



# City of Saint Paul

15 West Kellogg Blvd.  
Saint Paul, MN 55102

## Meeting Agenda Legislative Hearings

*Marcia Moermond, Legislative Hearing Officer*  
*Mai Vang, Hearing Coordinator*  
*Jean Birkholz, Hearing Secretary*  
*legislativehearings@ci.stpaul.mn.us*  
*651-266-8560*

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Tuesday, November 16, 2010

9:00 AM

Room 330 City Hall & Court House

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### 9:00 a.m. Hearings

#### Special Tax Assessments

- 1     [ALH 10-273](#)     Appeal of Special Tax Assessment for 1065 Ross Avenue for Project #: VB1101, Assessment #: 118966 in Ward 6  
**Sponsors:**     Bostrom  
**Legislative History**  
11/16/10     Legislative Hearings             Referred Under Master Resolution  
*Ms. Moermond recommended approval of the assessment.*  
  
*No one appeared.*
  
- 2     [ALH 10-344](#)     Appeal of Special Tax Assessment for 534 Larpenteur Ave E for Project #: J1104A, Assessment #: 118995 in Ward 5  
**Sponsors:**     Helgen  
**Attachments:**   [534 Larpenteur Ave E tall grass letters 9-1-2010.pdf](#)  
**Legislative History**  
11/16/10     Legislative Hearings             Referred Under Master Resolution  
*Ms. Moermond recommended approval of the assessment.*  
  
*No one appeared.*
  
- 3     [ALH 10-358](#)     Appeal of Special Tax Assessment for 993 Edgerton St for Project #: J1104A, Assessment #: 118995 in Ward 5  
**Sponsors:**     Helgen  
**Attachments:**   [993 Edgerton St Summary abatement. 8-27-10](#)  
**Legislative History**  
11/16/10     Legislative Hearings             Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment.*  
  
*No one appeared.*
  
- 4     [ALH 10-360](#)     Appeal of Special Tax Assessment for 1626 St Albans St N for Project #: J1104A,

Assessment #:118995 in Ward 5

**Sponsors:** Helgen

**Attachments:** [1626 St Albans St N. SA on Exterior 9-2-10](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment.*

*STAFF PRESENT: Joel Essling, Department of Safety and Inspection (DSI) – Code Enforcement; Paula Seeley, DSI – Code Enforcement; :Joe Yannarely, DSI – Vacant Building; Mai Vang and Jean Birkholz, City Council Offices*

*Jennifer Sawyer appeared.*

*Inspector Essling reported that the nuisance was a failure to maintain exterior property. The inspector found a discarded chair, brush and yard waste. The Order was sent September 2, 2010 with a compliance date of September 13, 2010 and was re-checked on September 14, 2010. The work was done on September 14, 2010 at a cost of \$316 and a service charge of \$140 for a total of \$456.*

*Ms. Moermond asked Ms. Sawyer why she is appealing. Ms. Sawyer said that she misread the information and thought she had until September 15, 2010. She explained that she had a flood in her garage; there was a lot of stuff on her property - she was removing the items from her garage. She had bagged up the bush trim and there was a chair left. She also thinks that the bill to remove one (1) chair and about three (3) bags of brush is extremely high. Ms. Moermond responded that the majority of her bill is an hourly trip charge. Ms. Sawyer noted that it took the guys literally five (5) minutes. Ms. Moermond asked staff to breakdown those costs. Inspector Essling replied that it's a \$260 minimum charge and there's a \$140 administrative fee broken down between the City and the County.*

*Ms. Moermond viewed the video. Ms. Sawyer stated that she thinks that \$456 is an excessive amount to charge her for that one (1) broken chair and that little bit of yard waste. Ms. Moermond asked Inspector Essling to reiterate exactly what the Summary Abatement Order says about the deadline. Inspector Essling cited the Order: "If you do not correct the nuisance or file an appeal before September 13, 2010..."*

*Ms. Sawyer said that she is not sure how a broken chair in her yard and a pile of leaves is considered a nuisance. It's in her yard and it's not disturbing anyone else. Ms. Moermond responded that it's an exterior maintenance problem and she had been Noticed on it and was given a chance to rectify it or to appeal. At that time, she could have appealed the Order. Now, the City has done the work and the City gave proper Notice for her to do the work.*

*Inspector Essling stated that inspector only respond to complaints. In this case, the complaint says that there had been two (2) chairs sitting there for sixty (60) days. Inspectors don't know whether or not that's accurate; they go by what they see when they go out to inspect.*

*Ms. Moermond recommended approving the assessment. She welcomed Ms. Sawyer to go the City Council Public Hearing on this, if she chose. A letter of time and date would be forthcoming.*

- 5 [ALH 10-375](#) Appeal of Special Tax Assessment for 501 Beaumont St for Project #: J1102E, Assessment #: 118994 in Ward 7

**Attachments:** [501 Beaumont St SA 4.15.10.DOC](#)  
[501 Beaumont St Correction Notice 6.29.10.DOC](#)  
[501 Beaumont St. Photo 7.19.10.DOC](#)  
[501 Beaumont St Excessive consumption letter 7.17.10.DOC](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment.*

*No one appeared.*

- 6 [ALH 10-379](#) Appeal of Special Tax Assessment for 1045 Bush Ave for Project #:J1104A, Assessment #: 118995 in Ward 6

**Sponsors:** Bostrom  
**Attachments:** [1045 Bush Ave. 2 tgw orders.pdf](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment.*

*STAFF PRESENT: Inspectors Paula Seeley, Joel Essling and Joe Yannarely, Department of Safety and Inspections (DSI)*

*Jonathan Aldana appeared.*

*Inspector Essling reported that a letter for tall grass and weeds was mailed August 31, 2010 with a compliance date of September 2, 2010. It was re-checked on September 7 and found to be in non-compliance. A Work Order was sent to Parks and the work was done on September 7, 2010 at a cost of \$160 plus \$140 fee for a total of \$300.*

*Mr. Aldana stated that he is letting the property go because he can't afford it. He got a letter from the lien holder on September 1, saying that they were going to winterize the house, protect their investment and change locks. He told the lien holder that he was going to leave the property on August 28. When he came back from being out of town, the locks had been changed, so he couldn't get into the house or garage to access his lawn mower. Mr. Aldana called the City; the person he spoke with told him not to worry - that it would go toward the taxes, then he got this notice for \$300. He is appealing because he has the letter from the lien holder stating that they would take care of the property. If he must pay it, he would like an extension. He is working with a collection agency and they have approved a "short sale." Last week, he had to hire an inspector to do the inspection requirement before the house can be sold. There has been no sheriff's sale.*

*Ms. Moermond responded that the person from the City who told him this assessment would go on the property taxes is correct. If the property would be going directly back to the bank, Mr. Aldana would not be involved; however, since he's doing a short sale, this issue is between the appellant and the lien holder. Ms. Moermond finds that the City gave proper notice and the work*

wasn't done. This assessment of \$300 attaches to the property taxes, so, whoever is responsibly for paying the property taxes will end up paying this assessment. If the appellant walks away, it would be the lien holder's responsibility; if there is a short sale, the appellant and the lien holder will need to decide who's responsible. Ms. Moermond stated that it will not benefit Mr. Aldana to split the assessment over time, in this case. If he would be holding the property into the future, he would have the option to pay it over time. She added that this assessment would not attach to his 2011 taxes, but to the 2012 taxes; and he does not intend to be there, then. The appellant will be getting a bill within a couple of weeks of the January 2011 City Council Public Hearing. He could pay it at that time; he could pay it month to month. Interest would accrue at 5 percent. Anything that's not paid at that time will be attached to the property taxes. She suggested that he present the bill to the lien holder because he was prevented from entering the garage to access his lawn mower.

Ms. Moermond will recommend approving the assessment.

**ALH 10-395**

Appeal of Special Tax Assessment for 1655 Old Hudson Road for Project VB1101Assessment 118966 in Ward 7

**Sponsors:** Lantry

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
Ms. Moermond recommends deleting the assessment.

*STAFF PRESENT: Inspectors Paula Seeley, Joel Essling and Joe Yannarely, Department of Safety and Inspections (DSI)*

Ms. Tasha Trusholaski appeared.

Inspector Yannarely reported that this appeal is for an unpaid Vacant Building Fee. The building is a Category 1 Vacant Building from July 14, 2008. The file was closed on October 19, 2010 as being occupied. The cost is \$1,100 with a service charge of \$135 for a total of \$1,235. There have been no recent Orders on the property.

Ms. Trusholaski explained that before she put any bids on this house, she had it cleared with HUD that all assessments would be taken care of. The initial closing date on the house was June 30, 2010; however, they ended up closing on August 6, 2010. They moved into the house on the same day. She has been in contact with HUD, Saint Paul. From what she understands, the bill originally went to HUD (two (2) notices), and then there was a City of Saint Paul and HUD lawsuit which found that HUD does not need to pay these. Ms. Moermond responded that assessments attach to the property but HUD chooses not to pay them. Also, HUD chooses not to disclose that, apparently. It sticks as a property tax.

Ms. Moermond recommend deleting the assessment.

**ALH 10-396**

Appeal of Special Tax Assessment for 1165 6th St. E for Project VB1101 Assessment 118966 in Ward 7

**Sponsors:** Lantry

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution

*Ms. Moermond recommended reducing the assessment to \$300.*

*STAFF PRESENT: Inspectors Paula Seeley, Joel Essling and Joe Yannarely, Department of Safety and Inspections (DSI)*

*Mr. Meng Vang appeared.*

*Inspector Yannarely reported that this property was a Category 1 Vacant Building from May 21, 2010. The file was just closed yesterday. Inspector Yannarely spoke with Mr. Vang yesterday who said that he has been occupying it since August 13, 2010 (so that would be three (3) months of Vacant Building fees). DSI has no problem with pro-rating it. The charge is \$1,100 with a service charge of \$135 for a total of \$1,235. While it was a Vacant Building, there was only one (1) tall grass order which was done by the owner. Prior to that, there were two (2) other tall grass and weeds.*

*Mr. Vang stated that he is appealing the Vacant Building fee because he is not even sure why he is being charged for it. He just purchased the property. He is sure that they had made it clear to HUD that HUD would be paying any assessments, so he doesn't know why he is getting the bill. He closed on August 13, 2010 and he started moving in the same day.*

*Ms. Moermond clarified that HUD held this property as a Vacant Building from May through August 2010. She asked the appellant if HUD had disclosed that this was a Registered Vacant Building. Mr. Vang responded that HUD had disclosed that; however, the contract said that HUD was supposed to pay any fees or assessments. Ms. Moermond noted that a few other bills would have been sent out during that time, as well. Inspector Yannarely agreed; there were two (2): 1) the first bill was sent out May 24, 2010; and 2) the other, June 23, 2010. The fee stated owner was National City Bank and they must have sent it back to HUD.*

*Ms. Moermond will recommend reducing the bill to \$300 because the property was in the Vacant Building program for three (3) months. She printed out copies of the bills that had been sent to National City Bank, which hadn't been disclosed to Mr. Vang. Mr. Vang is to send copies of them in a letter to National City Bank and to HUD saying that this was something that existed at the time the property was sold to him and they hadn't informed him about it. HUD should be paying Mr. Vang back for it because it is incumbent upon the seller to disclose this kind of thing at the point of sale.*

**ALH 10-397** Appeal of Special Tax Assessment for 763 Minnehaha Ave E for Project VB1101, Assessment 118966 in Ward 6

**Sponsors:** Bostrom

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment.*

*No one appeared.*

**ALH 10-398** Appeal of Special Tax Assessment for 1133 Payne Ave, VB1101 for Project Assessment 118966 in Ward 6

**Sponsors:** Bostrom

Legislative History

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment.*

*No one appeared.*

**ALH 10-399** Appeal of Special Tax Assessment for 864 Marion St. for Project VB1101, Assessment 118966 in Ward 5

**Sponsors:** Helgen

Legislative History

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment.*

*STAFF PRESENT: Inspectors Paula Seeley, Joel Essling and Joe Yannarely, Department of Safety and Inspections (DSI)*

