



# APPLICATION FOR APPEAL

Saint Paul City Council – Legislative Hearings

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Saint Paul, Minnesota 55102  
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**We need the following to process your appeal:**

- \$25 filing fee (non-refundable) (payable to the City of Saint Paul) (if cash: receipt number \_\_\_\_\_)
- Copy of the City-issued orders/letter being appealed
- Attachments you may wish to include
- This appeal form completed
- Walk-In OR  Mail-In  
for abatement orders only:  Email OR  Fax

<p><b>HEARING DATE &amp; TIME</b> (provided by Legislative Hearing Office) Tuesday, February 21, 2023</p> <p>Time: you will be called between 2 pm &amp; <del>_____</del></p> <p>Location of Hearing: <del>Teleconference due to Covid-19 Pandemic</del> in-person</p>
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## Address Being Appealed:

Number & Street: 2463-2515 7th St. W. City: St. Paul State: MN Zip: 55116

Appellant/Applicant: Sibley Plaza Limited Partners, LP Email \_\_\_\_\_

Phone Numbers: Business 651-646-7901 Residence \_\_\_\_\_ Cell \_\_\_\_\_

Signature: [Handwritten Signature] Date: February 16, 2023

Name of Owner (if other than Appellant): Sibley Partners Limited Partners, LP

Mailing Address if Not Appellant's: 5320 West 23rd St., Suite 205, St. Louis Park, MN 55416

Phone Numbers: Business 651-646-7901 Residence \_\_\_\_\_ Cell \_\_\_\_\_

## What Is Being Appealed and Why? *Attachments Are Acceptable*

- Vacate Order/Condemnation/
- Revocation of Fire C of O
- Summary/Vehicle Abatement
- Fire C of O Deficiency List/Correction Item 12 in attached Feb. 6, 2023, notice
- Code Enforcement Correction Notice
- Vacant Building Registration
- Other (Fence Variance, Code Compliance, etc.)

February 16, 2023

Saint Paul City Council – Legislative Hearings  
310 City Hall  
15 W. W. Kellogg Blvd.  
Saint Paul, MN 55102

Re: Appeal of Fire Certificate of Occupancy Deficiency Notice dated February 6, 2023  
DSI Ref. #50935  
Our File No. 25581-002

Greetings:

We represent Sibley Plaza Partners, LP, the owner of the Sibley Plaza shopping center located at 2401 7th Street W (“the Appellant”). The shopping center was re-inspected for a Fire Certificate of Occupancy on January 30, and on February 6 the Department of Safety and Inspections issued a notice of deficiencies identifying a number of items in need of correction (“the Notice”). Our client is appealing only one of those items, which relates to a space in the shopping center that is currently being relet. That item is listed as item number 12 in the Notice, a copy of which is enclosed.

The Notice describes item number 12 as follows:

12. Interior - 2473 7th St West-Vacant T-Mobile- SPLC 40.06 - Uncertified portions of the building must not be occupied until inspected and approved by this office. Contact Fire Inspections for inspection prior to opening to the public. Occupancy of this space is restricted to less than 50 persons due to single exit at front of space. Space is to be broom clean without storage at next inspection.

The inspector later provided this further clarification of the deficiency described in item number 12: “The former T-Mobile Boost space is unoccupied/vacant and as such, MN Fire Code requires the removal of the all materials and combustibles from the space,” citing Section 311.6 of the Minnesota State Fire Code.

### Facts

The space in the shopping center that is the subject of item number 12 in the Notice is a 1,203 ft<sup>2</sup> retail space that was most recently leased to a tenant who operated a Boost Mobile retail store. The property owner is currently negotiating with a potential new tenant who would also

operate a Boost Mobile retail store in the space. The potential new tenant would like to use the Boost Mobile-branded fixtures that the previous tenant installed in the space.

As shown in the enclosed photos of the current conditions in the space, only the build-out for a Boost Mobile store remains. All merchandise, documents, brochures and other items from the retail business have been removed from the space.<sup>1</sup> The space is also subject to constant video surveillance, it is inspected by property management staff every 7-10 days, and it is immediately adjacent to a busy supermarket that is open seven days a week.

#### Relevant Provision of the State Fire Code

The Fire Inspector cited Section 311.6 of the State Fire Code in connection with item number 12, which reads as follows:

##### **311.6 Unoccupied tenant spaces in mall buildings.**

Unoccupied tenant spaces in covered and open mall buildings shall be:

1. Kept free from the storage of any materials.
2. Separated from the remainder of the building by partitions of not less than 0.5-inch-thick (12.7 mm) gypsum board or an approved equivalent to the underside of the ceiling of the adjoining tenant spaces.
3. Without doors or other access openings other than one door that shall be kept key locked in the closed position except during that time when opened for inspection.
4. Kept free from combustible waste and be broomswept clean.

