



City of Saint Paul

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Minutes - Final Legislative Hearings

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Friday, April 17, 2015

1:30 PM

Room 330 City Hall & Court House

1:30 p.m. Hearings

Orders To Vacate, Condemnations and Revocations

- 1 [RLH VO 15-21](#) Appeal of Victoria Morales to a Notice of Condemnation Unfit for Human Habitation and Order to Vacate Residential Units at 1659 GRAND AVENUE.
- Sponsors:** Tolbert
- Victoria Morales, Appellant, appeared.*
Eugene Sitzman, Grand Heritage Properties, LLC, owner, appeared.
Michael Huseman, CPA for Mr. Sitzman, appeared.
Tamara Gray, Daybreak Global Bookshop, appeared.
Don Bachmeier, employee of Ms. Gray, appeared.
Kevin Naughton, Glensman Pub LLC, owner, appeared. (1659 & 1669)
Mary Kathleen Sitzman & Suzanne McLain, Mr. Sitzman's daughters, appeared.
- Fire Inspector A. J. Neis:*
- Notice of Condemnation-Unfit for Human Habitation / Order to Vacate of the residential units
 - range of addresses: 1659, 1661, 1663, 1667, 1669 (mixed use: commercial/residential)
 - he was called out on a complaint that there were exposed wires, no water, asbestos,
 - upon inspection, he inspected the residential units and found multiple code violations; the conditions were beyond non-habitable: lack of running water in some units; walls, floors, ceiling assemblies which had been completely removed;
 - a door was in such bad shape with the lock assembly that a tenant could not let him into the building; the tenant was trying to open it but couldn't; the tenant asked him to push extremely hard on the door to gain access while they were holding the latch
 - conditions are extremely dangerous; there's a lot of careless smoking in the back - no working smoke detectors in any of the units
 - photos
 - because of the situation, he Ordered an immediate Condemnation of the residential units and advised the occupants to contact Southern Minnesota Regional Legal Services (SMRLS), who sent out Mr. Al Harris and based on his assessment, he concurred that the building was not habitable; shortly thereafter, he received a call from SMRLS; they advised him that they would not be representing the clients in this matter; however, do to attorney-client privilege, they said they could not give a reason as to why

- he also inspected the commercial spaces yesterday and found 2 sets of occupants on the main level: 1) small bookstore, Daybreak, Ms. Tamara Gray - they had a very nice tenant space and he found no code violations; and 2) Mr. Kevin Naughton and his crew, who are trying to get Glensman Pub established on both sides of Daybreak Bookstore - they were doing some cosmetic, non-permit required work
- he advised the commercial tenants that there would be a Condemnation of the building with an Order to Vacate, which Revokes the Certificate of Occupancy, so there may be some unintended consequences due to the severity of the issues upstairs
- he spoke with Larry Zangs, DSI and an application for Glensman Pub license is on file
- he advised the commercial tenants that they may have a vested interest in attending any appeals
- today, when he went out there with SMRLS, he found a lot of people who were in the residential spaces, who were not residents; he asked them why they were there - they seemed in shock
- there are 7 units upstairs; he gained access to only 5
- one of the units was over-occupied; their bedroom exits went to a closet for their 2nd means of egress (there's a window in the closet which goes into another closet - eventually, it leads to another window)
- this property has a long history of noncompliance; the exterior was appealed not too long ago; those issues have been resolved
- now, we have extreme interior issues (photos)
- he found that the best interest of the occupants is to vacate the building (safety) immediately
- the commercial is on the main level; and residential upstairs
- the proposed Glensman Pub is on the left, then there's a door that leads upstairs to the residential units; next, is the Daybreak (middle); then, another door upstairs; then, the 2nd portion of the proposed Glensman Pub; when you walk up either staircase, you enter the apartment floor; in the back of that, there's one staircase that splits into 2 where you can enter into either side of the residential units
- wiring is extremely dangerous
- they don't test for asbestos but there was a lot of dust flying around
- there are open walls; apparently, there was a plumbing leak in the building - a handyman was hired by Mr. Sitzman, who was not very handy; he started cutting openings to try to find this leak; didn't use proper materials when he was trying to put the walls back as they were (haphazard, careless)
- there also had been a fire in one of the units; appears to have been an electrical fire
- the ceiling was taken down; some studs seem charred; some people are taking showers in other units that are unlocked and unsecured; tenants moving around as though 1 big house because of basic needs lacking in their unit
- unit 4-photo of green walls - that bathroom has been gutted and removed- the unit is occupied
- unit 1-had fire damage; believes unit 1 is occupied because he saw air mattresses in there today that were not there yesterday; people are coming and going
- all but 2 units have plumbing; however, one unit's plumbing causes a leak downstairs so they are not using it