*Robert Schilling appeared.*

*Inspector Yannarely reported that this is for a Vacant Building fee for a Category 2 Vacant Building. There are notes in STAMP about it being changed to a Category 1, then back to a Category 2; the latest notation made November 8, 2010 was that the house is being illegally occupied. The fee is \$1,100 with a service charge of \$135 for a total of \$1,235. This property entered the program on May 14, 2010.*

*Mr. Schilling declared that the building is not vacant; he is occupying it. His attorney advised him that if he does not have a tenant, he doesn't need a Certificate of Occupancy and if he occupies it, it won't be vacant. He moved in at the same time that the tenant moved out. He moved into the house as a matter of necessity; he can't afford the fee plus the Code Compliance Inspection, etc. Mr. Schilling commented that the building would probably not have been safe being vacant. He doesn't think that it should be in the Vacant Building Program. He appealed it, originally, and Ms. Moermond had granted him an extension if he got the work done by such and such a time; however, his finances were such that he couldn't accomplish that. The fact still remains that he is occupying it; it's not vacant.*

*Ms. Moermond explained that she had been ready to allow him to get out of the Registered Vacant Building Program if he met certain conditions, which he has not met. That means that the property becomes a Category 2 Registered Vacant Building. Mr. Schilling had sixty (60) days to prevent that from happening. There had been code violations that needed to be addressed. If they weren't going to be addressed, then the building would become a Category 2 and a complete Code Compliance Inspection needed to be done, and the corrections needed to have been made before the property could be re-occupied (City policy specified in Chapters 33 and 43 of the City's Code). She understands that he is living there; however, he is prohibited from living there until all of the corrections are made. Ms. Moermond stated that he could take this to the City Council Public Hearing, if he chose; but her recommendation to the City Council is to approve this tax assessment. She thinks that he was given an adequate opportunity to address this, and she doesn't see how this situation should be treated differently from other buildings that find themselves in the Vacant Building Program where they do need to get the items addressed before it can be re-occupied.*

- ALH 10-400** Appeal of Special Tax Assessment for 393 Fry St. for Project VB1101, Assessment 118966 in Ward 4  
**Sponsors:** Stark  
**Legislative History**  
11/16/10 Legislative Hearings Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment.*  
  
*No one appeared.*
- ALH 10-403** Appeal of Special Tax Assessment for 417 Arlington Ave E for Project J1104A, Assessment 118995 in Ward 5  
**Sponsors:** Helgen  
**Attachments:** [Summary Abatement Order](#)  
**Legislative History**  
11/16/10 Legislative Hearings Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment.*  
  
*No one appeared.*
- ALH 10-404** Appeal of Special Tax Assessment for 481 St. Anthony Ave for Project J1104A, Assessment 118995 in Ward 1  
**Sponsors:** Carter III  
**Attachments:** [Summary Abatement Order](#)  
**Legislative History**  
11/16/10 Legislative Hearings Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment.*  
  
*No one appeared.*
- ALH 10-405** Appeal of Special Tax Assessment for 83 Jessamine Ave W for Project J1104A, Assessment #: [##] in Ward 5  
**Sponsors:** Helgen  
**Attachments:** [Summary Abatement](#)  
**Legislative History**  
11/16/10 Legislative Hearings Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment.*  
  
*No one appeared.*
- ALH 10-434** Appeal of Special Tax Assessment for 307 TOPPING STREET for Project #: VB1101, Assessment #: 118966 in Ward 5.  
**Sponsors:** Helgen  
**Attachments:** [307 Topping St.Tax Roll.pdf](#)  
**Legislative History**  
11/16/10 Legislative Hearings Referred Under Master Resolution

*Ms. Moermond recommended deleting the assessment.*

*STAFF PRESENT: Inspectors Paula Seeley, Joel Essling and Joe Yannarelly, Department of Safety and Inspections (DSI)*

*Boris Tsvelovt and Nadia Paulson appeared.*

*Inspector Yannarelly reported that this was a Vacant Building from July 1, 2009 until August 20, 2010. He stated that July 1, 2010 was the anniversary date and the Code Compliance was issued on August 20, 2010.*

*Mr. Tsvelovt explained that he is building contractor for Anton Yelchin Inc; Ms. Paulson is a realtor. They are both investors for their area. In this particular situation, they have a Certificate of Occupancy and Code Compliance (issued August 20, 2010).*

*Ms. Moermond recommended deleting the assessment.*

**ALH 10-435** Appeal of Special Tax Assessment for 392 ARBOR STREET for Project #: VB1101, Assessment #: 118966 in Ward 2.

**Sponsors:** Thune

**Attachments:** [392 Arbor St. Tax Roll.pdf](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Ms. Moermond recommended approving the assessment payable over two (2) years.*

*STAFF PRESENT: Inspectors Paula Seeley, Joel Essling and Joe Yannarelly, Department of Safety and Inspections (DSI)*

*Janyth Loney appeared.*

*Inspector Yannarelly reported that this has been a Category 2 Vacant Building since July 20, 2009. The fee is \$1,100 with a service charge of \$135 for a total of \$1,235.*

*Ms. Loney stated that she sold the house Contract for Deed on March 10, 2010; the new owner also received an Order. The new owner had hoped to be in by the due date. Ms. Loney asked her if she had paid the fee. The new owner responded that she would have it put onto the property taxes; she is working on rehabbing the property.*

*Ms. Moermond recommended approving the assessment payable over two (2) years.*

## 11:00 a.m. Hearings

### Orders to Vacate, Condemnations and Revocations

7 **ALH 10-366** Appeal of Daniel J. Chlebeck to a Fire Certificate of Occupancy Order to Vacate and Vacant Building Registration Notice at 873 KENNARD STREET.

**Sponsors:** Bostrom



**Attachments:** [873 Kennard.appeal.11-5-10.pdf](#)  
[873 Kennard St.Fire C of O Order to Vacate.10-12-10.dot](#)  
[873 Kennard St.Photos.10-18-10.pdf](#)

**Legislative History**

11/16/10 Legislative Hearings Laid Over to the Legislative Hearings  
*Per owner's request, rescheduled to November 30, 2010 at 11:00 a.m.*

8 [ALH 10-390](#) Appeal of Mark Cemensky to a Notice of Condemnation Unfit for Human Habitation  
 Order to Vacate at 274 SIDNEY STREET EAST.

**Sponsors:** Thune

**Attachments:** [274 Sidney.Appeal.11-16-10.pdf](#)  
[274 Sidney St E.Fire C of O Order to Vacate.11-9-10.dot](#)  
[274 Sidney St E.Photos 1.11-8-10](#)  
[274 Sidney St E.CCI.11-23-10.dot](#)

**Legislative History**

11/16/10 Legislative Hearings Referred to the City Council  
*Ms. Moermond recommended waiving the Registered Vacant Building fee for 120 days.*

*STAFF PRESENT: Inspector Leanna Shaff - Fire, and Inspector Matt Dornfeld, Department of Safety and Inspections (DSI)*

*Mark Cemensky appeared.*

*Inspector Shaff reported that this inspection started as a referral to the DSI office on November 5, 2010. The referral stated that space heaters were being used at 274 Sidney Street East. In addition, the gas is off, the furnace is red-tagged, cats are entering the house, etc. Inspector Westenhofer responded on November 8, 2010. When he arrived at the address, he phoned Inspector Shaff and asked her for her assistance. Inspector Shaff went out to the property at 274 Sidney and found a huge hole in the yard that had been excavated taking out the foundation wall, etc. Entering the property, they found that there was no furnace in the house, new plumbing and other things going on like structural work in the crawl space. She said that the photos would tell the story (in the referral file). Ms. Moermond, Inspector Shaff and Mr. Cemensky reviewed the three (3) sets of photos. The photos show: the crawl space where new supports are being put in; the big hole (size of a car); the lifting of the end of part of the structure; no erosion control; deferred maintenance on the sidewalk steps; a boarded window; tree too close to the house; a bobcat; guardrail in disrepair; the placard; rubble (stones, foundation); plumbing and electrical (Inspector Shaff believes that new electrical and plumbing work is being done without a permit); steep basement stairway; new supports; trailer for the bobcat; etc.*

*Inspector Shaff continued to report. While at the site (single-family home), Inspector Shaff spoke with the tenant who was in the process of moving out to another one of Mr. Cemensky's properties in Mendota Heights. Mr. Cemensky returned to the site from getting a permit downtown. Since then, the house has been vacated. An enhanced permit hasn't been issued - it depends on what happens here today. Either a permit or a full Code Compliance Inspection needs to be done. Frank Berg, City Structural Engineer, Ryan Rhen and Jim Bloom will need to be involved to determine whether a better plan of action is*

needed to address these issues. It will require an excavation permit, foundation, electrical, mechanical, plumbing permits, etc. The building permit on file is the old one (November 8, 2010) - doesn't include the total scope of the project. Ms. Moermond noticed that there was no site plan review. Inspector Shaff responded that it was all done a the counter yesterday. Ryan and Frank Berg are satisfied with what the scope of the work looks like. Ms. Moermond asked whether there had been a site plan review. Inspector Shaff replied that she does not know.

Mr. Cemensky explained that this whole thing started because the tenant smelled gas and called Xcel Energy. Xcel detected some carbon monoxide and red-tagged the furnace (end of October 2010). He added that there had been no furnace in the basement. The house has existing wall furnaces on the first and second floor that is the primary heat source. There are also some baseboard heaters in the bedrooms. Mr. Cemensky then contacted a heating contractor, who came out and looked over the situation. He advised Mr. Cemensky to put in a furnace - put duct work underneath the crawl space. In order to do that, he needed to remove the dirt; and in order to remove the dirt, he needed to open up the foundation on the west side of the house to excavate the dirt. He said he got ahead of himself regarding the permits because they first needed to see what they'd be working with. In doing so, they realized that extra supports would be needed. It's a tedious process. After this happened, he has been in contact with Mr. Bloom and Steve. He had a meeting on Friday morning with Mr. Bloom, Ryan Rehn, Steve Ubl and Sean. They looked at the Fire list and addressed the issues plus got the correct permits in place. He also had a meeting with the inspector at 1 p.m.; they all met out at the site. Dave Kenyon and he came up with a plan; they also contacted Frank Berg and had a meeting with him yesterday morning at 8 a.m. and came up with a design that he was happy with. Mr. Cemensky has a letter from Ryan Rehn and Frank Berg saying that they are prepared to accept this structure. He's asking that Ms. Moermond give him until the end of December 2010 to get everything finished except, perhaps, getting rid of the dirt and pouring concrete for the sidewalk. He needs to get heat in the house and get the hole closed. He is ready to go. The contractors are in place. The permits are ready to be pulled.

Ms. Moermond asked Inspector Dornfeld to explain the difference in this case, in having this be a Category 2 Registered Vacant Building and a Category 1 Registered Vacant Building when it comes to pulling permits to resolve the corrections. Inspector Dornfeld explained that the main difference between a Category 1 and a Category 2 Registered Vacant Building is the Code Compliance Inspection. With a Category 1 Registered Vacant Building, you would need to pull all of the permits but you would not need to go through the Code Compliance Inspection (Jim Seeger's crew). Ms. Moermond clarified that Mr. Cemensky wants this to be a Category 1 Registered Vacant Building so that he can get the identified repairs done and get out of the Vacant Building program. Mr. Cemensky added it needs to get done soon that it doesn't turn into a more serious problem.

