



City of Saint Paul

15 West Kellogg Blvd.
Saint Paul, MN 55102

Minutes - Final Legislative Hearings

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

Tuesday, February 26, 2013

9:00 AM

Room 330 City Hall & Court House

9:00 a.m. Hearings

Remove/Repair Orders

- 1 [RLH RR 13-9](#) Ordering the rehabilitation or razing and removal of the structures at 1054 CENTRAL AVENUE WEST within fifteen (15) days after the February 20, 2013 City Council Public Hearing. (To be laid over at City Council to February 26, 2013 Legislative Hearing and March 20, 2013 City Council public hearing)

Sponsors: Carter III

Continued to March 12, 2013 LH. The following conditions must be met:

- 1. post the \$5,000 performance deposit;*
- 2. provide a work plan, including timelines, for the scope of work in accordance with the code compliance inspection report;*
- 3. the property must be maintained;*
- 4. if involving a third party (ie: non-profit organizations), need to see a contract between the third party and owner and that contract would need to be approved by the City and they will need to show that they have the funds and ability to do the project; and*
- 5. provide a letter from the Bank stating that owner is entitled to the property (received, reviewed and approved by hearing officer on 2/27/13)*

RE: 1054 Central Ave W (single family)

Douglas Moore, Contract for Deed owner, appeared. (Bankers Trust Co of CA / Countrywide Home Loans, listed as owner)

Ms. Moermond:

- have a copy of the contract; don't see information that it was recorded with Ramsey County (Mr. Moore: there is a Ramsey County stamp on the document)

Steve Magner, Vacant Buildings:

- update*
- this is a layover from Jan 22, 2013*
- read letter from Mai Vang to Mr. Moore, sent January 31, 2013*

Doug Moore
PO Box 147
1360 University Avenue W
Saint Paul MN 55104
VIA US MAIL

Re: Order to Remove or Repair for Property at 1054 Central Avenue West
Dear Mr. Moore:

This is to confirm that on January 22, 2013 at the Legislative Hearing, Marcia Moermond, Legislative Hearing Officer recommended continuing the above-referenced matter to Tuesday, February 19, 2013 at 9:00 a.m. in Room 330 City Hall & Courthouse in order for DSI staff to provide you with proper notification. In the meantime, you should order the code compliance inspection at your earliest convenience.

Ms. Moermond may need verification that the contract for deed is recorded with Ramsey County Record and if they recognize you as an interested party and if so, she may ask the City Council to do a layover to get the following conditions:

1. the \$5,000 performance deposit must be posted with the Department of Safety and Inspections;
2. maintain the property;
3. work plan or sworn construction statement, with timelines, for the completion of the rehab of the building (can document labor and value of labor if being done by you);
4. subcontractor bids, if any; and
5. demonstration of at least \$50,000 being available for the project. This may be one of the following: 1) construction loan, 2) a line of credit or 3) a bank statement which demonstrates you have the financial means to complete the project.

The City Council Public Hearing is scheduled for Wednesday, February 20, 2013 at 5:30 p.m. in Room 300 Council Chambers.

If you have questions, please contact me at 651-266-8563.

Sincerely,

Mai Vang, Legislative Hearing Coordinator

c: Steve Magner

Joe Yannarely

Amy Spong

Christine Boulware

Vicki Sheffer

Bankers Trust Co of CA, NA, 400 Countrywide Way, Simi Valley CA 93065
BAC Home Loans Servicing, LP, 400 National Way, Simi Valley CA 93065
BAC Field Services, Escalation Dept, 301 E Vanderbilt, Ste 350, San Bernardino CA 92408

- also sent copies of the Order to Abate and copies of the Public Hearing Notices
- Mr. Moore has a Contract dated Jan 27, 1999, stamped with Ramsey County
- the Code Compliance Inspection fee paid on Feb 14, 2013 (the inspection has been set-up for next Wed, Mar 6, 2013)

Ms. Moermond:

- we are still looking at an Ownership and Encumbrance Report that indicates that Mr. Moore was a previous owner but not the current owner
- she doesn't know what to do with the ownership situation
- the Ownership and Encumbrance Report doesn't list Mr. Moore as the current owner; it lists the bank as the owner and Mr. Moore as a former owner
- city ordinance prevents the sale of this property

Mr. Moore:

