notwithstanding the applicability of any relevant statute of limitations or other public policy considerations?"

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Walker said the panel was cautious of an answer that might implicate things such as fines issued in criminal prosecution and also wouldn't address the question's public policy aspects. Instead, it rephrased the question to reference a 2001 Illinois Supreme Court opinion, *Sundance Homes v. DuPage County*, allowing it to address whether a void judgment rule exception applies "only to refund claims predicated on void statutes, or does the exception

also apply to refund claims predicated on void agency actions?"

Whereas *Sundance Homes* applied to a law eventually determined to be unconstitutional, the pre-2010 red-light class action is only about how the city applied its own municipal core ordinances.

"The court did not expressly consider the tension this ruling had with the void judgment rule in general, but that tension cannot be ignored, nor can the fact the court resolved that tension in favor of applying the time-bar," Walker wrote. "The only justification we could use to restrict the *Sundance Homes* exception from application to the type of void judgments in question here would be to identify a substantive distinction between the void judgments at issue in *Sundance Homes* and void agency determinations."

Ultimately, the panel determined the concept of a "void" action applies equally to both scenarios, along with a court order later ruled to be void for something like a lack of jurisdiction. It further said the *Sundance Homes* court stated a preference for uniformly applying statutes for "simple" refund cases in line with legislative intent.

Walker said the red-light plaintiffs made no showing as to why their citations are materially different from something like the development impact fees at issue in *Sundance Homes* while also distinguishing between the ability, without time limits, to have an action erased and the cap on pursuing financial redress.

The city is represented by attorneys from the Chicago Dept. of Law. The department declined to comment on the decision, saying the case remains active litigation.

BATTLE from p. 3 should be rejected out of hand and challenged at the highest level. It is time to say no to Fern Hill," Carew concluded.

Anderson asks concerned Old Town residents and business owners to submit feedback and questions regarding traffic to the company's feedback tab, or email Fern Hill directly at oldtown@fernhillcompany.com.

Concerned Old Town residents have a couple of questions to ask Ald. Brian Hopkins [2nd]:

- Where is the long-awaited official City of Chicago Dept. of Transportation [CDOT] traffic study for the LaSalle and North Ave. corridor?
- When will the next public community meeting on the Old Town Canvas be scheduled with CDOT professionals in attendance?

NEXT WEEK: *How Old Town residents fought proposed high-rise development at Piper's Alley in 1971. The grassroots movement led to down-zoning of the area for the past five decades.*

For more housing news, visit www.dondebat.biz. Don DeBat is co-author of "Escaping Condo Jail," the ultimate survival guide for condominium living. Visit www.escapingcondojail.com.

Fern Hill's plan to mitigate traffic

Fern Hill's proposal to mitigate traffic concerns and reimagine the LaSalle and North Corridor would demolish both the Shell and BP Gas Stations on LaSalle; Eliminate 12 existing curb cuts along the LaSalle and North Corridor, and remove all current North Ave. obstructions, including the Walgreens trash and loading dock.

They would install 18 curb bump-outs along the LaSalle and North Corridor across five separate intersections; Create a new Wells St. Divvy Bike station south of North Ave., and install a dedicated lead/protected right turn lane from LaSalle to North to reduce traffic-queuing time.

The plan also calls for updating major intersections (North and LaSalle, plus North and Wells) with new bump-outs to each intersection corner, bike-lane and bus striping.

They would re-optimize signal timings to increase coordination between intersections; Dedicate and signalize right-turn-only lanes; Widened sidewalks to increase consistency

on LaSalle; Install new fish-eye camera system with cellular modem; Reduce pedestrian-crossing times across five intersections, and 18 unique pedestrian walkways; Increase vehicular turning and throughput capacity, and consolidate loading zones to utilize a very large, dedicated off-street loading area.

When implemented, Fern Hill says the above massive traffic changes will result in statistically verified reductions to traffic as a direct result of their project, which is currently under review and verification by CDOT including:

- 30-35% reduction to south-bound right-turn delays from LaSalle to North.
- 25-30% reduction in east-bound left-turn delays from North to LaSalle.
- 25% reduction to pedestrian-crossing distances at North and LaSalle.
- 36% reduction to pedestrian-crossing distances at North and Wells.
- 15-20% reduction to west-bound traffic queues on North.