

Joanna

2430

file 19th appear Dec 25th



APPLICATION FOR APPEAL

Saint Paul City Council – Legislative Hearings

RECEIVED

NOV 19 2015

CITY CLERK

310 City Hall, 15 W. Kellogg Blvd.

Saint Paul, Minnesota 55102

Telephone: (651) 266-8585

We need the following to process your appeal:

- \$25 filing fee (non-refundable) (payable to the City of Saint Paul) (if cash: receipt number 794605)
 - Copy of the City-issued orders/letter being appealed
 - Attachments you may wish to include
 - This appeal form completed
 - Walk-In OR Mail-In
- for abatement orders only: Email OR Fax

<p>HEARING DATE & TIME (provided by Legislative Hearing Office) Tuesday, <u>December 1 2015</u></p> <p>Time <u>11:00 A.M</u></p> <p>Location of Hearing: <u>Room 330 City Hall/Courthouse</u></p>


Address Being Appealed:

Number & Street: 433 HATCH City: St. Paul State: MN Zip: 55117

Appellant/Applicant: Gerald Krisik Email _____

Phone Numbers: Business _____ Residence Just call back Cell 651-354-9377

Signature: Gerald Krisik Date: November 19, 2015

Name of Owner _____
Mailing Address  Mr Gerald Krisik
433 Hatch Ave
Saint Paul, MN 55117

Phone Numbers: Business _____ Residence _____ Cell _____

What Is Being Appealed and Why? Attachments Are Acceptable

- Vacate Order/Condemnation/Revocation of Fire C of O
- Summary/Vehicle Abatement → Minnesota Statute 609.43 (4) and (5)
Trespass upon Locked Gated Private Property
- Fire C of O Deficiency List/Correction Abuse of Power and misuse of Authority;
- Code Enforcement Correction Notice wilful or malicious wrong under pretense
or color of official authority, to wit;
- Vacant Building Registration
- Other (Fence Variance, Code Compliance, etc.) I am a whistleblower and alledge a city
fire captain has used his position & contacts
as retaliation through inspections & P.S.



364

CITY OF SAINT PAUL
DEPARTMENT OF SAFETY AND INSPECTIONS
DIVISION OF CODE ENFORCEMENT
375 Jackson Street, Suite 220
Saint Paul, MN 55101- 1806

November 10, 2015
15 - 177332

SUMMARY ABATEMENT ORDER

Yog hais tias koj hais tsis to taub tsab ntawv no, hu rau tus txhais lus ntawm (651) 266- 8989. Nws yog pab dawb zwb. Si necessita un traductor, por favor lllamos al (651)266- 8989. No costo.

GERALD A KRISIK
433 HATCH AVE
SAINT PAUL MN 55117- 5112

As owner or person(s) responsible for : 433 HATCH AVE you are hereby ordered to eliminate all nuisance conditions which are in violation of Chapter 45 of Saint Paul Legislative Code.

- 1. Remove improperly stored or accumulated refuse including: garbage, rubbish, loose and scattered litter, discarded furniture, appliances, vehicle parts, scrap wood and metal, recycling materials, household items, building materials or rubble, tires, brush, etc., from yard areas. **VEHICLE PARTS RUBBISH, WOOD IN DRIVEWAY AND TRUCK BED OF FORD TRUCK AND IMPROPER STORAGE IN COMMERCIAL TRAILER IN THE DRIVEWAY. BRUSH, RUBBISH, IMPROPER STORAGE IN REAR YARD ALSO** Comply before **November 20, 2015**

If you do not correct the nuisance or file an appeal before **November 20, 2015** , the City will correct the nuisance and charge all costs, including boarding costs, against the property as a special assessment to be collected in the same way as property taxes.

Charges: If the City corrects the nuisance, the charges will include the cost of correction, inspection, travel time, equipments, etc. The rate will be approximately \$260 per hour plus expensed for abatement.

**You must maintain the premises in a clean condition and provide proper and adequate refuse storage at all times
FAILURE TO COMPLY MAY RESULT IN A CRIMINAL CITATION**

Issued by: Paula Seeley Badge: 364 Phone Number: 651- 266- 1916
If you have any questions about this order, the requirements or the deadline, you should contact the Inspector listed above, Monday through Friday.