The Appellant understands that it is items 1 and 4 that are at issue.

Regarding the first requirement—that an unoccupied tenant space be kept from the storage of any materials—that requirement is plainly satisfied. The Saint Paul City Code defines “storage” as:

The placement of items such as, but not limited to, the following: merchandise for sale or rent; materials awaiting servicing, processing or manufacturing; finished products of a servicing, processing or manufacturing operation; equipment; portable storage containers but excluding trash containers or garbage dumpsters that are accessory to the main use; and automobiles, trucks, automobile trailers, semitrailers, intermodal cargo containers, or other vehicles not used for more than five (5) days.

See Sec. 60-220. None of the items listed in this definition or anything else has been placed in the space for storage – the contents of the space is limited to the build-out for the Boost Mobile business, which the prospective new tenant hopes to use in the new occupancy of the space. Nothing has been placed in the space since the end of the previous tenancy that was not already in the space at that time.

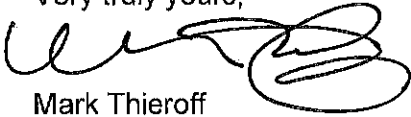
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<sup>1</sup> After the enclosed photographs were taken, the two sandwich-board signs, the brochures shown in the display, and the “\$40” sign were all removed from the space.

Regarding the fourth requirement, there is no combustible waste, or waste of any type, in the space, and it is broomswept clean.

For the foregoing reasons, Appellant respectfully requests that it not be required to remove the Boost Mobile related items from the space so that the new tenant may take over the space without having to replace those items.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mark Thieroff', with a large, stylized flourish at the end.

Mark Thieroff

(612) 337-6102

markthieroff@siegelbrill.com



CITY OF SAINT PAUL

375 Jackson Street, Suite 220  
St Paul, Minnesota 55101-1806

Telephone: 651-266-8989  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

February 6, 2023

TYLER ROES  
Colliers International  
1600 UTICA AVE S SUITE 300  
ST LOUIS PARK MN 55416 USA

RE: RE-INSPECTION FIRE CERTIFICATE OF OCCUPANCY WITH DEFICIENCIES  
2463-2515 7TH ST W  
Ref. # 50935

Dear Property Representative:

Your building was re-inspected for the Fire Certificate of Occupancy on January 30, 2023. Approval for occupancy will be granted upon compliance with the following deficiency list. The items on the list must be corrected immediately.

**A reinspection will be made on March 2, 2023 at 2:00 PM.**

Failure to comply may result in a criminal citation or the revocation of the Fire Certificate of Occupancy. The Saint Paul Legislative Code requires that no building be occupied without a Fire Certificate of Occupancy. The code also provides for the assessment of additional reinspection fees.

**DEFICIENCY LIST**

1. 1 - Sibley Plaza Tenant Spaces - SPLC 40.09(a)(1) - The owner of a building for which a fire certificate of occupancy has been issued is under a continuing obligation to give written notice to the fire marshal of any changes in the information supplied as part of the application for the certificate. This includes any changes or modifications of ownership of the building and tenant spaces, and any change in use or occupancy status of the building. Property manager will need to provide written notice when spaces are vacated or going to be occupied/changing occupancy, prior to businesses opening to the public. Any changes to the spaces, including occupancy, will need to go through building plan review and application for a building permit. No vacant spaces shall be occupied for storage for another space without a change of occupancy building permit application by the business owner. If building plan review requires plans at this change, property management and business owner will be responsible for ensuring this information is supplied to the city prior to occupancy of the space(s). Contact the fire inspection division at 651-266-8989 with any questions or the fire inspector for any clarification.

2. 2467 7th Street West - Taaj Services - SPLC 33.05 - Uncertified portions of the building must not be occupied until inspected and approved by this office.-  
No Access on 1.30/23.

3. 24897thStreet West - Sprinkler and Fire Alarm Alterations - MSFC 105.1.1 Permits required. A property owner or owner's authorized agent who intends to install or modify systems and equipment that are regulated by this code, or to cause any such work to be performed, shall first make application to the fire code official and obtain the required permit.

Direct the contractor responsible for the sprinkler and/or fire alarm work to make application for the required permit(s) to the Fire Safety Engineering Division. Any/all work shall be suspended until the permit is approved and issued.

4. 2497 (Vacant) - Unoccupied - SPLC 33.05 - Uncertified portions of the building must not be occupied until inspected and approved by this office.

