

**College of Visual Arts  
c/o Alliance Management  
Carlson Towers, Suite 110  
601 Carlson Parkway  
Minneapolis, MN 55305  
(952) 475-2225**

August 19, 2014

St. Paul City Council  
310 City Hall-County Courthouse  
15 West Kellogg Boulevard  
Saint Paul, MN 55102-1615

Re: Appeal of Zoning File 14-293-465, St. Paul Domestic Abuse Intervention Project

Dear St. Paul City Council Members:

On behalf of the College of Visual Arts (CVA), I am respectfully submitting this letter to affirm that if CVA cannot sell its 394 Dayton Avenue property, with its current conditional use zoning status, CVA would suffer an exceptional hardship.

In 1995, CVA purchased the 394 Dayton Avenue property. At that time, it was an abandoned eight-plex. The property's dilapidation encompassed rotting floors and ceilings, cracked joists, missing gas and water piping, an illegally wired electrical system and unvented and uncapped plumbing vents and stacks. The exterior of the building was cracked and deteriorated (please see attached copy of the order to abate).

CVA performed a total rehabilitation of the building to get it up to code and convert it into a student library and office facility. The cost to do so was estimated at \$335,965.00. Because of the benefits to the community, a St. Paul STAR Grant was received to support the project and pay a portion of the costs.

Without approval of the conditional use permit sought by the St. Paul Domestic Abuse Intervention Project, a buyer would have to incur the substantial expense of undoing the good work that CVA did to restore the property.

Unfortunately, CVA was forced to close in June, 2013. CVA needs the proceeds from the liquidation of its assets including this property to pay CVA employees' salaries, taxes and severance, other outstanding debts, and costs incurred during the process. If the buyers of 394 Dayton do not receive the conditional use zoning, the value of the property would decrease dramatically. In this particular case and in consideration of the city's previous investment in the property, it would also deprive the community of the property's continued use for the benefit of a broad range of St. Paul citizens.

We appreciate the city of St. Paul's zoning committee and planning commission's close examination and conclusions in this matter. If there is any more information I can provide to the City Council in reviewing this matter, please do not hesitate to ask. Thank you for your consideration.

Sincerely,



James A. Rubenstein, Board Chair, College of Visual Arts  
Moss & Barnett  
150 South Fifth Street, Suite 1200  
Minneapolis, MN 55402  
P: (612) 877-5363 F: (612) 877-5061  
Jim.Rubenstein@lawmoss.com  
Enclosure



CITY OF SAINT PAUL  
Norm Coleman, Mayor

NUISANCE BUILDINGS CODE 612-298-4153  
ENFORCEMENT  
555 Cedar Street  
Saint Paul, MN 55101-2260

October 10, 1995

## Order to Abate Nuisance Building(s)

Douglas B. Fink  
386 Wabasha Street North #1350  
St. Paul, MN 55102-1387

Larry D. Fiscus  
606 Sibley Memorial Highway  
Mendota Heights, MN 55118

Dear Sir or Madam:

The Vacant/Nuisance Buildings Code Enforcement Unit of Saint Paul Public Health hereby declares the premises located at:

**394 Dayton Avenue**

and legally described as follows, to wit:

**Kern's Addition To St. Paul EX S 22 Ft Lot 4  
Blk 2**

to comprise a nuisance condition in violation of the Saint Paul Legislative Code, Chapter 45.02, and subject to demolition under authority of Chapter 45.11.

On September 27, 1995, a Building Deficiency Inspection Report was compiled and the following conditions were observed.

This list of deficiencies is not necessarily all the deficiencies present at this time. As first remedial action, a Code Compliance Inspection must be obtained from the Building Inspection and Design Section, 350 St. Peter Street Suite 320, Lowry Professional Building (612)266-9001. That inspection will identify specific defects, necessary repairs and legal requirements to correct this nuisance condition. You may also be required to post a two thousand dollar (\$2,000.00) performance bond with the Building Inspection and Design Office before any permits are issued, except for a demolition permit.

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This building(s) is subject to the restrictions of Saint Paul Ordinance Chapter 33.03 and shall not again be used for occupancy until such time as a Certificate of Compliance or a Certificate of Occupancy has been issued.

This is two-story, wood frame and brick apartment building.

#### **Exterior**

1. The painted surfaces have peeled and missing paint.
2. The mortar is missing between the bricks.
3. The exterior window panes are broken. There are missing combination window sashes including panes and screens.
4. The window frames are defective.
5. The siding on the south side of the building is deteriorated, falling apart, cracked and broken.

#### **Interior**

**Note:** The northwest corner of the cellar looks like it may have been a unit at one time.

6. The northwest corner ceiling and wall covering is ripped and torn.
7. The northwest corner bathroom toilet is dry.
8. The northwest corner bathroom sink is missing.
9. The northwest corner bathroom tub is missing.
10. The northwest corner bathroom walls are stripped.
11. The cellar concrete floor is soiled and dirty.
12. The cellar heat ducts are wrapped in asbestos.
13. The cellar chimney mortar is missing.
14. There are holes in the cellar chimney around the flue vents.