Also Sent To:
Occupant

APPEALS: You may appeal this order and obtain a hearing before the City Council by completing an appeal application with the City Clerk before the appeal deadline noted above or seven (7) days after the date mailed, which ever comes first. No appeals may be filed after that date. You may obtain an appeal application from the City Clerk's Office, Room 310 in City Hall, 15 W Kellogg Blvd., St. Paul, MN 55102. The telephone number is (651) 266- 8688. You must submit a copy of this Summary Abatement Notice with your appeal application.

*WARNING Code inspection and enforcement trips cost the taxpayers money. If the violations are not corrected within the time period required in this notice, the city's costs in conducting a reinspection after the due date for compliance will be collected from the owner rather than being paid by the taxpayers of the city. If additional new violations are discovered within the next following 12 months, the city's costs in conducting additional inspections at this same location within said 12 months will be collected from the owner rather than being paid by the taxpayers of the city. Any such future costs will be collected by assessment against the real property and are in addition to any other fines or assessments which may be levied against you and your property.

sa.rpt 9/15



364

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Also Sent To:
Gerald A Krisik 433 Hatch Ave Saint Paul MN 55117- 5112

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sa.rpt 9/15



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 375 Jackson Street, Suite 220
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November 10, 2015

15 - 177332

VEHICLE ABATEMENT ORDER

Gerald A Krisik
 433 Hatch Ave
 Saint Paul MN 55117-5112

Occupant
 433 HATCH
 St Paul MN 55117-5112

- Yog hais tias koj hais tsis to taub tsab ntawv no, hu rau tus txhais lus ntawm (651) 266-8989. Nws yog pab dawb zwb.
- Si necessita un traductor, por favor llamanos al (651)266-8989. No costo.

As owner or person(s) responsible for 433 HATCH AVE

**YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING VEHICLES ARE IN VIOLATION
 OF THE SAINT PAUL LEGISLATIVE CODE, CHAPTERS 34, 45, OR 163**

Vehicle	#1	#2	#3
Make	FORD	FORD	FORD
Color	RED	BLACK	WHITE
License	VGT-200	874-EAG	GVT-405
Violation	A, D	A	A
Vehicle	#4	#5	#6
Make	FORD	UNKNOWN CAR	COMMERCIAL TRAILER
Color	SILVER	MAROON	DOUBLE AXLE
License	999-GMX		
Violation	A, D	A, B, C, D	F

VIOLATION CODE: **A** - Lacks current license/tabs **D** - Appears undriveable/inoperative
 B - Open to entry/unsecured **E** - Unimproved surface
 C - Missing vital parts/dismantled **F** - Other violation **ILLEGALLY PARKED IN A RESIDENTIAL ZONING DISTRICT**

FAILURE TO COMPLY MAY RESULTS IN TAGGING AND/OR TOWING.

CHARGES: If the City impounds and disposes of the vehicle(s), the charges assessed to the above property will be approximately \$1,000.00 for each vehicle. This charge does not include impound fees and other related costs for release of vehicle(s).

Vehicles found to be in violation on or after **November 20, 2015** will be removed, impounded and disposed of in accordance with law. The cost of this abatement will be charged against the property as a special assessment to be collected in the same way as property taxes. Noncompliance with this order and repeat violations will result in the issuance of criminal citation
Issued by: Paula Seeley Badge Number: 364 Phone Number: 651-266-1916

Appeals: You may appeal this order and obtain a hearing before the City Council by completing an appeal application with the City Clerk before the appeal deadline noted above or seven (7) days after the date mailed, whichever comes first. No appeals may be filed after that date. You may obtain an appeal application from the City Clerk's Office, Room 310, City Hall, St. Paul, MN 55102. The telephone number is (651) 266-8585. You must submit a copy of this Vehicle Violation Notice with your appeal application.