Tenant space 2497 is currently vacant/unoccupied. Tenant space 2497 must not be occupied until inspected and approved by this office.

5. 2509 (Vacant) - Unoccupied - SPLC 33.05 - Uncertified portions of the building must not be occupied until inspected and approved by this office.

Tenant space 2509 is currently vacant/unoccupied. Tenant space 2509 must not be occupied until inspected and approved by this office.

6. Exterior - Outside 2481 7th Street West - MSFC 901.6 - Provide and maintain caps on all hose connections.

7. Exterior-2493 - Door Glass - SPLC 34.09(4), 34.33 (3) - Repair and maintain the door in good condition.

Repair the door glass for space.

8. Interior - 2463 7th Street West - SPLC 40.06 - Uncertified portions of the building must not be occupied until inspected and approved by this office.

New business may not open to public until inspected by building inspections and fire inspections.

9. Interior - 2469 7th St West Coffee Roaster - SPLC 34.12 (2), SPLC 34.36 (1) - Repair and maintain all required and supplied equipment in an operative and safe condition to properly and safely perform their intended function in accordance with the provisions of the applicable code.

Remove the coffee roaster from the building. It is not approved to go back into service.

10. Interior - 2469 7th St West- Storage Room - MSFC 315.3.1 - Provide and maintain at least 2 feet clearance below the lowest structural member or the ceiling.

Storage racks and shelving in the storage room in restaurant are piled to the ceiling or within 12 inches of the ceiling. Relocate storage.

11. Interior - 2471 7th St West- Nail Salon - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.

Update the fire extinguisher, this must be done each year.

12. Interior - 2473 7th St West-Vacant T-Mobile- SPLC 40.06 - Uncertified portions of the building must not be occupied until inspected and approved by this office.

Contact Fire Inspections for inspection prior to opening to the public. Occupancy of this space is restricted to less than 50 persons due to single exit at front of space. Space is to be broom clean without storage at next inspection.

13. Interior - 2477 7th St West-Vacant - SPLC 40.06 - Uncertified portions of the building must not be occupied until inspected and approved by this office.

This space may not be occupied until inspected and approved by this office.

14. Interior - 2481 7th St West- Aldi - MSFC 907.8, NFPA 72 14.3.1 - Provide required annual maintenance of the fire alarm system by a qualified person and provide written documentation to this office as proof of compliance.

None received as yet for either property.

Provide a copy of the fire alarm control panel inspection for the fire alarm to:

[laura.huseby@ci.stpaul.mn.us](mailto:laura.huseby@ci.stpaul.mn.us)

15. Interior - 2481 7th St West-Aldi - MSFC 1008, SPLC 34.14 (2)d, SPLC 34.35 (5b) - Provide and maintain illumination in all portions of the exit system.

Provide documentation from vendor (ASG) that all exit lighting has been verified as operational.

16. Interior - 2489 7th Street West - NEC 110.26 - Provide and maintain a minimum of 36 inches clearance in front of all electrical panels.

17. Interior - 2489 7th Street West - MSFC 1104.5.3, 1008.3.5 - Provide and maintain an approved emergency lighting system.

Back door exit lighting not functional, hand-printed signage on door says: not an exit.

Changes to exiting of the building and work done in the building require plans to be submitted to Building Plan Review for building permit to make changes to this building (remove walls, remove exits, etc...).

18. Interior - 2497 7th Street West - SPLC 34.10 (7), 34.17 (5) - Repair and maintain the ceiling in an approved manner.

Replace missing ceiling tiles so the sprinkler heads will detect any smoke/fire without it, going above the ceiling and not triggering a sprinkler head.

19. Interior - 2501 7th St West Gotta Go, Gotta Throw - SPLC 34.10 (7), 34.17 (5) - Repair and maintain the ceiling in an approved manner.

Replace all missing ceiling tiles.

20. Interior - 2501 7th St West- Gotta Go, Gotta Throw - MSFC 901.6 - Contact a fire sprinkler contractor to relocate the improperly located sprinkler heads. All sprinkler work must be done by a licensed contractor under permit.  
Sprinkler heads in close proximity to west wall and in back room area are up-right pendant. Have contractor review the type of head and placement and provide the appropriate sprinkler heads for these areas.

21. Interior - 2513 7th Street West-Subway - NEC 110.26 - Provide and maintain a minimum of 36 inches clearance in front of all electrical panels.