- doesn't have \$50,000 to finish this rehab; although he thinks the house is worth rehabbing
- he has a 2:00 p.m. appointment tomorrow with a company like We Buy Ugly Houses; the contractor would be taking the financial responsibility for the project in exchange for, basically, the title to the property and some remuneration to him

Mr. Magner:

- if Mr. Moore intends to rehabilitate the structure with a 3rd party, legally, there can't be transfer of title here but he could enter into another contract with someone to get his interests
- the letter from the bank will prove that Mr. Moore is entitled to the property and it will also allow Mr. Moore to bring a 3rd party to finance this project (make it clear to the 3rd party that: 1) the city relinquishes the nuisance on the structure - takes away the VB status; and 2) someone pays off the contract with the mortgage company

Ms. Moermond:

- if Mr. Moore decides to involve a 3rd party, that contract would need to be approved by the city
- the investor would need to show that they have the funds and ability to do the project
- still need a \$5,000 Performance Deposit and the Code Compliance Inspection Report (coming)
- taxes are current
- need a letter from the Bank involved that the Contract for Deed is in full force and has not been cancelled
- this will be laid over to the Mar 20, 2013 City Council Public Hearing
- she wants to see progress on this; all conditions need to be met by Mar 12, 2013 LH
- needs to see contract with the 3rd party; their work plan with timelines (would accept a draft work plan)
- 3rd party must demonstrate they have the necessary funds and ability to finish the rehab
- property must be maintained
- if these conditions are met, she will ask the City Council for more time at the Mar 20, 2013 City Council Public Hearing

Laid Over to the Legislative Hearings due back on 3/12/2013

- 2** [RLH RR 13-11](#) Ordering the rehabilitation or razing and removal of the structures at 1889-1891 MONTANA AVENUE EAST within fifteen (15) days after the March 6, 2013, City Council Public Hearing.

Sponsors: Bostrom

To be laid over to March 26, 2013 Legislative Hearing, if necessary, and City Council on April 3, 2013. The following conditions must be met by Friday, March 22, 2013:

- 1) a Work Plan with timelines or Sworn Construction Statement, including bids;
- 2) financial document in the form of a line of credit, construction loan or personal bank account;
- 3) move forward on the retaining wall

RE: 1889-1891 Montana Ave E (duplex)

Greta Burgett, Attorney representing Nations Star (bank that holds Sheriff's Certificate), appeared.

Sale took place Aug 23, 2012; redemption period expires Feb 25, 2013

Steve Magner, Vacant Buildings:

- read Mai Vang's letter with conditions following last LH Feb 12, 2013:

*Greta Burgett
Wilford, Geske & Cook
8425 Season Pkwy #105
Woodbury MN 55125*

VIA EMAIL: gburgett@wgcmn.com

Re: Order to Remove or Repair for Property at 1889-1891 Montana Avenue East

Dear Ms. Burgett:

This is to confirm that on February 12, 2013 at the Legislative Hearing, Marcia Moermond, Legislative Hearing Officer stated that the following conditions must be met by the close of business on Friday, February 22, 2013:

- 1. provide a lockbox code for DSI inspectors to gain access to the interior of the building; and*
- 2. post the \$5,000 performance deposit.*

A Legislative Hearing is scheduled for Tuesday, February 26, 2013 at 9:00 a.m. in Room 330 City Hall for a status report on where things are at. At that hearing, if the two aforementioned conditions are met, she will recommend that the City Council lay the matter over for an additional two weeks, during which your client must provide the following:

- 1. a work plan or sworn construction statement, with timelines, for the completion of the rehab of the building and must be done in accordance with the code compliance inspection report (Note: this work plan must address the retaining wall as well);*
- 2. provide financial documentation (a line of credit, sworn construction loan or a bank statement) dedicating the funds for the project (City's estimate to repair is between \$50,000 to \$60,000); and*
- 3. provide contractor bids, if necessary*

The City Council Public Hearing is scheduled for Wednesday, March 6, 2013 at 5:30 p.m. in Room 300 Council Chambers.

If you have questions, please contact me at 651-266-8563.