***WARNING** Code inspection and enforcement trips cost the taxpayers money. If multiple trips within a year to your property are required to insure compliance with the law, you may be charged for the cost of inspections and enforcement trips to your property. Such charges are in addition to any other fines or assessments which may be levied against you and your property.

609.455 PERMITTING FALSE CLAIMS AGAINST GOVERNMENT.

A public officer or employee who audits, allows, or pays any claim or demand made upon the state or subdivision thereof or other governmental instrumentality within the state which the public officer or employee knows is false or fraudulent in whole or in part, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

History: *1963 c 753 art 1 s 609.455; 1984 c 628 art 3 s 11; 1986 c 444*

Notes Of Decisions (34)

Validity

Mayor could have known from terms of cl. (2) of this section prohibiting misconduct by a public officer that making threats to a citizen and attempting to coerce an end to police investigation regarding citizen complaint against her were acts outside her "lawful authority" and statute was not vague as applied to mayor. *State v. Andersen*, App.1985, 370 N.W.2d 653 . Municipal Corporations ¶ 124(1)

Statute prohibiting misconduct by public officer, cl. (2) of this section, as applied to mayor who accused a citizen of breaking the law, threatened the citizen with legal action, and attempted to interfere with a police investigation was not unconstitutionally "overbroad." *State v. Andersen*, App.1985, 370 N.W.2d 653 . Constitutional Law ¶ 1926

Construction and application

Neither conduct of city clerk-treasurer in preparing and presenting list of delinquent utility accounts to city council, knowing lists omitted her own delinquent account and that of a city council member, nor conduct of the council member in signing the lists, knowing the two delinquent accounts were missing, amounted to offense of "misconduct of a public officer or employee" for making a materially false official report, where clerk-treasurer was not required to list all delinquent accounts, and she never represented to city council that the list was all-inclusive. *State v. Flicek*, App.2003, 657 N.W.2d 592 . Municipal Corporations ¶ 174

Section 620.02 (repealed; see, now, this section) could have no application to city as such. *City of Fergus Falls v. Fergus Falls Hotel Co.*, 1900, 80 Minn. 165, 83 N.W. 54, 81 Am.St.Rep. 249 .

A county attorney who indorses his approval on a bail bond for the purpose of enabling a prisoner to escape arrest for another offense, committed in another county, is guilty of misbehavior in office, and liable to indictment. *State v. Wedge*, 1877, 24 Minn. 150 . District And Prosecuting Attorneys ¶ 11

While the criminal provisions of § 471.87, apply only to municipal officers guilty of a conflict of interest, any public officer who knowingly authorizes unlawful contract, even though he does not receive a personal benefit may be subject to the criminal provisions of this section. *Op.Atty.Gen.*, 90a-1, April 22, 1971.

Penalty imposed under § 126.11 (repealed; see, now § 127.11) was not exclusive but members of school board could be prosecuted under § 620.02 (repealed; see, now, this section), by paying for transportation of children of school district, including but without discriminating in favor of their own children, for misappropriation of public funds. *Op.Atty.Gen.* 494-B-23, Dec. 13, 1949.

Official capacity

Defendant acted in his official capacity within meaning of statute prohibiting misconduct by public officer or employee when he relied on his position as a sheriff's deputy to obtain a key, to access room in nonpublic area of the sheriff's office, and to enter the pharmaceutical depository box on multiple occasions without notice; defendant's various opportunities to access the box resulted only from his official position. *State v. Gruber*, App.2015, 864 N.W.2d 628 .

"Official capacity" within meaning of statute prohibiting misconduct by public officer or employee refers not only to express duties set out by statute for public official but more broadly to all of a public employee's responsibilities in serving the public interest. *State v. Gruber*, App.2015, 864 N.W.2d 628 . Officers and Public Employees 121

"Official capacity" within meaning of statute prohibiting misconduct by public officer or employee refers not only to express duties set out by statute or rule for public official but more broadly to all duties and responsibilities public official or employee has in serving public interest in particular public office. *State v. Ford*, 1986, 397 N.W.2d 875 . Officers And Public Employees 121