Ms. Moermond reviewed the Legislative Code Chapter 43.02. Chapter 43 talks about Vacant Buildings. The .02 is the Section that defines Vacant Buildings. If you meet two (2) of the criteria, you will end up being a Category 2. Is it unoccupied and is it unsecured? Yes. Mr. Cemensky explained that since that day, he has fenced the area (it was open because work was being done at the site). Right now, it's all secured. The opening is boarded up. He said he would make it more secure if Ms. Moermond wanted it. Another one is "unoccupied and secured by other than normal means," and "a building or a portion of a

building meeting this definition is deemed a Category 1 Vacant Building." So, right now, it's a Category 1. Ms. Moermond went on with the code. The next part is "unoccupied and a dangerous structure." Mr. Cemensky noted that Dave Kenyon came with them and he commended them for what they accomplished. Ms. Moermond went on, "unoccupied and condemned" would make it a Category 2. "Unoccupied and has multiple building code violations," "condemned or illegally occupied." Ms. Moermond stated that even if she granted Mr. Cemensky's appeal on whether or not this should be a condemned structure, he still has an empty building with multiple housing and building code violations. Mr. Cemensky admitted that he made a mistake by not pulling a permit before he started to dig but asked whether Ms. Moermond can condemn / vacate a property just because he didn't pull a permit. Ms. Moermond said that it seems to her that this is a circumstance where the building needs to be winterized. She noted that in this case, work had been done without a permit and she sees parts of the building that have other concerns. She wonders whether this building would be safer if it were to have a full Code Compliance Inspection. She thinks that it would and on face value, it's a Category 2. She sees electrical and plumbing being worked on without a permit. Mr. Cemensky asked what electrical is being done without a permit. Ms. Moermond responded that it looks as though the circuitry was new. Mr. Cemensky replied that it was there when he bought the house two (2) years ago; also, there is no new plumbing. He stated that he is an electrician and that panel box is probably fifteen (15) years old; it looks new but it isn't. Ms. Moermond said that she thinks he needs to do a Code Compliance Inspection; there is enough wrong here, that she would recommend that it happen. She is flexible about the fee because attendant with being a Category 2 Registered Vacant Building or even a Category 1 Registered Vacant Building, there is a pretty hefty annual fee. Ms. Moermond recommends that the Department of Safety and Inspections (DSI) waive the Vacant Building fee for a period of 120 days, so Mr. Cemensky will have that time before the fee kicks-in. Mr. Cemensky asked if he could first be able to get a permit to finish the structure and the heating and then have the inspectors come in. Ms. Moermond responded that it's not consistent with the way the Code is written. The Code says that you need to get Code Compliance Inspection before the permits can be issued (Chapter 33).

- 9      [ALH 10-277](#)      Appeal of Jeffrey DeLisle to a Notice of Condemnation Unfit for Human Habitation and Order to Vacate at 520 Rice Street.

**Sponsors:**      Carter III

**Attachments:** [520 Rice St.Appeal.10-26-10.pdf](#)  
[520 Rice.Appeal.11-9-10.pdf](#)  
[520 Rice St.Vacate Order.10-22-10.pdf](#)  
[520 Rice St.Vacate Order.11-2-10.dot](#)  
[520 Rice St.Photos #1.11-2-10.pdf](#)  
[520 Rice St.Photos #2.10-20-10.pdf](#)  
[520 Rice St.Photos #3.10-21-10.pdf](#)  
[520 Rice St.Photos #4.10-29-10.pdf](#)  
[520 Rice St.Photos #5.10-29-10.pdf](#)  
[520 Rice St.Photos #6.11-2-10.pdf](#)  
[520 Rice St.Photos #7.11-2-10.pdf](#)  
[520 Rice St.Engineering Rept.11-1-10.pdf](#)  
[520 Rice St.Frank Berg Email.10-21-10.pdf](#)  
[520 Rice St.Frank Berg Email.10-29-10.pdf](#)  
[520 Rice St. structural engineer email 11-4-10.pdf](#)  
[520 Rice St.Attorney letter11-17-10.pdf](#)

**Legislative History**

10/28/10 Legislative Hearings Laid Over to the Legislative Hearings

*Ms. Moermond wants the following information in her office by close of business on Monday, November 1, 2010: 1) Fire Certificate of Occupancy Inspection; and 2) the structural engineer's report. She will review Monday evening and give her recommendation on Tuesday, November 2, 2010 at the Legislative Hearing.*

*STAFF PRESENT: Leanna Shaff, DSI – Fire Inspector; and Frank Berg, DSI – Structural Engineer (arrived 10:34 a.m.)*

*Jeffrey DeLisle, appellant and property owner; Anton Wazwaz, manager, MW1; Robert Foster, Law Firm of Foster & Brever; Warnetta Blair, tenant; Doctor Steven, tenant; Jeff Sullivan, Sullivan Construction; Ralph Tohm, tenant and caretaker, Ron Michaelson, SMERLS, appeared.*

*520 Rice Street (Vacate Order/Condemnation/Revocation of Fire Certificate of Occupancy)*

*Ms. Moermond needs: 1) a structural engineer's report; and 2) a C of O inspection (scheduled for Fri, Oct 29 at 10 am) for the whole building due in her office by close of business, Monday, Nov 1, 2010. Her recommendation will be made on Tuesday, Nov 2, 2010.*

*Ms. Moermond noted that in addition to Mr. DeLisle's appeal, the office has had a number of calls from interested parties. Whatever recommendation she makes today will stand until the City Council considers it at a public hearing.*

*Ms. Moermond requested a staff report. Inspector Shaff reported that Fire received a complaint for multiple code violations on October 19, 2010. Inspector Thomas responded to the complaint on October 21, 2010. The complaint cited health and sanitation issues of the commercial space on the first floor. During his inspection, Mr. Thomas also entered the basement and found problems that required more than his expertise regarding structural*

components. Frank Berg, the City's structural engineer and Fire Inspector Shaff joined Inspector Thomas to take a look at the structural issues with the building in the basement. They found many structural members (girders, joists, beams, flooring, etc.) that had extensive water damage in multiple places. There was a lot of deflection as you walked across the floor in the store. The structural members themselves were decayed to the extent that some parts were actually powdering; and some of the columns were punching up into the supporting members. Inspector Shaff asked Mr. Berg to make an analysis as to the safety and integrity of the building, which he did in an email to the Fire Marshal, the Deputy Director of DSI, the Assistant Fire Marshal, Inspector Shaff, etc. (The email was copied and provided at the hearing.) The following paragraph is a summary of his analysis:

*The condition of the wood, however, that comprises this floor framing has deteriorated well beyond that which would allow it to react to fire in that manner.*

*The normal time period, whatever that is, that fire fighters are accustomed to for framing of wood construction cannot be relied upon until this hazard has been eliminated. Or stated even more strongly, this floor framing in its current condition cannot be relied upon to absorb any additional distress, long term or short term.*

*Ms. Moermond added that Mr. Berg had shared this and more with her in a phone conversation that morning. She added that Orders were issued on October 21, 2010 with a Vacate date of October 29, 2010 at 12 Noon.*

*Mr. DeLisle, appellant, stated that he received Work Orders postmarked October 25, 2010; he didn't receive them in the mail until October 26, 2010. He went to DSI to pick them up himself because people were calling him about it. He said that he has the portion of Orders done that are his responsibility. He is appealing so that the twelve (12) families who live in the complex will be able to stay. Also, so that Tony Wazwaz will be able to continue his business. Currently, the three (3) commercial space entrances are placarded. The apartments are not included on the Work Orders. He added that he has had professional workers (heating system, electrical, etc.) go through the building to make sure that there are no hazards and that everything was in sound condition.*

*At this time, Ms. Moermond referred back to Inspector Shaff's inspection and asked whether the Fire Inspection crew investigated the complaint as well as other things en route; or whether they did a full C of O inspection for the whole building. Inspector Shaff responded that their first response was to the referral. Inspector Thomas noted that the floor had a lot of deflections which caused him to also check out the basement underneath the floor, etc. He did not inspect the dwelling units. Basically, DSI's policy is that it will not condemn a structure out of a referral; it needs to be done out of a Fire Certificate of Occupancy inspection. The Fire inspectors would also like to inspect the balance of the building, including the dwelling units. Based on what was seen, DSI issued the Condemnation. Ms. Moermond reiterated that the building itself is Condemned; not an individual unit or a specific use within the building, but the entire building (commercial and residential). Inspector Shaff stated that it is considered as one (1) Certificate of Occupancy.*

*Ms. Moermond asked Ms. Vang to distribute copies of the photos.*

*Mr. DeLisle continued to say that he did what he could in the residential part of the building: electrical, heating and plumbing, contractors. They don't see a*

*need to condemn the residential part of the building. He has a commercial lease with the first floor tenant and the lease clearly says that he is responsible for any Orders that might be issued for the City of Saint Paul/ Department of Health. He can understand why the first floor should be vacated; he asks for 110 days to fix those issues before the building would be condemned. Mr. DeLisle asked whether Mr. Berg's opinion was put into the deficiency list.*

*Ms. Moermond asked Inspector Shaff if Mr. Berg's findings were incorporated into the deficiency list. Inspector Shaff noted #21. Ms. Moermond asked if Mr. DeLisle had any structural engineers come out to look at the structural members that compromise the floor framing. Mr. DeLisle responded, "No."*

*Mr. DeLisle added that he doesn't believe the building is in jeopardy of collapsing; he thinks that it's perfectly sound. He doesn't think the residents should move because one person didn't comply with his lease.*

*Robert Foster, attorney from the Law Firm of Foster and Brever, representing commercial tenant, Anton Wazwaz, MW1 Inc., stated that he and Mr. Wazwaz had an opportunity to review the building with the list that was prepared by the Fire Inspector. Mr. Wazwaz' business began in April 2009. There are conditions in the building that are in the report that, obviously, pre-date Mr. Wazwaz' tenancy. Approximately 70 percent of the issues associated with the store are acknowledged by Mr. Wazwaz as his responsibility under the lease; he will repair them. Mr. Foster indicated to Mr. DeLisle that he and Mr. Wazwaz would like to meet with him to determine who has responsibility for the issues on the list. The main issue is the flooring which is a structural issue that pre-dates Mr. Wazwaz and MW1's tenancy. Because that's a structural issue, it's the landlord's responsibility. They intend to meet after the hearing to discuss. Before the hearing, Mr. Foster reviewed Saint Paul Ordinance 640.01 Condemnation and Enforcement. He and Mr. Wazwaz agree with Mr. DeLisle in that it will take approximately three (3) months to complete the deficiency list, as authorized in the code. They agree that there is structural deterioration that has developed since the structure was built in 1889 that will need to be remedied, perhaps by adding additional beams and post; and then repairing the flooring that has been affected by the deterioration of the structural members. As he reads the Ordinance, a life safety issue is the only thing that would stop the hearing officer from giving them the extension of time needed in order to make all of the repairs. He does not think that a life safety issue currently exists; he doesn't think the floor will collapse in the very near future. There definitely are things that need to be fixed and that will be done. They request an 120-day extension to complete the work. Mr. Wazwaz business has six (6) employees and has worked for 1 ½ years to be successful; it's a valuable business for the community. Many of the local people buy their groceries from this store.*

*Tony (Anton) Wazwaz, commercial tenant, stated that if the store closes, it would devastate his whole family. He said that Mr. DeLisle blames him, saying that he's responsible according to the lease. Mr. Wazwaz brought the structural inadequacy of the building to Mr. DeLisle's attention at least three (3) times (May, June, July). Mr. DeLisle responded by saying he'd contact his attorneys. Mr. Wazwaz told Mr. DeLisle that the day would come that the building would be condemned because there was definitely something wrong with the floor. One doesn't need to be an engineer to know that there's something wrong with the floor. Mr. DeLisle has a habit of always blaming the tenants. Since Mr. Wazwaz has been there, Mr. DeLisle hasn't done anything for the building. Mr. Wazwaz added that he is kind of happy that the City is stepping in because Mr.*

*DeLisle needs to do something for the building except accepting rent. As a landlord, one is supposed to put back into the building so that tenants feel as though they are actually living in a good place. Mr. Wazwaz is paying \$4,000 per month in rent; he expects something back from his landlord instead of him having to do everything. He thinks that if you own a building, you should also own up to the responsibility of owning a building. He signed a lease 16-18 months ago for the unit but this problem has been there long before he showed up.*

*Mr. Foster reiterated that they will make a determination as to who has responsibility for the structural damage; however, they clearly believe that structural issues are the landlord's responsibility.*

*Mr. Wazwaz added that if Mr. DeLisle decides that he isn't going to repair the structural damage, Mr. Wazwaz is pursuing purchasing the furniture store across the street as a back-up plan. In order for him to do that, it will take up to three (3) months for him to renovate it.*

*Ms. Moermond asked who MWI, Inc. was. Mr. Wazwaz replied that MWI is he and his brother.*