Ms. Moermond:

- noted that open walls compromise fire separation; asked about the ceiling between the floors

Mr. Neis:

- the ceiling between the floors in the commercial spaces appears to be intact; it's the separation between the other units and the common areas that are compromised
- the open walls are the interior portion of the walls; if they were the exterior portion --

- these are not load bearing walls that are opened up
- photo - basement of Daybreak - marked exit sign; the door was chained from the opposite side and they had no idea why
- photo - the gas line in the commercial space needs to be fully capped properly
- photo shows wall separated from ceiling

Appellant Ms. Morales:

- she is asking for more time to vacate so that she can find somewhere to live; an immediate Vacate means that 4-5 units will be on the street with no where to go

Ms. Moermond:

- asked Ms. Morales to describe who lives in the units

Ms. Morales:

- unit 1 - a pregnant girlfriend of the tenant; the tenant has been evicted and currently, he's in jail, so, she is packing everything up
- unit 2 - a young working couple with no children; on occasion, they rent out one of their bedrooms; no one's been staying there for 1 1/2 months; they are kind; she has known them for 3 years;
- unit 3 - a working gentleman, who has a small child part time; it's kind of dangerous for kids; people who do have their kids part time don't want to bring their kids there anymore; she has a 4-month old grandchild, too, and she doesn't bring her there at all
- unit 4 - she and her boyfriend have been staying there; at first, they were rooming with unit 2 in Jan and part of Feb; the couple who lives in unit 4 was in Florida for half the year; that couple asked them if they might be able to help with repairs in their unit and the building (she and her boyfriend have done caretaking before); they took a look at the unit - it was is bad disrepair; the couple said that they would rent it to them for \$400/month plus repairs to get the unit up to par so they could rent it out when they came back from FL (she has photos of it before when it was about waist high with garbage; it took her a long time to get it cleaned out along with unit 1 one the other side - the one with the big hole in the ceiling)
- unit 1 on the other side - is a beautiful apartment; there's really nothing wrong with it; the man was evicted from there; he kicked the door in, took his things and left; with a shovel and garbage can, she scooped up everything from the ceiling; other than that, the place is beautiful
- Mr. Sitzman daughter asked them to move into the apt with the hole in the ceiling and fix up #4; she liked the way that her boyfriend had things under control during a recent raid; she said that she needed someone like him to work for her; she hired them to clean out #1 and then move to #4
- unit 5 - studio apt; there's nothing really wrong in that apt; Mr. Naughton perhaps wanted to use it for a little office
- unit 3 on the other side - a young lady lives there with her sisters; 2 children are always there, sometime, 3 and on the weekends, there's 4 (ages: 1, 2, 2 1/2 and 3); nice quiet girls, just trying to raise their kids
- everyone is quite young
- Ms. Gray is a lovely person, who keeps her bookstore very clean and neat
- at first she thought that the Pub was a bad idea - a bad investment for Mr. Naughton

Mr. Sitzman:

- he's an old timer, who has a certain standard and he is embarrassed by this situation
- they will bring everything on the 2nd floor up to par - to 1st class standard; in order to attract people, they will make it attractive
- this is difficult and it's a challenge
- they are very fortunate to have 2 good entrepreneurs on the main floor -

experienced people; he is confident that they will be an asset to the community
- upstairs, they have a bad element; some not paying rent; they evicted them

Mr. Huseman:

- we have filed an unlawful detainer on one of the units- Apr 14 approved eviction for 1663 Grand Ave #1 - Jeremiah Black; they were given the notice to clear out and they are in that process as far as he knows
- they intend to evict all those who should be evicted; then, they can get those units back to a habitable state; the next eviction will probably include all who should go

Mr. Sitzman:

- they are working with Fred Kueppers law firm to evict

Mr. Neis:

- noted that photos show that informal Eviction Notices were placed on some of the doors (by Apr 30, 2015); one of the Notices was signed by Mr. Stizman, acknowledging that it was not fit for occupancy (1667 Grand Ave); do not enter this unit without permission from the landlord; however, when he was there, there were people living in the unit; someone was actually taking a shower in that unit

Mr. Sitzman:

- they have 7 apartments upstairs; 2 are in bad shape; the rest are in good shape or submarginal

Mr. Moermong:

- the eviction was for #1-nonpayment of rent eviction not for conditions or anything else

Mr. Sitzman:

- we want to clear out all the bad and make the apts acceptable; it will take them several weeks to do all that - so that they are back in business; we're committed to bring things up to par ASAP

Mr. Huseman:

- the upstairs needs work; they will fix what's uninhabitable; some of the people in other units are not paying rent; Mr. Sitzman is generous and patient; they are trying to stop that; they finally put their foot down and got Jeremiah out; people are coming and going without checking with the office
- they posted the Notices just the other day; they know there's a problem and they want people to be safe; we want the commercial businesses to continue
- if they clear out the upstairs, it'll take a few weeks to get squared away so that it's habitable and let the tenants come back in with proper leases, etc. or....
- he also assists Mr. Sitzman in the management of the building; he has no ownership and he's not a property manager

Ms. Gray:

- she opened her business in Sep 2014; started renting in Jun 2014; her space is beautiful
- her concern is that she may not be able to continue to conduct business; they are a nonprofit organization and the shop contains books on all faiths of the world; they are also a gathering space; they have invited nonprofit organizations to come in and use their spaces
- they have put a lot of money into the space; the community is just beginning to know who they are and what they do
- is concerned that she will be affected by the Condemnation upstairs; is also concerned about the Condemned signs on the stairwell doors right next to her door

Mr. Bachmeier:

- is pleading for mercy; Ms. Gray's effort has been a noble effort; and if there's any way, without compromising the security and safety of others, asked that she'd be allowed to continue to do business there; simultaneously, there has to be something that mitigates the concern that a visitors might have when they see the Condemnation signs

Mr. Naughton:

- echoes Ms. Gray's concern about the Condemnation signs; he truly understands how it looks
- they've been busy building out on either side of Daybreak but obviously, we would be impacted the same way as the bookstore, if they would be open
- one striking thing - Mr. Black had broken into their property many times; when they first moved in, they were under the assumption that he was like the "property manager" - he had full access into their unit; the basement is constructed in such a way that you can get into any one of the commercial spaces from the other; hence, the chaining of the door; they've had 3 break-ins; had 3 locksmiths out and the person who broke in was Mr. Black, the fellow currently in jail; they've stoken between \$2500-\$3000 worth of their tools from the property to the east of Ms. Gray; they moved the rest of the tools to the west property; with Mr. Black knowing the most intimate details of this building, it's conceivable that he could go thru any of the doors and go all the way thru and steal more; they have bolted doors from the inside so that no one could gain access; about 2 weeks ago, he went to the basement of the east unit and found the most insane collection of unopened boxed goods; he thinks the City of Saint Paul and the SPPD had identified them as fenced goods; when they pay their rent, they are actually paying for the squar footage which includes the basement and someone else was using their basement for a multitude of generators, ceiling fans and bathroom light fixtures that were in transit from one spot to another; he could have done the same thing with the basement of Ms. Gray's property; that explains the chained doors in the basement
- it is their intention to move forward
- before he met Mr. Neis yesterday, he already had been in touch with Larry Zangs, who had contacted him; we will be wrapping things up at a meeting at DSI Mon at 2:15 pm; Mr. Neis may be attending that meeting, as well; that meeting is independent from the Condemnation upstairs