15. The cellar water pipes to the water heater has been removed.
16. The cellar gas piping has been removed.
17. Both boilers in the cellar are non-functional.
18. A temporary furnace has been installed to heat the building.
19. The cellar storage area doors are missing door handles.
20. The cellar interior windows are broken.
21. There is a major cut out in one of the cellar joists. There are several areas of rotted first floor sub-flooring.
22. One of the cellar joists is cracked.
23. The concrete block above the crawl space access on the south side is spalling.
24. The south side inside door frame is missing.
25. Remaining piping in the cellar is rusted and corroded.
26. The cellar electrical junction box covers are missing.
27. The fuse boxes are over fused.
28. The handrail for the cellar stairway does not extend the full length of the stairs.
29. The first floor hallway and stair carpeting is soiled and dirty.
30. The first floor hallway ceiling covering is cracked, peeled and missing.
31. The first floor walls show evidence of water damage.
32. The first floor hallway floor is warped and buckled.
33. Some of the first floor hallway plaster is missing.
34. The handrail to the second floor is missing.

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#### Unit 1

35. The carpeting has been removed from the rooms and the floors are soiled and dirty.
36. The bathroom fixtures have been removed.
37. The bathroom floor is rotted.
38. The bathroom ceiling and walls show evidence of water damage.
39. The bathroom door is missing.
40. All of the kitchen fixtures are missing.
41. The kitchen floor covering is not continuous and there are gaps between the tiles.
42. Some of the kitchen floor and wall moldings are missing.
43. The kitchen range gas pipe is not capped.
44. The kitchen wall and ceiling plaster is missing.
45. There is water damage and rot to the kitchen ceiling.
46. There are no electrical fixtures in the kitchen and the bare wires are hanging from the ceiling.

#### Unit 2

47. The carpeting has been removed and the walls are soiled and dirty.
48. The interior windows are cracked and the sash holding devices are broken or missing.
49. Several windows are boarded.
50. The electrical outlet and switch plates are missing.
51. The kitchen appliances have been removed and the water lines have not been capped.
52. The kitchen floor is soiled, dirty and warped.

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53. The kitchen wall has peeling and missing paint and plaster.
54. There are holes in the kitchen ceiling tiles.
55. The metal kitchen cabinets are damaged.
56. The bathroom fixtures have been removed.
57. The bathroom wall covering is peeled, flaking and missing.
58. One bathroom wall has plaster missing.
59. The bathroom floor is not impervious to water.
60. The bathroom door is missing.
61. Some of the bathroom piping has been disconnected.
62. The bathroom sink is not properly vented.
63. The bathroom toilet stack is not capped.
64. The free standing shower stall is soiled and dirty.

### Unit 3

65. The fixtures in the kitchen are soiled and dirty.
66. The floor of the kitchen cabinets is rusted. The wall behind the sink is in disrepair.
67. The kitchen floor is wavy and buckled.
68. The kitchen wall covering is cracked and peeling.
69. The living room floor tile has been partially removed.
70. The radiators throughout the unit have been disconnected.
71. There is a wall heater in the southeast room in a deteriorated condition.
72. The west room walls have peeling and missing wall covering.

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73. The west room ceiling tiles are falling and water damaged.
74. There is uncapped piping in the west room.
75. The window from the west room to the rear stairway is boarded.

#### **Unit 4**

76. The floors are wavy and buckled.
77. An interior window pane has been broken out.
78. The kitchen floor tile is cracked and broken.
79. The electrical outlet plates are missing.
80. The wall coverings are cracked, peeled and flaking.
81. The kitchen sink is not properly vented.
82. The bathroom has one wall with no plaster.
83. The bathroom floor covering is not impervious to water.
84. The bathroom toilet is dry.
85. The bathroom door handle is missing.
86. The bathroom light switch plate is missing.
87. The smoke detector is missing.
88. The main room wall panelling shows evidence of water damage.
89. The main room paint is peeled and flaking.
90. The main room ceiling is buckled and wavy and the ceiling tiles are loose.
91. The main room floor tiles are missing.

**Second Floor Hallway**

92. The second floor hallway carpeting is soiled and dirty.
93. The hallway ceiling and walls have fallen due to water damage.
94. The unit door jambs throughout show evidence of jimmying.
95. There is a bathroom off the hallway with damaged tiles.
96. The bathroom has damaged floor tiles.
97. The bathroom toilet is dry.
98. The paint on the bathtub is peeling.
99. The bathroom walls have peeled and missing paint.
100. The platform that the bathroom sink and cabinet are on is defective and rotted.
101. The bathroom floor under the toilet is rotted.

**Unit 5**

102. The bathroom wall tile is broken.
103. The bathroom wall covering is peeled and missing.
104. There is evidence of water damage to the bathroom ceiling.
105. There is illegal wiring to the bathroom air vent.
106. The bathroom toilet is dry.
107. The bathroom floor is not impervious to water and is around the bathtub, toilet and handsink.
108. The bathroom GFCI outlet is missing.
109. The living room has peeled and missing wall covering.
110. The carpeting has been removed and the floors are soiled and dirty.