22. Interior - Entire Building - MSFC 901.6 - Provide required annual inspection and testing of the fire sprinkler system by a licensed fire sprinkler contractor and provide written documentation to this office as proof of compliance. Tags must be maintained on the riser showing the latest date of inspection and testing.  
Report provided via email in December of 2022 is from July 2021, too old to accept.  
Provide a copy of the sprinkler system inspection to: [laura.huseby@ci.stpaul.mn.us](mailto:laura.huseby@ci.stpaul.mn.us)

23. Interior-Vacant - 2473 7th Street West - SPLC 34.10 (7), 34.17 (5) - Repair and maintain the ceiling in an approved manner.  
Replace missing ceiling tiles in the space.

Saint Paul Legislative Code authorizes this inspection and collection of inspection fees. For forms, fee schedule, inspection handouts, or information on some of the violations contained in this report, please visit our web page at: <http://www.stpaul.gov/cofo>

You have the right to appeal these orders to the Legislative Hearing Officer. Applications for appeals may be obtained at the Office of the City Clerk, 310 City Hall, City/County Courthouse, 15 W Kellogg Blvd, Saint Paul MN 55102 Phone: (651-266-8585) and must be filed within 10 days of the date of the original orders.

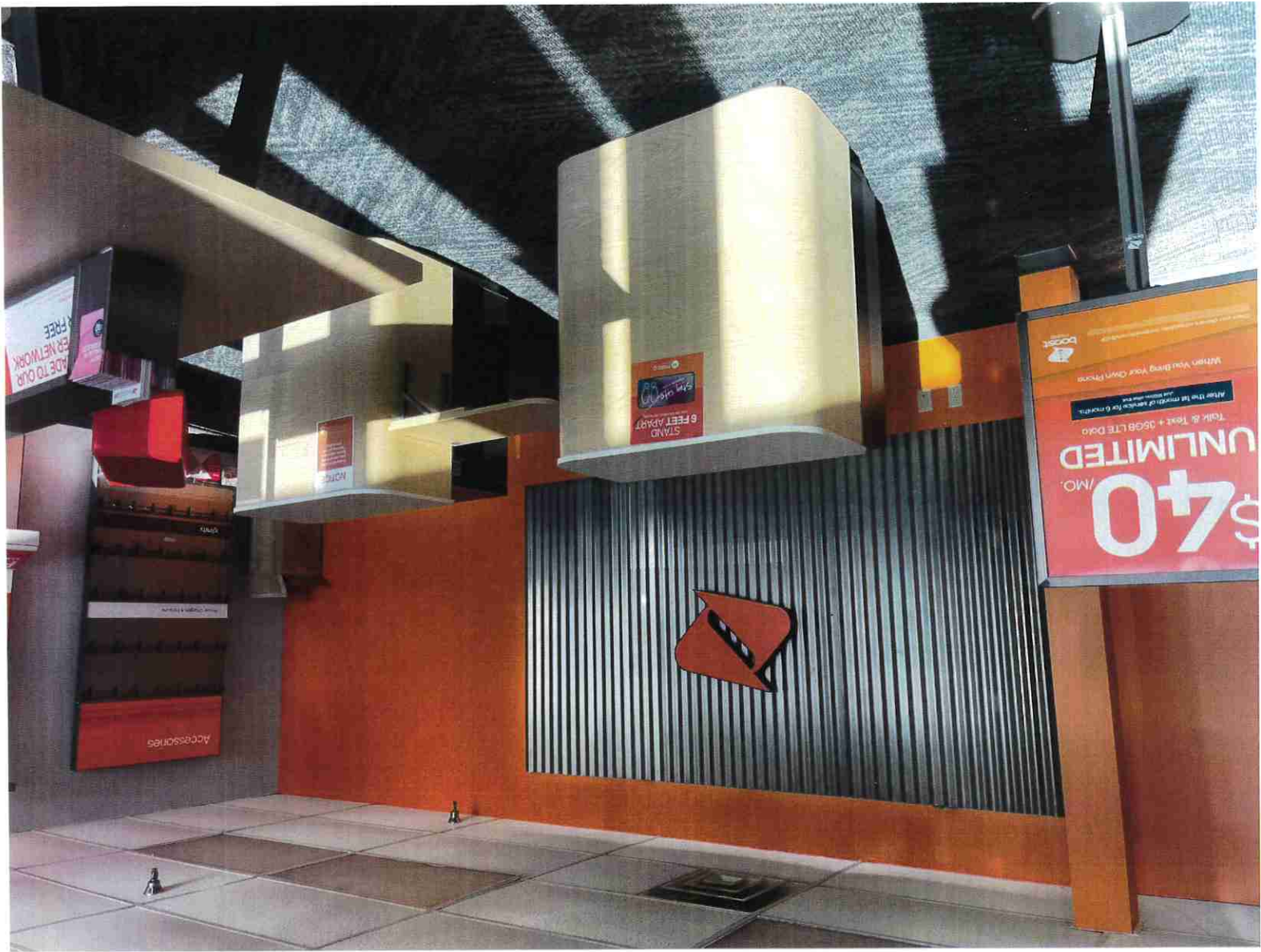
If you have any questions, email me at [Laura.Huseby@ci.stpaul.mn.us](mailto:Laura.Huseby@ci.stpaul.mn.us) or call me at 651-266-8998 between 7:30 - 9:00 a.m. Please help to make Saint Paul a safer place in which to live and work.