Mr. Neis:

- the information from the parties is accurate
- this mixed use property reminds him of a recent fire in Minneapolis; caused by a lot of careless smoking, which this property has; there's a lot of foot traffic on the 2nd floor - people who have no business being there, whatsoever - all of them smoking and throwing butts down the stairs, etc.. and with fire separations compromised, this place is a tinder box, an extreme fire hazard
- it's never easy making judgement calls that displace occupants, especially in such short term; with the deplorable conditions upstairs, it's best that the occupants are elsewhere

Ms. Morales:

- agrees that all is accurate
- it's not necessarily the tenants fault and it's not all Mr. Sitzman's fault either; she knows that he does have a kind heart or he wouldn't let everyone stay there for so long; Mr. Black is bad news; he seems very personable-like a good guy but he's not; he's done things that Mr. Sitzman doesn't know about; he's used Mr. Sitzman's account for things...etc. he did move into Unit 1 as a caretaker
- thinks it would take 4-5 weeks to get the upstairs up and running correctly

- the people there aren't just random; people have leases, written-all except one person, who has an oral lease
- the tenants are just asking for more time
- this building has been Mr. Sitzman's prized possession for a long time
- the people that he has rented to have been very careless and he hasn't come to check on them
- they have eliminated a lot of bad people/things; it's 30-40% better than it was a month ago
- most of the people, who live there are good people and don't want to leave
- every person in that building smokes and some are very careless
- also thinks the signs should come down; everyone respects Ms. Gray; they don't want this to affect the businesses
- asking for 48-72 hours more

Mr. Huseman:

- Mr. Black has used Mr. Sitzman's resources without Mr. Sitzman's knowledge; he went to a vendor and used his corporate account
- they aren't arguing that the property is in poor condition; they want safety for everyone
- last year, Mr. Sitzman spent over \$60,000 on the exterior to comply; he will do the same for the upstairs

Ms. Gray:

- was surprised to hear about the smoking because the commercial tenants were told that smoking is not allowed in the building

Mr. Neis:

- SMRLS doesn't take things lightly and they usually goes to great lengths against the city's Orders to get more time for their people; for whatever reason, they backed away from this
- the upstairs is not a 4-week project; in his professional opinion, the upstairs will require a full code compliance inspection (Category 2 Vacant Building rehab); it will need a full gutting for wiring and plumbing to bring things up to code

Ms. Moermond:

- from previous interactions with this property, she recalls that there was a criminal citation, maybe multiple; asked if they were on the same subject matter as we are talking about today?

Mr. Neis:

- Mr. Sitzman was given a criminal citation for lack of maintenance sometime in 2014

Mr. Huseman:

- last year, Mr. Sitzman was in front of a judge 2-3 times; it was his understanding that the criminal citation would be removed once the problem was remedied

Mr. Neis:

- could be the case; many times a citation is removed if there are no same/similar offences within 12 months or so; he doesn't know the circumstances and can't speak to that
- we've had lots of Orders on this property; this property has dragged it's feet just to get the building to a D- standard-minimum code compliance; enormous amounts of time and extensions have been allotted to get it to a D- standard
- believes that the Certificate of Occupancy was Revoked once before in 2013 just to get him to comply; that's when the citations came into play last time; the criminal citation was used in lieu of Vacating the building; the C of O was finally approved in

2014

- his office is in the occupancy business; they want to keep people in their homes as long as they can, if at all possible
- in this case, the situation is very unsafe

Ms. Moermond took a short RECESS to review her files on this; will reconvene at 2:55 pm.