Defendant acted in his official capacity within meaning of statute prohibiting misconduct by public officer or employee when he used his position as teacher, assistant vice-principal and speech coach to promote his relationships with female students. *State v. Ford*, 1986, 397 N.W.2d 875 . Officers And Public Employees 121

Failure to perform or neglect of duty

"Willful neglect of duty", penalized by §§ 612.04 and 613.51 (repealed; see, now, this section) was not intended to apply to the neglect to perform a duty of such a character that as a matter of public interest a public officer must, in faithful discharge of his duties, scrutinize the prior proceedings to determine their legality in order to conclude whether his duty has in fact arisen. State v. Bratrud, 1941, 210 Minn. 214, 297 N.W. 713 . Officers And Public Employees ☞ 121

It is duty of town board to administer poor relief to needy persons within township and to co-operate with county relief worker appointed by State Emergency Relief Administration to administer poor relief, and in doing so to administer and handle poor relief funds which are town funds, part state and part federal. Op.Atty.Gen.1934, No. 665, p. 963.

A vote of school district to conduct schools for but six months in the year is void, and it is school board's duty to maintain school for the minimum period of seven months, and failure to do so constitutes a gross misdemeanor, and school conducted for less than seven months is not entitled to school aid. Op.Atty.Gen.1926, No. 165, p. 147.

If a retiring town clerk wilfully fails to deliver the town records to a newly elected and qualified clerk he should be prosecuted under section 613.51 (repealed; see, now, this section), and any party having knowledge of the fact may go before a justice or other magistrate and swear to a complaint, which will result in arrest and eventual trial of the delinquent town officer. Op.Atty.Gen.1922, No. 550, p. 423.

Failure of village clerk to keep a minutes book in manner prescribed by § 412.12 (repealed; see, now, § 412.151) constituted a violation of § 612.04 (repealed; see, now, this section) and he could be prosecuted for commission of gross misdemeanor. Op.Atty.Gen.1922, No. 45, p. 71.

Acts in excess of lawful authority

"Official misconduct" occurs when public officer, in his official capacity, does act he knows is in excess of his lawful authority. State v. Serstock, 1987, 402 N.W.2d 514 . Officers And Public Employees ☞ 121

Neither Code of Professional Responsibility nor city ethics code were intended to delineate "lawful authority" for purposes of this section. State v. Serstock, 1987, 402 N.W.2d 514 . Officers And Public Employees ☞ 121

"Lawful authority" as used in this section is determined by statutes which define and describe public official's authority. State v. Serstock, 1987, 402 N.W.2d 514 . Officers And Public Employees ☞ 121

Probable cause supported charges of misconduct of public officer or employee, where defendant, a public school teacher and administrator, gave favors forbidden by school rules to minor female students in exchange for consensual sexual contact. State v. Ford, 1986, 397 N.W.2d 875 . Criminal Law ☞ 238(3.1)

Code of Professional Responsibility did not establish "lawful authority" of deputy city attorney within meaning of cl. (2) of this section, and, thus, indictment which simply alleged that attorney violated Code of Professional Responsibility in "ticket fixing" actions did not state offense in that power to discipline attorneys rests entirely with Minnesota Supreme Court. State v. Serstock, App.1986, 390 N.W.2d 399 , review granted, affirmed in part, reversed in part 402 N.W.2d 514 . Municipal Corporations ☞ 174

Allegation that deputy city attorney exceeded lawful authority in dismissing tickets issued outside city and that attorney exceeded authority under statute limiting attorney's authority over prosecution of traffic offenses to offenses which occurred inside city stated offense pursuant to cl. (2) of this section. State v. Serstock, App.1986, 390 N.W.2d 399 , review granted, affirmed in part, reversed in part 402 N.W.2d 514 . Municipal Corporations ☞ 174

Evidence that mayor accused citizen of breaking the law, threatened citizen with legal action, and attempted to interfere with a police investigation was sufficient to convict her of misconduct by a public officer. State v. Andersen, App.1985, 370 N.W.2d 653 . Officers And Public Employees ☞ 122

Officers of town who in good faith certify as to taxes levied at annual town meeting as required by statute, should not be held liable under criminal statutes for taxes that might have been levied without authority by the electors. Op.Atty.Gen., 519-O. April 29, 1947.