*Mr. Michaelson, Southern Minnesota Legal Services (SMERLS), addressed the hearing. At this time, he is representing a couple of the tenants, perhaps more. Warnetta Blair lives in Unit #10 of the residential area. She lives on a limited income and has a disability; she has lived here since 2005 and has a good relationship with the management. This is not the Taj Mahal of rental units in the city but the city needs places for people of her income level to live. He is here as an attorney representing residents and he is willing to do whatever the City feels in necessary, at this point; and he doesn't want to jeopardize the safety of any of these tenants or any of the public. He was at the building yesterday but he didn't get a chance to look at the structural elements. He did, however, visit with Mr. DeLisle, who told him that he has had professionals check the place out. He didn't think that there were any structural problems. On the other hand, when he heard this morning that Mr. DeLisle hasn't had a professional structural engineer look at the place, he was concerned. Mr. Michaelson would like to hear what Mr. Frank Berg, the City's structural engineer, has to say about the residential areas. It seems clear to him that there is something wrong with the commercial parts of the building but he isn't sure that means that the center section (residential area) is in jeopardy of imminent demise – that it would be dangerous for the tenants. He would like to hear what Mr. Berg has to say about the center section before he suggests anything to his clients. Ms. Moermond explained that what he understood from her conversation with Mr. Berg earlier this morning was not that the individual residential units (don't think he inspected them) had soft floors or soft supporting members in and of themselves – not that he would think of immediate collapse of the building but if there were a fire, that the supporting members would not last very long. It would not support the upper floors for evacuation. Mr. Michaelson commented so then, people would not have as long a period to evacuate, especially, people with disabilities.*

*(At this time, Ms. Vang phoned Mr. Berg; left a message to see if he'd be available, now, to come to the hearing.)*

*Ms. Blair stated that she has lived in the building for five (5) years. Anytime there was a problem in the rental units, Mr. DeLisle would have it fixed.*

*Mr. Foster added that he has spoken with Mr. DeLisle about finding alternative housing for the residents if this doesn't work out. Moving out would be very disruptive for the residents but it's a better time than in the depth of winter. He thinks that if it isn't necessary for safety concerns at this point, giving Mr. DeLisle some time to remedy the situation would be a good alternative, but make sure that he hires someone who is a professional engineer, not just a guy off the street.*

*Mr. Ralph Tohm, resident and caretaker of the complex, addressed the hearing. He said that most of the repairs have been done. He has been supervising to make sure that all the repairs do get taken care of; they have been working to make it a better building for the tenants. Mr. Tohm has lived in the building for seven (7) years, off and on, but has been caretaker for about a year. Everyone who lives there loves the building; they all know each other and get along very well. The location of the building helps to make it easier for residents to get around because it's close to downtown. Mr. Tohm doesn't want everyone to lose their place.*

*Mr. Doctor Steven, resident, stated that he likes the building and he likes that he's close to the store. He has a good relationship with everyone there. If the place is condemned, he has nowhere to go. Mr. Tohm took Mr. Steven out of the homeless shelter and gave him a place to live and he's very grateful; people just don't do that anymore. The building is in a very convenient location for all of the residents.*

*Mr. Jeff Sullivan, Sullivan Construction, addressed the hearing. He stated that he is a contractor for Mr. DeLisle. He has done a lot of the fire inspection repair lists on many of his properties and has done repair work on 520 Rice numerous times. Mr. Sullivan doesn't think that Mr. DeLisle is neglecting this building. He said that he did go into the basement to look at the structural problems being addressed today. He is not a structural engineer; however, he does a lot of repairs and he likes to think he knows what he's looking at. There's definitely damage to the floor which needs to be corrected. It's his contention that the damage to the floor isn't throughout the whole store but specific to right underneath the butcher shop portion of the store. The butcher shop is a room approximately 10 x 25 feet with a tile floor and drain. The floor is cleaned with a garden hose. There is no base tile that comes up the side of the wall to keep the water in, so, water can seep into the basement through the joists and supports. It is his contention that this is the reason why the floor is damaged. He feels that the damage is limited to this portion of the store; not throughout the whole store floor.*

*At this time (10:18 a.m.), Ms. Moermond took a 15 minute recess. She announced that Mr. Berg is on his way.*

*The hearing resumed at 10:34 a.m.*

*Ms. Moermond asked for Mr. Berg's report on his findings.*

*Frank Berg, structural engineer, DSI, stated that he has been with the City for 22-23 years in the position of structural engineer. Throughout the years, his role has been to review plans to build and remodel, approve the plans, hopefully, and inspect them when the work is finished. He has always worked closely with Fire; however, he has worked more closely with Fire over the past few years because Fire Inspection is now part of the Department of Safety and Inspections. Most of the time, his role comes from a planned review approach;*



however, while looking at an existing building with Fire, he must be looking at a building which, that very night, could be on fire. If there is any possibility at all of someone being in that building, firefighters need to enter that building; and they need to do it in the most safe manner as they can.

He explained that he inspected only the main floor and basement of this building. He cannot say that the building is safe today and will not be safe tomorrow but it has a lot of deterioration. In this case, the question is, "Is the building stable enough for firefighters to enter when there's a fire without the floor collapsing?" In the bolded paragraph of his email, he is not saying that the building needs to be condemned. What he is saying is that you can't add more distress to what is there now, like a fire, underneath it. There is the possibility that if you added the fire distress and a firefighter enters the building, he could fall right through the floor. There's enough deterioration to the wood, that if a fire were added, it would be very dangerous.

Ms. Moermond asked for clarification. She said that she understood Mr. Berg's words: that he is not saying the building needs to be condemned to mean that he is not in a position to make that recommendation; that Fire must make that recommendation. Mr. Berg clarified that he is not in a position to be the one who recommends condemnation but he is in a position to give Fire expertise from his own background as a structural engineer. If he were looking at the building from a plan/review function, without considering the possibility of fire, he could see a time frame where this could be addressed; but it cannot be ignored. There is widespread deterioration; there's a lot there to take care of. But, if you look at it from a firefighter's standpoint, the building cannot absorb any more distress.

Ms. Moermond stated that when Mr. Berg talks about reviewing things from a plan/review perspective, her understanding is that happens when someone comes in to pull a building permit; and in this case, it would be a building permit to repair the building. She asked if his concern at that point would be inclusive of Fire concerns or would it be strictly concerns about collapse. Mr. Berg responded that in that case, he would be addressing an entirely different thing. He would be addressing what someone is saying they want to do with this building; and is there a structural engineer on board, which there would need to be in this case. He would be reviewing what they are proposing to do, which obviously, takes some time. Today, however, he is addressing the question of what if there's a fire in that building tonight? Ms. Moermond asked for further clarification: If someone wanted to come and pull a permit to do the repairs on this building, what kinds of things would he be looking for? What considerations are taken in account? Mr. Berg replied that this is a project that would require a structural engineer being involved because there is so much judgment involved. When you're replacing some floor boards, some joists, and possibly, a beam and haunch, as well, a judgment call needs to be made as to where you leave off. You need qualified people to do this work. If Mr. Berg has any questions, he would be calling the structural engineer and asking about the job. In this case, it might be a good idea for the engineer to be on site to see how things are progressing. Knowing that a structural engineer was involved in the beginning and having his input, and his commitment to being involved while some of the site work is going on would be much more important to Mr. Berg than what the paper plan states. There are a lot of unknowns, and having an engineer on site, in this case, is more valuable than time spent with some very nice looking documents/plans that will probably not be correct later on anyway. Mr. Berg considers communication with the structural engineer up front to be very critical.

*Ms. Moermond asked how extensive the damage was to the floor supports. Mr. Berg stated that first of all, the floor had soft spots on the main level right as you entered the store from the street. There were a number of locations in the store that had soft spots. They went down into the basement to look at the specific areas where they located soft spots. They found more widespread damage than just under the soft spot areas. They found moisture related areas of deterioration – decay significantly enough in scattered areas – areas where firefighters could fall right through in case of a fire. It's not an easy or cost-effective project to repair. Inspector Shaff stated that most of the damage seems to be down the middle of the store from the entrance, but the more they looked, they found more areas of damage: 1) pieces that are cut; 2) joists that are not resting on anything; 3) sister pieces that don't make sense to carry the load; 4) more moisture damage, etc. Ms. Moermond asked Inspector Shaff to state her qualifications. Inspector Shaff responded that she is a Minnesota State certified building official and a Minnesota State certified fire inspector.*

*Ms. Moermond's research found that the building was constructed in 1889 as a commercial building.*

*Mr. Foster stated that he is not here today to dispute the issues of condemnation but to determine whether it is appropriate on a life-safety issue to give both the tenant and the owner an opportunity to fix the problems that have been identified by the City. Mr. Berg said that if there's a fire, the structural components may not have the integrity needed to support the water and the firefighters who would be coming into the building. Mr. Foster asked if he was most concerned with the structural integrity of the first floor. Mr. Berg responded that's what he saw. At one location in the basement, there is a wood post with kind of a wood haunch with a beam over the haunch that is extremely deteriorated. That particular location is very critical to be looked at and addressed. The others are smaller, localized areas. Mr. Foster asked if in his opinion in a plan/review, would there be enough time left to give the tenant and landlord time to fix the structural members. From that perspective, Mr. Berg replied, "Yes, if addressed within the next couple of weeks," but added that from a fire-safety perspective, there would be an immediate concern.*

*Mr. Foster asked Inspector Shaff if there were a way to indicate to firefighters, that while this building is being fixed, the concern about the structural integrity of the first floor in case of a fire. Could the Chief make a notification to firefighters that there is this problem. Inspector Shaff asked, "What about the occupants?" Mr. Foster responded that he heard that it is only the first floor that's a concern, not the structural integrity of the second floor or any of the stairs leading in and out. Mr. Berg repeated that all he saw was the basement and the first floor and was not asked to look any further, so he couldn't comment on the other floors. Mr. Foster stated again that his goal is to give his client the opportunity to work with the landlord to acknowledge and correct deficiencies in the building. It appears to him that the only objection to giving them time is the possibility that the structural integrity of the first floor would be compromised in the event that there is a fire during that repair period; and is that enough to kick out the tenants on the second floor and the first floor tenant – making the tenants homeless and forcing his client out of business. Inspector Shaff stated that she has been posing some of these same questions to her supervisor, the Assistant Fire Marshal, who said, "That's not going to happen; our firefighters are going to go in."*

*Mr. Michaelson, SMERLS, stated that the tenants would like to stay, obviously,*

because this fairly low rental housing is hard to find in the City of Saint Paul but he doesn't want his people to be unsafe. On the other hand, Mr. Berg has not checked out the other floors to see whether or not they're sagging. From what Mr. Berg has said so far, he feels that there is a possibility that this place can be fixed and that it can be done within a reasonable period of time that wouldn't subject people for any long period of time. It seems that Mr. DeLisle hasn't had a chance to hire a structural engineer and although Mr. DeLisle is a good landlord who does a good job, he must understand that this can't be the guy down the street; it has to be someone who specializes in something like building restoration, not new buildings – this is a whole different thing. This building has to be renovated – restored. He knows that the cost factor will be important to Mr. DeLisle, too. Mr. DeLisle will need to hire a qualified person to come in and give an opinion in a very short period of time. Everyone ought to know from this structural engineer whether or not the building can be remedied, and whether it can be temporarily shored-up so that it isn't going to collapse if/when a firefighter walks in. Mr. Michaelson asked Mr. Berg if it makes any sense for Mr. DeLisle to hire a qualified structural engineer to come in very quickly and take a look at this building and make a determination as to whether or not it can be remedied, how long it's going to take and whether or not sufficient measures can be taken in the interim to make the building safe, such as putting in a temporary beam or something of that nature. Mr. Berg replied that yes, this problem can be addressed but it may or may not be cost effective. It's a very old building and it will take a lot of judgment calls. That's why a qualified structural engineer is required; it's a very complex engineering problem.

Inspector Shaff added that when Mr. Berg, Inspector Thomas and she were in the basement, the main gird down the center of the basement was probably the worst area of decay of the members. That decay is compromising the second and third floor; Mr. Berg agreed. Inspector Shaff continued to say that if there is a situation on the first floor and it becomes compromised by the addition of fire and water to structural members of the building that can't support it any more, firefighters' safety as well as the occupants' safety would be jeopardized.