Sincerely,

Mai Vang, Legislative Hearing Coordinator

*c: Steve Magner
Joe Yannarely
Amy Spong
Christine Boulware
Vicki Sheffer*

- since Feb 12 letter was sent, the city has received the Code Compliance application and the \$5,000 Performance Deposit

- the Code Compliance inspection is done; the report document has not yet been finalized (Mr. Seeger was there Feb 20, 2013; the electrical inspector was there Feb 25; the plumbing inspector was there Feb 25; the mechanical inspector was there Feb 22)

- Zoning - it's a Nonconforming Use; both Code Enforcement staff and Building Inspection staff have advised Zoning that in their opinion, the building was originally constructed as a side-by-side duplex; and, as such, the owner is requesting an administrative waiver of that; it's been forwarded to the Zoning Administrator, Wendy Lane, who is in the process of doing the 10-day neighborhood notification (required by Ordinance); unless there is objection from the neighborhood, the Department of

Safety and Inspections (DSI) should be able to issue permits by the time this process is completed

- does not see a general tracking folder in STAMP at this time

Ms. Moermond:

- timing is important; she doesn't want the Council to vote on this before the administrative process is completed

- is looking for an appropriate banking official saying that their client is setting aside X amount of dollars for this particular rehab

Ms. Burgett:

- client is in process of getting bids for the retaining wall

- is working with someone to get the financial documentation on Nations Star letterhead

Mr. Magner:

- DSI can issue a building permit for the retaining wall separate from a building permit for the house

- will talk with Reid Soley and have him send an email to the Zoning Administrator to find out the dates and times of how this will proceed and the response will be communicated to the Appellant

- hopefully, the Code Compliance Inspection Report will be done either today or tomorrow

Ms. Moermond:

- at City Council Public Hearing May 6, 2013, she will lay this over to give the Appellant a chance to get the rest of the documents together: a Work Plan or Sworn Construction Statement, including bids; financial document; move forward on retaining wall

- deadline for those documents: close of business, Fri Mar 22, 2013

- Mar 26, 2013 LH, if we need it (could be done in paper / email form

- then, CCPH Apr 3, 2013

- a confirmation letter will follow

Referred to the City Council due back on 3/6/2013

3 [RLH RR](#)
[13-14](#)

Ordering the rehabilitation or razing and removal of the structures at 1333 MARGARET STREET within fifteen (15) days after the March 20, 2013, City Council Public Hearing.

Sponsors: Lantry

3/12/13--owner showed up at legislative hearing. Owner to contact Twin Cities Habitat for Humanity by Friday, March 15, 2013 to find out if they are interested in acquiring the property. If so, LHO will recommend grant of time to make the transaction.

Minutes from March 12, 2013 Legislative Hearing:

Jon Larsen:

- asked if he had to be at the hearing

Ms. Moermond:

- it looks like he did not have to come, but they should hear what he has to say

Mr. Larsen:

- Dayton's Bluff said it cost \$100,000 to rehab, so they were not interested in the donation

Ms. Moermond:

- asked if he talked to Habitat for Humanity

Mr. Larsen:

- said he did not find a local chapter, which he wanted to do after he found out about Dayton's Bluff

Ms. Moermond:

- a community development corporation would have to meet federal contracting requirements which increases the money the work is going to cost

Amy Spong, Heritage Preservation Commission (HPC)

- a new staff person in PED was hired by Habitat and is being housed in PED
- she cannot think of his name
- Al Carlson brought him around last week
- (she gave the owner Carlson's number)

Ms. Moermond:

- this is before the City Council on March 20
- the owner should call Twin Cities Habitat and then he should call her
- she would like to slow things down a bit so the owner can deal with this issue

Minutes from February 26, 2013 Legislative Hearing:

Following conditions must be met by March 12, 2013:

- 1. property taxes must be paid and brought current;*
- 2. obtain a new code compliance inspection;*
- 3. provide a new work plan, including timelines, for the rehab;*
- 4. the property must be maintained;*
- 5. post a \$10,000 performance deposit;*
- 6. financial information must be provided (a line of credit, sworn construction loan or a bank statement);*
- 7. subcontractor bids.*

If conditions are not met, she will recommend that the City Council order the building be removed or repaired within 15 days. If you are not able to do the repairs, you can also sign the property over to a non-profit organization for them to make the repairs.

RE: 1333 Margaret St (single family)

Jon N. Larsen, owner, appeared.