Complaints

State's error in not citing in complaint any statute defining defendant's "lawful authority" referred to in the charging clause, misconduct by a police officer, was harmless, where defendant deputy sheriff failed to show how the error misled him or left him to defend in the dark, and the state had identified a statutory definition of defendant's authority as a peace officer in its proposed jury instructions ten days before defendant's trial. *State v. Gruber*, App.2015, 864 N.W.2d 628 . Criminal Law 1167(1)

Although complaint did not enumerate charged clause of statute, misconduct by a police officer, it included an almost verbatim recitation of the second clause, which established that a crime occurs when a police officer, "in the capacity of such officer or employee, does an act knowing it is in excess of lawful authority or knowing it is forbidden by law to be done in that capacity," and thus defendant's right to notice of the nature and cause of accusation against him under the Sixth and Fourteenth Amendment were not violated. *State v. Gruber*, App.2015, 864 N.W.2d 628 . Constitutional Law 4581 Indictment and Information 110(3)

Indictment and information

Indictment which alleged that deputy city attorney knowingly committed acts in excess of his lawful authority by dismissing or manipulating tickets for moving violations which occurred outside of city sufficiently set forth elements of crime of official misconduct. *State v. Serstock*, 1987, 402 N.W.2d 514 . Municipal Corporations ¶ 174

Indictment which alleged that deputy city attorney dismissed or manipulated numerous tickets for moving violations issued outside city was not sufficiently specific, and prejudiced attorney, where indictment failed to describe tickets involved, statute allegedly violated, and number of tickets in question. *State v. Serstock*, 1987, 402 N.W.2d 514 . Municipal Corporations ¶ 174

Informations, charging mayor of municipality with willfully refusing to sign a warrant in payment of bill for road oil contracted for with an oil company and with willfully refusing to sign a contract with certain engineers to proceed with a preliminary survey for a sewage disposal plant as directed by city council, did not state facts constituting a "public offense". *State v. Bratrud*, 1941, 210 Minn. 214, 297 N.W. 713 . Municipal Corporations ¶ 174

An indictment charging accused with taking part in auditing and approving for payment a fraudulent claim against the state was sufficient. *State v. Buhler*, 1924, 159 Minn. 228, 198 N.W. 543 . States ¶ 81

An indictment was found against a county attorney for corruptly approving a bail bond and directing the discharge of a prisoner against whom an indictment had been found, with a view of thereby preventing his arrest upon a criminal complaint filed in another county. Held, that the indictment against the county attorney need not show such prisoner guilty of the offense charged in the complaint, or that the complaint was technically sufficient. *State v. Wedge*, 1877, 24 Minn. 150 . District And Prosecuting Attorneys ¶ 11

Admissibility of evidence

In prosecution of police officer for malfeasance in aiding gamblers in illegal operations, exclusion of evidence that defendant acted under instruction from superior officer was not prejudicial, since evidence was not admissible in mitigation of guilt. *State v. Raasch*, 1937, 201 Minn. 158, 275 N.W. 620 . Municipal Corporations ¶ 190

Review

District court did not abuse its discretion by allowing the state to elicit testimony from police sergeant regarding what conduct police officers are permitted to engage in, in prosecution for misconduct of a deputy sheriff; sergeant did not declare defendant's guilt, rather, he testified that sworn police officers are not supposed to take controlled substances without a prescription or commit theft, and that theft is wrong and against the law. *State v. Gruber*, App.2015, 864 N.W.2d 628 . Criminal Law 450

District court acted within its discretion in admitting documentary and testimonial evidence about five clauses of sheriff's department policy manual in prosecution for misconduct by a public officer, where defendant's knowledge of his responsibilities as a sheriff's deputy, including those identified in the manual, was relevant to whether he knew that his acts, of taking drug's from locked pharmaceutical box in sheriff's office, exceeded his authority. *State v. Gruber*, App.2015, 864 N.W.2d 628 . Criminal Law 429(1)