Mr. Michaelson asked if they were talking about a wood beam. Both Inspector Shaff and Mr. Berg answered, "Yes." Mr. Michaelson noted that he has done a lot of construction work before he became a legal aid attorney, and he knows that there are ways to jack up the floor with a steel beam and put a new beam and some girders in there which may not take very long. That probably should have done long ago but certainly it can be done now. Of course, it will depend upon whether Mr. DeLisle is able to get good, professional advice on it and how much it will cost. He thinks that it can be done in a couple of weeks. Mr. Berg responded that what Mr. Michaelson is saying is correct. He reiterated that most of what they saw really pertains to the first floor: floor boards, joists, etc. The wood haunch on which sets the main beam is very deteriorated and needs immediate attention; it would be top priority.

Inspector Shaff added that people are the most vulnerable when they are sleeping. This building is not sprinklered and obviously has some structural issues. The City does not want twelve (12) occupied apartments endangered.

Ms. Moermond asked Mr. DeLisle for his comments. Mr. DeLisle asked if they were saying that if the post were removed, the building would collapse. Mr. Berg responded that there is the potential of that happening. The post and beam framing and their members are supporting the floors up above. Mr. DeLisle added that the walls in the basement go all the way up to the top floor;

he asked if that would not offer some strength. Mr. Berg replied that he did not know enough about the over all framing to answer that question, but the wood post is not part of the wall. Mr. DeLisle said that he thinks the job can be done while the residents are still living there, and in a reasonable time period. He feels that asking all of the residents to move is unreasonable. If he felt that the tenants were in danger, he'd have them moved. The building has been there over 100 years and it probably will still be there in another 100 years. Mr. Michaelson asked Mr. DeLisle whether he'd be willing to hire a structural engineer. Mr. DeLisle answered that he would. Mr. Michaelson added that he wants to make sure that this gets done quickly and that Mr. DeLisle takes responsibility for it instead of passing the buck to someone else. Mr. DeLisle asked Mr. Wazwaz if he were willing to cooperate. Mr. Wazwaz stated that he is not willing to pay for the landlord's obligation. Mr. DeLisle needs to own up to the problem. Mr. Foster added that he and Mr. DeLisle will go over the list and make a determination as to who has responsibility for what.

Mr. Michaelson asked Ms. Moermond if there would be a possibility to reconvene after Mr. DeLisle gets his report from the structural engineer. Mr. Berg clarified that there are two (2) different types of reports: 1) a condition survey (here's what we've got); and the next phase, 2) construction documents from which to pull a permit.

Ms. Moermond stated that it is clear that this is about the safety of the business and the business's interest in survival and the safety for the residents in living there; and also, the safety of people who are coming to visit the residents or to buy from the store. She realizes that it takes about three (3) times longer to work with an old building. This building needs a structural engineer on site. Speaking directly to Mr. DeLisle, she added that if the floor is failing, he is responsible for figuring out that he needs a structural engineer to take care of that. It is not the City's responsibility.

Ms. Moermond said that the first thing which needs to be done is to have the Fire Certificate of Occupancy Inspection staff go through the entire building (scheduled for 10 a.m. tomorrow, Friday, October 29, 2010). Second, is to get a structural engineer's report on the floor – one that Mr. DeLisle hires. Ms. Moermond wants more information on the egress windows, stairways, doors, etc., the areas that could further complicate getting out of the building in case of a fire.

Ms. Moermond wants the following information in her office by close of business on Monday, November 1, 2010: 1) Fire Certificate of Occupancy Inspection; and 2) the structural engineer's report. She will review Monday evening and give her recommendation on Tuesday, November 2, 2010 at the Legislative Hearing. If her recommendation is that the building must be vacated, it will probably be a 48 hour vacation. She needs to see a structural engineer's report that shows that getting a beam will stabilize the building while a more complete repair is done and Mr. DeLisle is willing to do that right away, then she will continue a conversation about keeping the building occupied. If Mr. DeLisle is not willing to go with a structural engineer's report and getting all of the units inspected, Ms. Moermond needs to know now in order to take other action. Mr. DeLisle responded that he is willing.

Inspector Shaff asked Mr. Berg how long it would take him to review and evaluate a report. Mr. Berg replied that he can read the report and give his opinion given almost no notice at all. He added that he will not be in the office beginning Friday, November 5 until the middle of the following week.

11/2/10

## Legislative Hearings

Referred to the City Council

*In two (2) weeks at the City Council meeting (November 17, 2010), her recommendation will read "forthcoming." This item will also appear on the Tuesday, November 16, 2010 Legislative Hearing Agenda. At that time, follow-up reports will be presented regarding: 1) the exiting from the building, including windows, doors, hallways and stairways -- both in and outside of the building; 2) review of the building permit and the extent to which the shoring of the first floor has stabilized the structure; 3) plans for the permanent correction of first floor failure. Notably, an additional/amended appeal was filed by Mr DeLisle on Friday November 5. This additional appeal information will also be considered on November 16th.*

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*Jeffrey DeLisle, appellant and property owner; Anton Wazwaz, manager, MW1; Robert Foster, Law Firm of Foster & Brever; Waretta Blair, tenant; Doctor Steven, tenant; Jeff Sullivan, Sullivan Construction; Ralph Tohm, tenant and caretaker; Ron Marcel, tenant; and Heather Goers, tenant, appeared.*

*Ms. Moermond will recommend a layover to December 1, 2010 if the following conditions are met by Tuesday, November 16, 2010:*

- *compliance with all exiting issues*
- *the permit for shoring reviewed and inspected*

*Ms. Moermond stated that she will make a decision on 520 Rice Street today. There is a new inspection Order and some additional information from an engineer. She received both of those documents late yesterday afternoon. She asked Mr. Frank Berg, Saint Paul's structural engineer, and Fire Inspector Leanna Shaff to review the situation.*

*Inspector Shaff reported that she finished the Certificate of Occupancy inspection. She found multiple additional code violations. Some of them were the exiting components: 1) windows that don't lock; 2) windows that don't fit in their frames or open well; 3) blocked egress windows; 4) three (3) apartments without functioning smoke detectors; 5) one (1) apartment they didn't gain access to (Inspector Thomas went back later that afternoon); 6) the back exterior staircase has a lot of rotted wood -- one place has a growing mushroom. Under a load, she fears it would not hold, and the posts appear unsafe. Frank Berg accompanied Inspector Shaff this morning as they went to inspect the shoring. Mr. Berg has not had the opportunity to speak with the engineer. She doesn't know whether or not the engineer has looked at the shoring since the work has been done. No paper work, etc., has been submitted to Mr. Berg for the shoring nor has there been a permit applied for the shoring. Ms. Moermond checked out the deficiency list and photos on line. Mr. DeLisle has a copy of Friday's Orders. Ms. Moermond asked Inspector Shaff if she would condemn the building based on the exiting issues. Inspector Shaff replied, "Yes."*

*Mr. DeLisle stated that he hired a structural engineer, who came up with the idea of shoring up the ceiling and floor from the basement. So, the work was done and the engineer has approved it. He has also looked at the rear stairway and said that it needed to be repaired. Mr. DeLisle will begin work on that today. He has had a certified licensed electrician, certified, licensed plumber and a certified, licensed heating specialist to the building to make sure that everything is safe and sound. The alarm man has been out to certify the alarm. They found that the contractors can't get permits. Inspector Shaff responded*

*that there's a building warning in the system that says, "Do not issue any permits with other structural engineers; sign-off from Frank Berg." Ms. Moermond explained that permits will be issued but Frank Berg needs to look at them.*

*Mr. DeLisle said that Mr. Berg has spoken with Mr. Lindau and Mr. Berg was at the building this morning. Much of the work has been done. In his opinion, the building is safe and sound.*

*Ms. Moermond asked if he had pulled the permits for the shoring-up. Mr. DeLisle responded that the contractors who did the shoring said that permits are not needed to do that sort of thing. He asked them to get a permit anyway – a repair permit, but they weren't allowed to. Ms. Moermond stated that it is explicit that a permit be pulled on the existing Orders. Mr. DeLisle said that Mr. Berg was at the building this morning and spoke with Mr. Lindau and he is satisfied with the shoring. Inspector Shaff said that Mr. Berg hadn't talked with the engineer after the shoring had been done. He expressed some concern that there weren't any plans, nor any permits pulled for the work. Until he has spoken with Mr. Lindau, Mr. Berg said that it would be hard to make an assessment as to what was done and why. Mr. DeLisle said that he spoke with Mr. Lindau at 9:30 p.m. last night who said that he had communicated with Mr. Berg. Ms. Moermond noted that there was a conversation last week; at that point, from the email that she read said, it said that Mr. Berg and Mr. Lindau agreed that something needed to happen right away on Friday – no time to waste; and that Mr. Lindau was to proceed and pull a permit. Mr. DeLisle repeated that he has told his contractors to get a permit but they told him that they could not get one. They were not told that Mr. Berg had to review it. They were just told they couldn't get a permit.*

*Ms. Moermond stated that she read the material Mr. DeLisle has faxed to the office and noted that Mr. Lindau had requested no more than sixty (60) days to do the repairs. Mr. DeLisle said that Mr. Lindau checked out the back stairs and he will give advice as to how to go about that; we can start that work today.*

*Mr. Robert Foster, attorney representing Anton Wazwaz, commercial client on the first floor, stated that from his understanding from the last hearing, the primary concern was the subflooring underneath the first floor and that created a potential life-safety issue if there were ever a fire in the building. Mr. DeLisle was to hire a structural engineer and to follow his recommendations to do the shoring ASAP. At that time, there was no discussion of the exterior stairway. Until the new C of O inspection done last Friday, October 29, 2010, a life-safety issue was not raised regarding the exterior stairway. From his and Mr. Wazwaz perspective, they need to be supportive of the landlord because he has done the hearing officer's instructions: to quickly get a structural engineer out there and to take these remedial actions so that this isn't a potential life-safety danger while the other issues get addressed over a period of time. From what Mr. Wazwaz told him, Mr. DeLisle has had workers out there almost non-stop trying to correct issues and has in fact, hired a structural engineer who was out there numerous occasions to review pre and post work on the basement. It seems as though there's a catch 22 on the permitting issue. Mr. Wazwaz has reviewed the Orders and will take care of his responsibility. He has had an electrician come out and review the interior of the store. He introduced an affidavit from his client saying what work he has done since the last hearing to address the electrical issues within the store. Mr. Foster thinks that there has been a yeoman effort to address these problems in very short order. Mr. Foster believes that Mr. DeLisle has shown that he will quickly address an issue when*

it is brought to his attention, as with the staircase issue. He asks that Mr. DeLisle be given the opportunity to work through the bureaucracy of getting a permit and address all of the remaining issues.

Mr. Wazwaz, commercial tenant, stated that he was at the store all weekend and he has to say that Mr. DeLisle really stepped up to the plate. He was out there several times and work was being done constantly. Mr. DeLisle did an amazing job and he was impressed;. Workers were doing things all over the building. Mr. Wazwaz stated that the only thing he needs yet to do is install the glass, which will take four (4) days to order.

Jeffry Sullivan, Sullivan Construction, contractor for Mr. DeLisle, addressed the hearing. He stated that he personally finished the shoring last night and met with Mr. Lindau at approximately 5:30 p.m. Mr. Lindau was completely satisfied with the work that had been done. He faxed a letter to that extent. It came to his attention this morning that Inspector Shaff and Mr. Berg needed to speak with Mr. Lindau again. Mr. Sullivan phoned Mr. Lindau, who assured him that he was going to call Mr. Berg immediately. Mr. Lindau also said that he had been communicating with Mr. Berg all along and that Mr. Berg seemed satisfied with his plans. Mr. Sullivan added that there has been work going on at the building all weekend long. Ms. Moermond asked Mr. Sullivan if he had tried to pull any permits. Mr. Sullivan responded that the electrician said there was a block on all of their permits. Ms. Moermond said that she now realizes that it isn't exactly a block but that the permits require structural review. She added that they must follow-up on pulling the permits. The electrician's name is Ken from Advantage Electric. Inspector Shaff stated that if someone is trying to pull an express permit or one through the Internet, that probably would be blocked; however, if they would come into the office to pull a permit and submit plans, they should be able to do it. Mr. DeLisle responded that the contractors went to obtain permits in person.