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111. The paint on all wood surfaces is peeled and missing.
112. The wall surfaces in the living room area are cracked and peeling.
113. The livingroom electrical outlet covers are missing.
114. A kitchen cupboard is missing.
115. The kitchen walls are damaged and the plaster is broken.
116. The kitchen floor is rotted.
117. The kitchen window framing is missing.
118. The kitchen outlet covers are missing.
119. Several tiles are missing from the false ceiling.

#### Unit 6

120. The carpeting has been remove and the floors are soiled and dirty.
121. The north room has a missing window sash.
122. There are broken windows throughout.
123. The kitchen floor covering is chipped, cracked, soiled and dirty.
124. The kitchen sink has been removed.
125. The kitchen walls are unfinished where a large cabinet was removed.
126. There are holes in the bathroom floor.
127. The bathroom tub has been removed.
128. The bathroom ceiling and walls are water damaged.
129. The bathroom wall covering is peeled and flaking.
130. The bathroom vent has been removed.

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131. The bathroom toilet is dry.

132. The bathroom sink drain is missing.

133. There is a hallway from the bathroom of apartment number six and apartment number eight.

#### Unit 7

134. The south room smoke detector is missing.

135. There are nails in the middle of the floor.

136. The south room floor tiles are damaged, cracked and broken.

137. The south room ceiling is water damaged and partially down.

138. The pipes to the south room radiator have all been cut.

139. The kitchen floor tiles are broken and missing.

140. The kitchen sink cabinet base is rusted.

141. The kitchen sink faucet is missing.

142. The kitchen wall tiles are soiled and dirty.

143. The bathroom walls are moldy.

144. The bathroom floor tiles are broken, loose or missing.

145. The bathroom has broken and missing wall covering, and the wall is water damaged.

146. The bathroom door is missing.

147. The kitchen window frame is damaged.

148. There is some illegal romex wiring in the kitchen.

149. The kitchen has some missing wall plaster.

150. The tiles at the door sill are cracked and broken.

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### Unit 8

151. The carpeting in the unit is torn and partially removed.
152. The entry door frame is partially missing.
153. The living room walls have cracked and peeled wall covering.
154. The kitchen sink drain has been removed.
155. The kitchen faucet has been removed.
156. The stove has been removed.
157. The kitchen linoleum is soiled and dirty.
158. The gas line to the kitchen range is not properly capped.
159. The metal kitchen cabinet is rusted, soiled and dirty.
160. The south room shows signs of water damage to the walls and ceiling.
161. The south room floor is wavy and buckled.
162. The south room closet door is missing. The south room closet shows signs of water damage.
163. The south room windows are ill-fitting or missing frame work.

As owner, agent or responsible party, you are hereby notified that if these deficiencies and the resulting nuisance condition is not corrected by **November 9, 1995** the City of Saint Paul, Public Health will begin a substantial abatement process to demolish and remove the building(s). The costs of this action, including administrative costs and demolition costs will be assessed against the property taxes as a special assessment in accordance with law.

As first remedial action, a Code Compliance Inspection Report must be obtained from the Building Inspection and Design Section, 350 St. Peter Street Suite 320, Lowry Professional Building (612)266-9001. This inspection will identify specific defects, necessary repairs and legal requirements to correct this nuisance condition.

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As an owner or responsible party, you are required by law to provide full and complete disclosure of this "Order to Abate" to all interested parties, all present or subsequent renters and any subsequent owners. If you sell, transfer, or convey in any manner, the ownership or responsibility for this property, you must within seven (7) days, notify the Enforcement Officer with the names and addresses of any new owners or responsible parties.

The Enforcement Officer is required by law to post a placard on this property which declares it to be a "nuisance condition", subject to demolition and removal by the City. This placard shall not be removed without the written authority of Public Health. Public Health is further required to file a copy of this "Order to Abate" with the City Clerk's Office.

If corrective action is not taken within the time specified in this order, the Enforcement Officer will notify the City Council that abatement action is necessary. The City Clerk will then schedule dates for Public Hearings before the City Council at which time testimony will be heard from interested parties. After this hearing the City Council will adopt a resolution stating what action if any, it deems appropriate.

If the resolution calls for abatement action the Council may either order the City to take the abatement action or fix a time within which this nuisance must be abated in accordance with the provisions of Chapter 33 of the Saint Paul Legislative Code and provide that if corrective action is not taken within the specified time, the City shall abate this nuisance. The costs of this action, including administrative costs will be assessed against the property as a special assessment in accordance with law.

If you have any questions or request additional information please contact C. Shepherd between the hours of 8:00 and 9:30 a.m. at (612) 298-4153.

Sincerely,



Charles A. Votel  
Program Supervisor  
Housing Code Enforcement Programs  
Saint Paul Public Health

CAV:ml

cc: Nancy Anderson - Council Research  
Dan Pahl - PED Housing