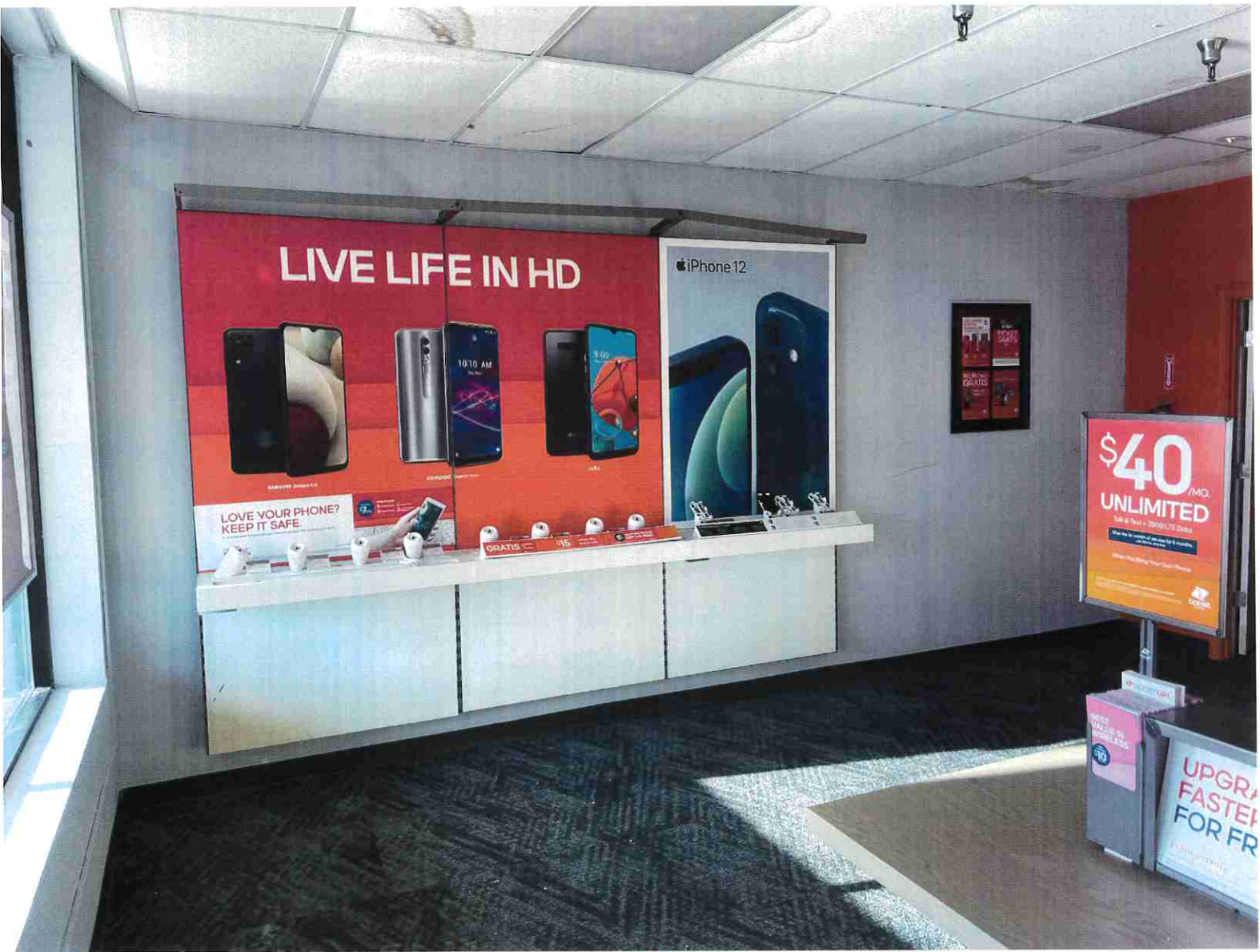
Sincerely,

Laura Huseby  
Fire Safety Inspector  
Ref. # 50935









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