Mr. Ralph Tohm, caretaker of the building, addressed the hearing. He reiterated that a lot of work had been done over the weekend; and that the tenants love the place and they want to stay. They are very happy that so much work is being done.

Ms. Warnetta Blair, tenant, addressed the hearing to say that she has had all kinds of different people at her place, in and out all weekend long looking things over and doing work. Mr. DeLisle and Tony are doing their part.

Mr. Doctor Stevens, tenant, stated that so many people have been working very hard all weekend.

Mr. Ron Marcel, tenant, stated that he has lived in the building over four (4) years and his apartment is one that has been kept up better than some of the others. He said that Mr. DeLisle does repair things when they are brought to his attention. It's an old building but he hasn't had many problems. He and his roommate are both on disability and will need sufficient time to get ready to move, if they have to.

Heather Goers, tenant, state that she helps Mr. Tohm with the caretaking job. She noted that whenever they are informed of something that needs to be done in the building, they try to get it fixed immediately. She is very concerned about the possibility of everyone needing to move.

Ms. Moermond stated that the building permit needs to get pulled and the

shoring needs to get checked by a crew. Also, Mr. Lindau, structural engineer, suggests that sixty (60) days are needed to finish the work. So, there needs to be a permanent solution in the works and keep on a hard-core schedule to deal with everything involved, especially now, with the exiting issues that were discovered last Friday by Inspector Shaff. Once the shoring has been inspected and it works, and all the permits have been pulled, a longer term plan can be developed. The exiting work needs to be addressed quickly and the shoring needs to be permanently addressed so that there is more than the maximum of sixty (60) days in the long run. She asked Mr. DeLisle if he has sought the advice of others on how to permanently address the situation.

Mr. DeLisle responded that Mr. Lindau stated that the ceramic floor should be taken out and plywood put down, then a rubber membrane followed by cement and tile again. Any rotted joists will need to be replaced. He and Mr. Wazwaz will work together to get things done within sixty (60) days.

Mr. Foster stated that his client, Mr. Wazwaz, obviously, wants to stay in business. Mr. Wazwaz spoke with the structural engineer, who proposed that the work in the store be done in sections. Given that, sixty (60) days might be an aggressive goal. He would suggest ninety (90) days but if that is not possible, maybe another hearing could be scheduled after the sixty (60) days, if needed. The ideal solution seems to be taking care of the life-safety issues without causing his client to lose his business or the tenants needing to move.

Mr. DeLisle noted that the City has been through his property about a month ago to check out an electrical situation with a cable issue. Every two (2) years, the City inspects for the Certificate of Occupancy, and he does whatever needs to be done.

Ms. Moermond stated that this case is due at a City Council Public Hearing at 5:30 p.m. on November 17, 2010. The permit on the shoring needs to be pulled and an inspection done and have the temporary shoring reviewed more carefully. Mr. Lindau or the contractor needs to have the permit pulled and things reviewed. By Monday, November 15, Ms. Moermond is requiring: 1) compliance, at least, with the exiting issues on the Fire Certificate of Occupancy (all windows, doors, smoke alarms, back staircase); and 2) the permit reviewed by Mr. Berg. If the temporary shoring checks out and the permit is cleared, Ms. Moermond expects a permanent solution and the work done by December 31, 2010. This hearing will be laid over to Tuesday, November 16, 2010.

Mr. Sullivan asked for clarification regarding the permits. Ms. Moermond responded that first a permit for the temporary shoring needs to be obtained; then, a permit for the permanent solution plan and review. Let's get the temporary shoring taken care of and then allow Mr. Lindau to draw up some plans for the permanent solution. In two (2) weeks at the City Council meeting (November 17, 2010), her recommendation will read "forthcoming," and on Tuesday, November 16, 2010, this will be scheduled on the Legislative Hearing agenda (probably mid-day) to discuss what progress has been made and what needs to be done.

11/16/10

Legislative Hearings

Referred to the City Council

Ms. Moermond recommends that a Fire Certificate of Occupancy Inspection must be completed and signed-off on with the exception of a permanently re-built first floor and supporting structural elements by close of business Friday, November 19, 2010 or the entire building must be Vacated by 8:00 a.m. Monday, November 22, 2010.



*STAFF PRESENT: Inspector Leanna Shaff - Fire and Inspector Steve Ubl - Building, Department of Safety and Inspections (DSI)*

*Jeffrey DeLisle, appellant and property owner; Jeff Sullivan, contractor; and Wes Holzschuh, contractor; Robert Foster, Law Firm of Foster & Brever; Anton Wazwaz, manager, MW1; Mr. Lindau, structural engineer; Dennis Crow, architect; appeared.*

*Ms. Moermond stated that Mr. DeLisle had filed an additional appeal November 8, 2010; she will handle it as an addendum to the original appeal. There has been a lot of activity going on so she will be starting with staff reports. In the interest of full disclosure, Ms. Moermond stated that last night she went to the building to get a closer view. She noticed some cautioned tape on the side of the building that had been torn away; and she had already heard in a staff update earlier that day that there had been an electrical issue. So, she called Inspector Ubl to see whether staff had put up the caution tape and to let him know that now, it seems to have been removed. Mr. Ubl responded that it wasn't City caution tape; he didn't know what it was about. Ms. Moermond went into the first floor and around the outside, then she left.*

*In addition, Ms. Moermond received another communication (email) from Mr. Lindau, Mr. DeLisle's engineer; Frank Berg was copied on it. It was a re-phrasing of some of what was in the engineer's report that was discussed in a previous hearing.*

*Inspector Shaff reported that they had not done a re-inspection for the Fire Certification of Occupancy nor have they been called to do one. Normally, they would just schedule a time and date. In this case, Mr. DeLisle was to contact Inspector Shaff to set up an inspection and he did not do that. Ms. Moermond asked Inspector Shaff to comment on Mr. DeLisle's second appeal. Inspector Shaff commented on the listed appeal items:*

*Item #6 & #7 - We believe the 3rd floor ceiling is one hour rated. Inspector Shaff said that she believe it does in some places; however, Code requires that it is continuous. Here, there are many penetrations. There are places with multiple layers on the ceiling (and on the walls). It's difficult to tell what's behind it. There are many ways to repair that or one could replace it.*

*Item #18 - Even though the interior handrail in the hallways was acceptable for decades; why all of a sudden do you want this changed? This item will be corrected. The inspectors approved it. Inspector Shaff stated that the handrails are 23 inches on the south side and 27 inches on the north side. The front entry stairway handrail was measured at 31 inches. Code requires their height to be between 34 and 38 inches.*

*Item #67 - again, these items have been accepted for years. Inspector Shaff stated that Unit 2 - the sleeping room measures 66 1/2 square feet; Code requires a minimum of 70 square feet.*

*Item #92 - There are not that many people living in the unit. Inspector Shaff said this is Unit 9 - the living room is being used as a sleeping room and measures 154 square feet; Code requires that each occupant in that room be 50 square feet per. The bedroom is 88 square feet; there's enough room for one (1). Ms. Moermond asked how many people live here. Inspector Shaff responded that it's variable; she was not sure how many of their children are living there.*

*Item #96 - Same as item 67. This was grandfathered in for decades. They have been approved by inspectors. Inspector Shaff stated that the sleeping room measures at 63 1/2 square feet; Code requires 70 square feet.*

Item #102 & #103 - this is done. Inspector Shaff agreed.  
Items #40, #53, #63, #80 & #84 - They have all been painted. We want the right to paint as needed or the option to wash walls if needed instead of painted. They have all been painted in the last couple years. Inspector Shaff stated that all requiring Units need to be re-painted. The walls are pretty dirty / haven't been painted in a long time / have a lot of wear.

Inspector Ubl reported that the temporary shoring needs to be taken care of along with the two (2) decks in the rear of the building and the leaks that were encountered yesterday along with the electrical issues.

Ms. Moermond asked Mr. DeLisle to comment on why he appealed the previous items. Mr. DeLisle responded that regarding:  
Item #6 & #7 - He believes that it is 1 hour rated and it goes to the roof; there's not another floor above it. There's lathe and plaster, some sheet rock that covers certain areas and a pipe that runs but it's below the lathe and plaster. It is his understanding that it is fire rated. Inspector Shaff replied that the key word is "continuous." There are some penetrations like a pipe with space around those that makes it not "continuous." Those spaces are causing an issue. Inspector Ubl added that there can't be any penetrations in an assembly. Inspector Shaff added that smoke and fire will follow the path of least resistance. Mr. DeLisle said that the holes and the separations that staff are describing are below the lathe and plaster. Inspector Ubl stated that needs to be confirmed. Inspector Shaff added that there's still the dead space and they don't want the smoke and fire to go through those penetrations. Inspector Ubl added that Code requires the option that an alarm detection system could be put in that space but Mr. DeLisle still needs to show them the protective assembly. Inspector Shaff stated that the penetrations could also be repaired at the ceiling. Mr. DeLisle noted that it passed in every other inspection in every other year. Ms. Moermond reminded him that a violation is a violation no matter when it is called; this item should be on the Correction Order.

Regarding Item #18 - Mr. DeLisle stated that again, he wondered why it hadn't been called in previous inspections. He plans to put up another rail anyway in addition to the one on the other side.

Regarding the painting items - Mr. DeLisle said that one of the twelve units was probably painted within the past 60 days. Ms. Moermond asked what he was looking for here. Mr. DeLisle responded that he plans to paint all the rooms that need to be painted. (Units 8, 12, 10, 6, 7)

Ms. Moermond asked how many people were living in Unit 9. Mr. DeLisle responded that there are two (2) adults and two (2) children living there. She will recommend a 12 square foot variance on the 88 square foot bedroom; and the living room sleeps no more than two (2). Similarly, Unit 8 has a sleeping room that measures 63.5 square feet and it needs to be at least 70 square feet. She will recommend a variance on that room, also.

Referring to the October 29, 2010 Deficiency List, Ms. Moermond asked Mr. DeLisle which items are already complete. Mr. DeLisle and Mr. Sullivan responded that the following items are complete: #2, #8, #10, #11, #12, #14, #15, #16, #19, #21, #28, #36, #37, #38, #39, #44, #45, #46, #52, #54, #58, #59, #64, #66, #72, #75, #76, #77, #83, #87, #88, #89, #91, #95, #97 (has been resolved today), #102, #103. Mr. DeLisle said that a heating contractor came to check all the furnaces and he looked at the flue issues and concluded that everything is working properly. An electrician has just pulled a permit and has

done everything in the apartments that had been asked for. Item #1 is under discussion. He has hired an architect and an engineer to draw up plans that satisfy the City's requirements. Item #4 is not done completely. Item #5 is not done completely. Mr. Sullivan added that all window issues are complete except for one (1) double pane unit that he is waiting for. Mr. Sullivan said that he asked their electrician to call for an inspection today on his basement work and get signed-off on. They cleaned up the basement. Items that they have discussed with the tenants include: #55, #60, #65, #71, #78, and #85.

Ms. Moermond asked Inspector Shaff where they are with permits. Inspector Shaff responded that there are building permits issued; electrical permits issued; gas fitting only permit issued. All are active; none have been signed-off on. Ms. Moermond asked what the projects were for these permit. Inspector Shaff replied that the building permit was for taking off the veranda roof - not closed. The gas fitting only permit for plumbing - not closed (Rich Peterson, City's Plumbing and Heating). Mr. DeLisle said he did the dryer vents. The permit for shoring - not closed. She didn't find a mechanical permit for the dryer vents. A structural permit for the rotted structure in the floor - open. Ms. Moermond asked if that was for a permanent floor fix. Inspector Shaff replied, "Yes." There's an electrical permit for residential (apartments) repair and alter - open. Mr. Sullivan added that as they work, they are finding more need for electrical work, so, as they find it, the electrician will take care of it. Inspector Shaff said all permits have been issued and are open; there's been no finals.

Ms. Moermond asked why Mr. DeLisle hasn't yet called for a follow-up Fire Certificate of Occupancy inspection. Mr. DeLisle responded that he was unaware that he needed to call for it. Mr. Sullivan explained that from their point of view, the list needed to be complete before they would call for an inspection. They would be open to a partial inspection if that is acceptable. Ms. Moermond responded that without the inspection, there is no verification that the work has actually been done. Some work may be done but not to the satisfaction of the inspector, per Code, according to them.

