

BOARD OF ZONING APPEALS STAFF REPORT

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TYPE OF APPLICATION: Administrative Review **FILE #**11-007821

APPLICANT: MJ Properties Of St Paul Limit

HEARING DATE: February 7, 2011

LOCATION: 1440 RANDOLPH AVENUE

LEGAL DESCRIPTION: Section 10 Town 28 Range 23 Ex W 41 Ft And Ex E 250 Ft
The N 200 Ft Of Part Of Ne 1/4 Of Sw 1/4 Lying S Of
Randolph Ave And W Of Albert St All In Sec 10 Tn 28 Rn 23

PLANNING DISTRICT: 15

PRESENT ZONING: RM2 **ZONING CODE REFERENCE:** 64.502(b)(2)

REPORT DATE: January 26, 2011 **BY:** Yaya Diatta

DEADLINE FOR ACTION: March 1, 2011 **DATE RECEIVED:** January 20, 2011

A. **PURPOSE:** An appeal of a Zoning Administrator decision requiring the removal of all temporary real estate rental signs exceeding that allowed by code (one real estate sign not exceeding 6 square feet in size).

B. **SITE AND AREA CONDITIONS:** This is a 67,740 square feet parcel with no alley access. There is surface parking and a storage facility on site.

Surrounding Land Use: A mix of single and multiple family homes.

C. **BACKGROUND:** The applicant is appealing a Zoning Administrator order to remove all temporary real estate rental signs exceeding that allowed by code (which is one real estate sign not exceeding 6 square feet in size).

D. **HISTORY:** In response to a complaint regarding the amount of signage displayed on this property, the Department of Safety and Inspections (DSI) sent an order on January 7, 2011, requiring the signs to be removed. The applicant is appealing the order. She believes that the code does not apply to her signs, that the code is discriminatory, and that it violates the First Amendment to the Constitution.

E. **CODE CITATIONS:**

Sec. 61.701. Administrative appeals.

(a) The board of zoning appeals shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator in carrying out or enforcing any provision of the code.

Sec. 61.502(b). Temporary signs.

(2) For all uses, one (1) real estate sign not exceeding a total of six (6) square feet in area.

Sec. 64.502(a). RL Through RM3. Identification signs

(2) For multiple-family structures on parcels twenty-five thousand (25,000) square feet or smaller, one (1) identification sign for each street frontage is allowed. No sign shall exceed six (6) square feet in size. For multiple-family structures on parcels larger than twenty-five thousand (25,000) square feet, one (1) or two (2) identification sign(s) on each street frontage is/are allowed. The total amount of signage on each frontage shall not exceed twenty-four (24) square feet in size.

Sec. 64.120. R. Definition

Real estate sign. A temporary sign placed upon a property advertising that particular property for sale, rent or lease.

F. FINDINGS:

1. In response to a complaint regarding the amount of signage displayed on this property, DSI conducted a site inspection on December 22, 2010. Six temporary real estate signs were found on the property totaling 352 square feet in size advertising the building and its amenities. The property also has a permanent identification sign 32 square feet in size. The inspector issued an order requiring that all the temporary real estate signs be removed. The applicant is appealing the order because she believes that the inspector wrongly determined that the signs in question are real estate signs, that the code is discriminatory and that it violates the First Amendment to the Constitution.
2. The maximum allowable signage per frontage for identification purposes on a property of this size is 24 square feet. The current identification sign on the property does not comply with the 24 square feet requirement. However, it would be allowed to remain because it is legally nonconforming. The code also allows real estate signs, but they are limited to 6 square feet in size, they can remain until the property is sold or leased and they do not require a permit.

3. The sign ordinance is clear and unambiguous in its definition of real estate and temporary signs. The property was inspected in response to complaint, there is nothing discriminatory in the way the code has been enforced. The order does not infringe on any rights protected under the First Amendment to the Constitution.

G. DISTRICT COUNCIL RECOMMENDATION: Staff has not received any correspondence from district 15.

H. CORRESPONDENCE: Other than the material submitted by applicant, staff has not received additional correspondence.

I. STAFF RECOMMENDATION: Based on findings 1 through 3, staff recommends that the Board find that the Zoning Administrator did not err in the determination that these signs are temporary real estate signs and must be removed.