Ms. Moermond:

- what a fine mess we have!
- there's no question in her mind that these residential units need to be emptied
- she is very frustrated that things have gotten to this juncture without an unlawful detainer having been filed; that's the system that should be used to handle this kind of situation; if the conditions are that bad and tenant behavior is that bad and if money is not coming in, the unlawful detainer process is what should be used to empty bad tenants out of the building; by the city having to come in and do a Condemnation because the conditions have been allowed to deteriorate, you are making the city the bad guy; you might be doing that to save yourself about \$400 a pop to do an unlawful detainer
- poor management has gotten you to this point; it's not because you didn't know what you were doing; she has interacted with you for so long, so she knows that you knew what you were doing and you chose to do it anyway; when things have gotten fixed, it's because you had to do it by virtue of the city issuing Orders, Revoking your Certificate of Occupancy, taking you to court - that's what's been necessary to bring it up to what you would talk about - as the new good conditions that will inspire entrepreneurs, etc.... that's great talk but she's not seeing you walk the walk
- she feels so bad for the good tenants who are there and who are, no doubt, broke; you don't end up living in a place like this because you have resources; at the same time, she has full faith that there are problem behaviors up there; there's going to be good tenants and bad tenants, marginal tenants mostly; she would never say that everyone up there was bad; she wouldn't say that they're all good, either
- here the businesses are in a terrible position of having invested money and hope and dreams - hours and hours into putting something together for the community and for yourself
- she has a few tools in her toolbox and the city has a few tools in its toolbox to bring about change in this circumstance; rhw first tool is to write Orders (we are passed that); a full inspection wasn't even done yet
- she is concerned, at this point that if she says the Vacate date is Mon, that the bad elements upstairs are going to make the situation worse (trash the building; undermine the businesses, etc..)

Ms. Morales:

- no one upstairs is really angry; they are just sad about this; they just need time to find somewhere to go; since, she's been there, the place hasn't gotten any worse and they've tried to make it better

Ms. Moermond:

- she thinks that action needs to be taken today; the building needs to be emptied today
- she also thinks that the Certificate of Occupancy needs to be Revoked for the entire building and that the building cannot be re-occupied until it's gone thru a Code Compliance Inspection process and everything is fixed
- there are many more options that would have been on the table about extensions, about doing some of the spaces-not all, and so on, if you didn't have the bad history that you do
- court doesn't have an impact; Condemnations don't have an impact; signs on the

wall don't have an impact; she can only hope that this building gets fixed or moved into somebody's hands who will fix it

- Mr. Sitzman can go about the business about making it right, financially, with these people before they have to sue him because they are going to need new spaces to be in

- you have knowingly allowed this circumstance to create itself; again and again, you have been neglectful of this building, physically and behaviorly neglectful; that leads us to where we're at now

- if she didn't know you, she would try to help and do these things in steps... but she has no faith that things are going to get better

- suggests that he hire a building manager who can do these things; you have an attorney; you have a CPA; you don't have a property manager; fire yourself and hire a good manager; you said you were a good business man

Mr. Sitzman:

- I'm a poor building manager; I'm getting too old for the game

Ms. Moermond:

- has no faith in your words

- thinks that you need to do right by the people that your actions have affected; thinks that you should help them at least over the weekend find somewhere to stay; also, help to relocate; hopes he has a moving truck and a couple months rent for Ms. Gray... or turn this building around in no time at all because ... you have set it up so that she's taking the hit for your bad behavior and that's not OK with him; and you have tenants who have no place to be, now; what's the right thing to do for them for the weekend?

- you are a professional and you have made decisions to get us to this point

- you need to provide access to your tenants for the next week from 8 am to 8 pm so that they can get their things; businesses can have longer time

Mr. Bachmeier:

- believes that he can make the building safe for the businesses (shut off the electricity and plumbing upstairs and eliminate the life safety issues) and Mr. Sitzman will pay for it; he can't fix the tenants' problem

Ms. Moermond:

- she will ponder that; put together a plan and we can talk about that on Tue, Apr 21, at 11:30 am (changed to 3 pm); unless there's an emergency, you would not be allowed to do anything until the Code Compliance inspection were done

Mr. Neis:

- if there is going to be a LAYOVER until next Tue, he is not uncomfortable with allowing Daybreak to operate thru Tue, if that's possible

Ms. Moermond:

- No; doesn't think that's wise choice right now; this needs to get sorted out

- Mr. Sitzman, make it right

Laid Over to the Legislative Hearings due back on 4/21/2015