Ms. Moermond stated that she heard through the grapevine that Inspector Ubl had an electrical issue himself yesterday. Inspector Ubl explained that his involvement in this project was to inspect the temporary shoring in the basement. It hasn't been signed-off because he believes that the temporary shoring will be on-going as they remove structure above. There are also a couple of sporadic areas that need work on the plans that are also on-going. To date, the shoring that has taken place is acceptable and certainly conforms to what's on the engineer's drawings. It looks good. To clarify, the lighting that is used to light up that room is being plugged into the electrical outlets that are hanging from the ceiling. He is quite comfortable saying that the electrical work is not complete and ready for a final sign-off in the basement. They have had many discussions about the work to be performed so that the building can be structurally sound. The drawings are in fairly good shape and they are ready to go on that. There were additional drawings requirements needed for the decks in the rear of the building. His architect worked quite aggressively for the last four - five days getting drawings to reflect what he's envisioning. They had a couple 3-hour meetings yesterday morning and afternoon. The one in the morning was a conference call with the architect, the City's structural engineer and the contractor, Mr. Sullivan. They agreed to meet on site yesterday afternoon along with Inspector Shaff. They discussed how to address the decks in the rear of the building and try to come to a consensus. Prior to the architect coming to the site, the contractor and he went through and reviewed the leaks throughout the first floor (the building in the back that has only one (1) level).

The leaks were prevalent in both buildings and they were reviewing them with a flashlight. They looked above the walk-in freezer to review how you could transfer loads down and what the integrity of the joist systems were like. A ladder was put in place in front of the walk-in freezer and Mr. Ubl walked up the ladder to peek his head through a drop-in ceiling (the panel was removed). Using flashlight, he looked up and the leak splashed in his face and there was a wire hanging directly behind him, which he didn't realize. The wire made contact with his coat which sparked a circuit to be broken and he got "zinged". The evidence was on the top back of his jacket. That situation caused them to change their perspective on the life-safety condition of that building. At that point, the architect came and they agreed to review the deck. They did that for about 45 minutes discussing how to re-design and re-configure in order to get things to be as compliant as possible. When they were finished with that, they walked through the residential exiting on the upper level, trying to get reconciliation on the handrails (exiting requirements that were on the list). Next, they walked downstairs and went through the rear building portions that have only one (1) level, and they discussed the exiting, the leaks that were on-going, the electrical issues taking place, etc. Inspector Ubl came back to the office and had a meeting with the building official, the assistant fire marshal, and they came to the agreement that something needed to be addressed immediately. At 5 or 6 p.m., the assistant fire marshal, the building official and he went back to the property and requested that a licensed electrician get on board to disconnect whatever they deemed was a life-safety issue and isolate that until today so that they can come to reconciliation as to how to address any other issues that are fire hazards back there. At this point, he has a concern with any leakage of that building (where is it leaking onto and what fire it may spark). This is a serious issue. The circuit that was popped, he believes was also part of the circuitry for the resident above. Apparently, there is not separate circuitry for the commercial and residential spaces.

Mr. Robert Foster, attorney representing Mr. Anton Wazwaz, store owner, addressed the hearing. He stated that Mr. Wazwaz has been dealing with the issues of the store. He worked with Inspector Ubl to get an electrician out last night. He has applied and received a permit to move the area where he cuts the meat into a different room. They have implemented a plan so that he can keep the store open while the floor is being worked on. Mr. DeLisle will take care of repairing/replacing the underlying structure and Mr. Wazwaz will put on the top layer of the floor. Mr. Foster went through the October 21, 2010 Deficiency List and identified what items have been completed, etc. Item #8 is done. Items #10, #11 and #12, Mr. Wazwaz has hired an electrician to verify what needs to be done. Item #13 has been completed. Item #14 is work that the electrician is going to do. Items #16, #17 and #19 have been completed. Working with the landlord, item #22 has been completed. Item #24 is acceptable and item #25 is work that is going to be done with the electrical inspector. Item #28 relating to the store building, has been completed. Mr. Wazwaz has had two (2) electrician come in to check out what needs to be done. The one who he will actually use is coming in today; and if permits are required, they will pull the necessary permits. Mr. Foster would like to have clarified where they need to go from here.

Mr. Sullivan added that they plan to start repairing the structural part of the floor in the butcher shop area of the grocery store tomorrow morning. He sees no problem with meeting the deadline on that. The fix for the rear stairs is more complicated and will take some research to figure out how to repair it. The architect worked all weekend trying to come up with something that will work for the building. He said that he realizes the building is a life-safety issue but

would like to ask for a little more time due to the nature of the beast.

Ms. Moermond reviewed the November 1, 2010 engineer's report. She noted that there are two (2) sections in the report: 1) in the cover letter to Mr. DeLisle from Mr. Lindau. The sentence pertaining to the time line is as follows: "The shoring is considered temporary and should only be used for a maximum of sixty (60) days without written permission from an engineer." Further into the document, looking at the design Code statement, page 5 of the fax, it says in Item #2: "Shoring to be in place a maximum of ninety (90) days. Any additional time only with the written permission of an engineer." 2) Mr. Lindau's email states: "Lindau Companies and Structural Engineers has visited the site of 520 Rice to review the first floor structure and prepare a temporary shoring plan for the support of the areas that have deteriorated. Subsequent to this, we have visited the site and believe the shoring construction conforms to the intent of our shoring documents. Additionally, in our documents we noted that the shoring is temporary and should be reviewed at sixty (60) days. Our intention is not to create a sixty (60) day deadline for the restoration but to assure that progress is being made and that no shoring is altered during construction. We believe that more than sixty (60) days will be required to fully complete these repairs." Ms. Moermond asked whether there has been a re-write of the engineer's report. Ms. Moermond asked the engineer, Mr. Lindau, whether he wanted to address any of this. Mr. Lindau responded that he had nothing to say.

Mr. Sullivan asked the architect to address the hearing. Mr. Dennis Crow, architect, stated that he is working to provide details of the solution. He is trying to do something that will respect the historical character of the building and also complement it. Ms. Moermond asked what parts of the building was he asked to look at. Mr. Crow responded: 1) the rear stairs; 2) the balconies; 3) the handrail situation inside; 4) the 1-hour separation between units; and 5) the store. He thinks that he is a little behind in time. He should have enough detail to get a permit within a few days. Inspector Ubl clarified that the decks are part of the required exiting of the second level to get people down to the public right-of-way. Mr. Crow is working to bring that design into conformance so that it can be approved at plan review.

Mr. Wes Holzschuh, contractor, Herb Holzschuh Construction, addressed the hearing. Mr. Holzschuh stated that when the second Orders came out, he went to apply for the fire-separation - the general repair. It is on file (not bought and paid for yet) - ready to go. He met with Frank Burg when he applied for the permit, who put him off because Mr. Sullivan was pulling permits for the shoring, the wood floor repair, etc. Frank Burg would not issue Mr. Holzschuh's request for a permit until the other structural issues were resolved: 1) the back railing; 2) deck area; and 3) the deterioration in the floor. It's not a simple construction project. The real issue is the time not only for getting it all done but for getting the important, immediate stuff done like the fire separation. These are all of the things that protect other people and the tenants. He met with the architect and engineer this morning to figure out how to proceed - they'll need to go through the roof of the building. He said that they needed a larger time frame in which they can resolve all of the issues and keep everyone safe at the same time. This morning he heard the story of Inspector Ubl getting "shocked" yesterday. At 7:30 this morning, he, the electrician and Mr. Sullivan walked through the basement, which was immaculate. During their walk through the building, they found multiple light boxes without covers, some with wires pulled out of them and some loose ones. They contacted the electrician to finish the job - to look everywhere and fix everything completely. He is there

today finishing-up. Mr. Holzchuh added that he has worked for Mr. DeLisle on many Code Compliance Inspection lists. When they get a report, it doesn't say to get an inspection, it just says that they want it started at this time and completed by this date. When he does an R-2, he has to have the mechanical, electrical and plumbing all signed-off before he as a builder get his signed-off. So, they get a list; when the list is complete, he calls up to ask for a final on each permit. Nowhere does it say or does he assume that he can call in the middle of a project because having done this work for twenty (20) years, if you call in inspectors prior to the time listed on the schedule, they won't come out.

Mr. DeLisle commented that he and Mr. Wazwaz have a lease for the store but they are trying to work around those issues.

Ms. Moermond took a short recess at this time to compose her thoughts. She wanted to let everyone know that there is a Public Hearing scheduled for tomorrow night at 5:30 p.m. at the City Council. At that time, the Council can accept Ms. Moermond's recommendation, they can modify it, they can overturn it, etc. but their decision is the last stop before appeals court.

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When the hearing reconvened, Ms. Moermond commended everyone for all of the hard work they have put in on this project. There is no question in her mind that this will take time to finish; it took time to get this bad. She doesn't know how many years of neglect and lack of maintenance it took but the condition of the building is atrocious and as each layer of this situation is peeled away, things only seem to get worse. She is looking at three (3) key areas of concern: 1) the structural stability in terms of collapse and, related to that, the structural stability related to providing enough support to make it through a fire (get the building evacuated). Will those structural supports burn at the rate that they should be burning or will they burn faster because of the poor condition. From what she has seen, she would say that they are going to burn faster than one would expect supports to burn. She thinks that the shoring will work on a temporary basis, she remains concerned about the supports to the floor in other areas; 2) the fire hazard that comes about with the problems with the electricity. Several electricians have been called in and there are still electrical permits that need to be dealt with. Checking the file in the computer, she sees that there have been electrical problems in the past. She is profoundly concerned that there are electrical issues that still haven't been identified. There hasn't been a top-to-bottom electrical inspection in this building. The leaking water only exacerbates the electrical issues; 3) the fire exiting. She climbed the back stairs to see what it felt like to try to get out of that building. She hated that trip in some places. In some places, the stairs were not pitched right. In some places, the guardrail was totally loose or loose enough to be alarming. The footing was not great, especially on the balcony levels where it was like walking on roofing, and the roofing was wet and icy in places. All these things don't inspire confidence getting out of the building when you're afraid. Taken all of this together, Ms. Moermond stated that she is done waiting on this. Not all of the items on the Fire Correction Notice have been taken care of; that list has been in existence for a couple of weeks now.

Ms Moermond will recommend that by close on Friday, November 19, 2010, the Fire Certificate of Occupancy list must all be completed and the permits signed-off with the exception that the temporary shoring would suffice for the time being but a permanent shoring solution would be worked out. If this is not taken care of by close of business on Friday, the building shall be vacated by 8:00 a.m. on Monday morning, November 22, 2010. That does include the

*business. That means that a Fire inspection must be done and signed-off.*

## 1:30 p.m. Hearings

### Fire Corrections Notice

- 10      [ALH 10-326](#)      Appeal of Xai Thao to a Fire Certificate of Occupancy Correction Order at 219 WHITE BEAR AVENUE NORTH.

**Sponsors:**      Lantry

**Attachments:**    [219 White Bear Ave N.Appeal.10-29-10.pdf](#)  
[219 White Bear Ave N.Fire C of O Ltr.9-29-10](#)  
[219 White Bear Ave N.PC ltr.11-9-10](#)  
[219 White Bear Ave N.PC ltr.11-16-10.doc](#)

**Legislative History**

11/9/10      Legislative Hearings      Laid Over to the Legislative Hearings  
*Legislative Hearing Officer Marcia Moermond reviewed the appeal and recommended granting a 3.25-inch variance on the openable height of the egress windows in the upper floor northeast and northwest bedrooms, and an 8-inch variance on the openable height of the egress windows in the basement southeast, northwest and west bedrooms. (Spiering, 9/29)*

*On November 12, 2010, Property owner called and wanted to appeal other items. Scheduled hearing for November 16, 2010 at 1:30 pm.*

11/16/10      Legislative Hearings      Referred Under Master Resolution  
*Grant the appeal of the Certificate of Occupancy requirement. The furnace inspection report and smoke detector affidavit are not required. Grant an extension to December 17 for the remaining items. Remaining items will be transferred to Code Enforcement for followup after December 17. Egress window variances were granted 11/9. (Spiering, 9/29)*

- 11      [ALH 10-364](#)      Appeal of Kyle Erdmann to a Re-Inspection Fire Certificate of Occupancy with Deficiencies at 431 LYNNHURST AVENUE WEST.

**Sponsors:**      Stark

**Attachments:**    [431 Lynnhurst.appeal.11-5-10.pdf](#)

**Legislative History**

11/16/10      Legislative Hearings      Withdrawn  
*Withdrawn by property owner*

- 12      [ALH 10-365](#)      Appeal of Robert Metzler to a Fire Inspection Correction Notice at 737 VAN BUREN AVENUE.

**Sponsors:**      Carter III

**Attachments:**    [737 Van Buren.appeal.11-5-10.pdf](#)  
[737 Van Buren Ave.Fire C of O.10-8-10.dot](#)  
[737 Van Buren Ave.Photos.10-8-10.pdf](#)  
[737 Van Buren Ave.PC ltr.11-16-10.doc](#)

**Legislative History**

- 11/16/10 Legislative Hearings Laid Over to the Legislative Hearings  
*Laid over to December 21. Appellant to prepare a work plan with deadlines, and identify funds that will be used for the corrections. A walkthrough with Inspector Martin will be scheduled to clarify orders. The appellant will talk to Jim Bloom about the whether the work must be done by a licensed contractor. (Martin, 10/8)*
- 13 [ALH 10-367](#) Appeal of Selby Dale Co-Op to a Correction Notice Re-Inspection Complaint at 651 SELBY AVENUE.  
**Sponsors:** Carter III  
**Attachments:** [651Selby.appeal.11-5-10.pdf](#)  
[651 Selby Ave.Fire C of O Ltr.10-15-10.dot](#)  
[637 Selby Ave.Fire C of O Ltr.11-1-10.dot](#)  
[651, 671, 675, 637 Selby Ave.PC ltr.11-16-10.doc](#)  
**Legislative History**
- 11/16/10 Legislative Hearings Laid Over to the Legislative Hearings  
*No one appeared. Rescheduled to November 30.*
- 14 [ALH 10-368](#) Appeal of Patrick Lamb on behalf of Selby Dale Co-Op to a Correction-Notice Re-Inspection Complaint at 671 SELBY AVENUE.  
**Sponsors:** Carter III  
**Attachments:** [671Selby.appeal.11-5-10.pdf](#)  
[671 Selby Ave.Fire C of O Ltr.10-15-10.dot](#)  
[671 Selby Ave.Fire C of O Ltr.11-1-10.dot](#)  
[651, 671, 675, 637 Selby Ave.PC ltr.11-16-10.doc](#)  
**Legislative History**
- 11/16/10 Legislative Hearings Laid Over to the Legislative Hearings  
*No one appeared. Rescheduled to November 30.*
- 15 [ALH 10-369](#) Appeal of Patrick Lamb on behalf of Selby Dale Co-Ops to a Correction Notice Re-Inspection Complaint at 675 SELBY AVENUE.  
**Sponsors:** Carter III  
**Attachments:** [675 Selby.appeal.11-5-10.pdf](#)  
[675 Selby Ave.Fire C of O Ltr.10-15-10.dot](#)  
[675 Selby Ave.Fire C of O Ltr.11-1-10.dot](#)  
[651, 671, 675, 637 Selby Ave.PC ltr.11-16-10.doc](#)  
**Legislative History**
- 11/16/10 Legislative Hearings Laid Over to the Legislative Hearings  
*No one appeared. Rescheduled to November 30.*
- 16 [ALH 10-370](#) Appeal of Patrick Lamb on behalf of Selby Dale Cooperative to a Correction Notice Re-Inspection Complaint at 637 SELBY AVENUE.  
**Sponsors:** Carter III



**Attachments:** [637 Selby.appeal.11-5-10.pdf](#)  
[637 Selby Ave.10-6-10.dot](#)  
[637 Selby Ave.Fire C of O Ltr.10-15-10.dot](#)  
[637 Selby Ave.Fire C of O Ltr.11-1-10.dot](#)  
[651, 671, 675, 637 Selby Ave.PC ltr.11-16-10.doc](#)

**Legislative History**

11/16/10 Legislative Hearings Laid Over to the Legislative Hearings  
*No one appeared. Rescheduled to November 30.*

- 17 [ALH 10-371](#) Appeal of Patrick Siedow to a Fire Inspection Correction Notice at 1785 CASE AVENUE.

**Sponsors:** Bostrom

**Attachments:** [1785 Case.appeal.11-5-10.pdf](#)  
[1785 Case Ave.Fire C of O Ltr.10-14-10.dot](#)  
[1785 Case Ave.PC ltr.11-16-10.doc](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Grant a 3-inch variance on the openable height of the egress windows in the northeast side and southeast side bedrooms. Grant an extension to December 31, 2010 for bringing the attic egress windows into compliance. Grant an extension to May 31, 2011 to complete the exterior surfaces on the porch, house, shed and garage. (Thomas, 10/14)*

- 18 [ALH 10-383](#) Appeal of Michael Veehoff to a Fire Inspection Correction Notice at 192 MISSISSIPPI RIVER BOULEVARD NORTH.

**Sponsors:** Stark

**Attachments:** [192 Mississippi.Appeal.11-16-10.pdf](#)  
[192 Mississippi River Blvd N.Fire C of O Ltr.10-1-10.dot](#)  
[192 Mississippi River Blvd N.Fire C of O Ltr.11-10-10.dot](#)  
[192 Mississippi River Blvd N.PC ltr.11-16-10.doc](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Grant a 3-inch variance on the openable height of the egress windows in the main floor east, middle and west bedrooms. Grant the appeal of the order to repair sash cords (Item 7) in the breezeway between the house and garage. Deny the appeal of the order to provide window screens (Item 3) and grant an extension to May 31, 2011 for compliance. (Beumer, 9/29 & 11/9)*

- 20 [ALH 10-393](#) Appeal of R. Vlodayer to a Fire Inspection Correction Notice at 1722 and 1728 FORD PARKWAY.

**Sponsors:** Harris

**Attachments:** [1722 & 1728 Ford Parkway.appeal.11-16-10.pdf](#)  
[1722 Ford Parkway.Fire C of O Ltr.11-4-10.dot](#)  
[1722-1728 Ford Pkwy.PC ltr.11-16-10.doc](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Grant a 6-inch variance on the openable height of the egress window in the south bedroom at 1722. Grant a 1-inch variance on the openable height of the egress window in the south bedroom at 1728. Grant a 2-inch variance on the openable height of the egress window in the north bedroom at 1728. Grant the appeal of the order to repair or replace the dryer exhaust duct (Item 8). Grant the appeal of the order to remove the mattress from the basement (Item 3). The basement room may not be used for sleeping. Deny the appeal of the order to provide a heating facility test report (Item 6). (Gavin, 11/4)*

21 [ALH 10-394](#) Appeal of Gail Koslowski and Cornelius Brown to a Fire Certificate of Occupancy Order at 1694 EDMUND AVENUE.

**Sponsors:** Stark

**Attachments:** [1692 Edmund.appeal.11-9-10.pdf](#)  
[1692 Edmund Ave.Fire C of O Ltr.11-1-10.dot](#)  
[1692 Edmund Ave.Fire of O Order.10-20-10.dot](#)  
[1694 Edmund Ave.Documents.pdf](#)  
[1694 Edmund Ave.Window Bid.9-2-10.pdf](#)  
[1694 Edmund Ave.PC ltr.11-16-10.doc](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Deny the appeal and grant an extension to December 17, 2010 for removing the carpeting and bringing the floor into compliance (Item 3), and for bringing the interior walls into compliance (Item 2). Grant an extension to May 31, 2011 for painting the exterior window frames (Item 1). (Isabell, 10/29)*

**Window Variances**

[ALH 10-363](#) Appeal of Linda Bell to a Egress Window Non-Compliance Determination at 1036 DALE STREET NORTH.

**Sponsors:** Helgen

**Attachments:** [1036 Dale.appeal.11-5-10.pdf](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Grant an 8-inch variance on the openable height of two double hung replacement bedroom egress windows measuring 16 inches high by 31.5 inches wide.*

22 [ALH 10-386](#) Appeal of Bryan Horton on behalf of Renewal by Andersen to a Egress Window Non-Complaint Determination at 2078 HIGHLAND PARKWAY.

**Sponsors:** Harris

**Attachments:** [2078 Highland.appeal.11-9-10.pdf](#)  
[2078 Highland Pkwy.PC ltr.11-16-10.doc](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Grant a 1-inch variance on the openable height of two double hung replacement bedroom egress windows measuring 23 inches high by 25 inches wide.*

- 23     [ALH 10-388](#)     Appeal of Bryan Horton on behalf of Renewal by Andersen to an Egress Window Non-Compliance Determination at 1761 LINCOLN AVENUE.
- Sponsors:**     Harris
- Attachments:**   [1761 Lincoln.appeal.11-16-10.pdf](#)  
                          [1761 Lincoln Ave.PC ltr.11-16-10.doc](#)
- Legislative History**
- 11/16/10     Legislative Hearings                     Referred Under Master Resolution  
                          *Grant a 3 1/4-inch variance on the openable height of two double hung replacement bedroom egress windows measuring 20 3/4 inches high by 24 inches wide.*
- 24     [ALH 10-389](#)     Appeal of Jeremy Thompson to an Egress Window Non-Compliance Determination at 1931 FOURTH STREET EAST.
- Sponsors:**     Lantry
- Attachments:**   [1931 4th St.E.appeal.11-16-10.pdf](#)  
                          [1931 Fourth St E.PC ltr.11-16-10.doc](#)
- Legislative History**
- 11/16/10     Legislative Hearings                     Referred Under Master Resolution  
                          *Grant a 1.5-inch variance on the openable height of one double hung replacement bedroom egress window measuring 22.5 inches high by 33 inches wide, and a 1.5-inch variance on the openable height of one double hung replacement bedroom egress window measuring 22.5 inches high by 24 inches wide.*
- 25     [ALH 10-392](#)     Appeal of Dawn Childs on behalf of Twin Cities Remodeling to an Egress Window Non-Compliance Determination at 961 OSCEOLA AVENUE.
- Sponsors:**     Thune
- Attachments:**   [961 Osceola.appeal.11-16-10.pdf](#)  
                          [961 Osceola Ave.PC ltr.11-16-10.doc](#)
- Legislative History**
- 11/16/10     Legislative Hearings                     Referred Under Master Resolution  
                          *Grant a 1.66-inch variance on the openable height of one double hung replacement bedroom egress window measuring 22.34 inches high by 26.07 inches wide.*
- 26     [ALH 10-384](#)     Appeal of Wenshyan Wang to an Egress Window Non-Compliance Determination at 528 GALTIER STREET.
- Sponsors:**     Carter III
- Attachments:**   [528 Galtier St.appeal.11-16-10.pdf](#)  
                          [528 Galtier St.PC ltr.11-16-10.doc](#)
- Legislative History**
- 11/16/10     Legislative Hearings                     Referred Under Master Resolution  
                          *Grant a 1.5-inch variance on the openable width of one double hung replacement bedroom egress window measuring 29 inches high by 18.5 inches wide.*



**Attachments:** [1038 Avon.appeal.11-9-10.pdf](#)  
[1038 Avon St N.Fire C of O Ltr.11-5-10.dot](#)  
[1038 Avon St N.PC ltr.11-16-10.doc](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Grant a 4-inch variance on the openable height of the egress window in the second level bedroom. Grant a 2-inch variance on the openable height of the egress window in the lower level bedroom. (Isabell, 10/28)*

31 [ALH 10-391](#) Appeal of Jeff Boehm to a Fire Inspection Correction Notice at 2196 SIXTH STREET EAST

**Sponsors:** Lantry

**Attachments:** [2196 6th St.E.appeal.11-16-10.pdf](#)  
[2196 6th St E.C of O Ltr.10-29-10.dot](#)  
[2196 Sixth St E.PC ltr.11-16-10.doc](#)

**Legislative History**

11/16/10 Legislative Hearings Referred Under Master Resolution  
*Grant a 5-inch variance on the openable height of the egress windows in the main floor northwest and southwest bedrooms. Grant a 5-inch variance on the openable height of the egress windows in the upper floor southeast and west bedrooms. (Spiering, 10/28)*