Steve Magner, Vacant Buildings:

- this property was here a little more than 13 months ago; subsequently, a 180-day resolution was passed to move forward to rehabilitate the property; however, that hasn't happened; at this time, there is an outstanding resolution to Remove this building
- now, that more time has elapsed, we were expecting Mr. Larsen to do something

A 3-minute RECESS was taken to collect the file from last year

Steve Magner, Vacant Buildings:

- 2-story wood frame single-family dwelling with a detached 3-stall garage on a lot of 5,227 sq. ft.
- it's been vacant since Sep 26, 2006
- current owner is listed as Jon N. Larsen per Ramsey County records
- Nov 15, 2011, inspection of building conducted; a list of deficiencies which constitute a nuisance condition developed; photos taken
- Order to Abate Nuisance Building posted Nov 22, 2011; compliance date Dec 22, 2011
- as of this date, the property remains in a condition which comprises a nuisance as defined by the legislative code
- estimated market value on the land: \$19,200; on the building: \$8,200
- real estate taxes for 2012 are delinquent in the amount of \$2,547.40, plus penalty and interest
- Vacant Building registration fees were paid by assessment Nov 5, 2012
- Code Compliance Inspection was done Jan 30, 2012 and has since expired
- as of Feb 25, 2013, the \$5,000 Performance Deposit has not been posted (NOTE: Performance deposits were forfeited on Jan 11, 2012 and on Dec 28, 2009 for nonperformance of the work)
- 4 Summary Abatement Notices since 2006
- 1 Work Order issued for garbage/rubbish
- estimated cost to repair this structure exceeds \$50,000
- estimated cost to demolish is between \$10,000 and \$12,000
- the Department of Safety and Inspections (DSI) is seeking a resolution to Remove the building within 15 days
- there's no note of a change in dollar amount for the Performance Deposit
- permits go back to 2008 and all are inactive; this would require all new permits

Amy Spong, Heritage Preservation Commission (HPC):

- 1905 wood frame structure - 1 3/4 story
- original owner: L. L. Heimers
- in Greater East Side, well outside of the Dayton's Bluff Historic District
- large church and school at the end of this block - not a strong rhythm of houses along the block
- next door is a more modern split level home
- across the street, there is good rhythm with no vacant lots; houses are of similar era, size and scale
- area surveyed in 1983 - no properties identified
- the windows and siding have been changed to more modern
- demolition would not have an adverse affect

Mr. Larsen:

- he's over his head and was unable to accomplish the structural things he wanted to do
- he was running out of time and thought if he put \$30,000 into the project and it was late, it would get torn down anyway
- he found a licensed contractor to take over but then, he found out that he wasn't licensed
- now, he's found a different licensed contractor, Absolute Integrity Construction - he does a lot of work for the city
- he also found financing
- he signed a Purchase Agreement that it could be sold after it's done
- it's a house that people would be interested in buying

Ms. Moermond:

- the city can't go with a Purchase Agreement - that would be "selling the property" - the city could accept a contract with Absolute
- the taxes/assessments weren't paid last year - approximately \$2,500 for 2012
- asked Mr. Magner why they didn't knock it down (Mr. Magner: he doesn't have an answer; the resolution said they could; he thinks the city contacted Mr. Larsen and he said that he was going to keep trying to get it done; now, the city has given him 2 chances and he still hasn't gotten it done; unless something changes in the next 2 weeks, they will look for a new resolution and clarify their path to move forward with the demolition)
- another option for Mr. Larsen is to sign it over to a nonprofit: Dayton's Bluff Neighborhood Housing Services; East Side Neighborhood Development Corp; etc., (Mr. Larsen: I wish I had known that a year ago; last year he misunderstood the cost of the demolition; he thought it was a lot higher; he also had an interest in moving into the house at that time)
- we are going to finish this
- if Mr. Larsen wants to repair the property, he will need to:
 - pay the taxes
 - get a fresh Code Compliance Inspection Report
 - a fresh Work Plan
 - maintain the property
 - post a \$10,000 Performance Deposit
 - prove of available fund to do the work
 - if working with a contractor, she needs to see the contract for its approval
 - the deadline for all these conditions is Tue, Mar 12, 2013 or at the Mar 20, 2013 City Council Public Hearing, she will recommend that they Order the building be removed or repaired within 15 days
 - if Mr. Larsen starts the process of signing it over to a nonprofit, it will take a little more time and she will initiate a conversation to whomever it's signed over to and she will cooperate with that; if he chooses that option, he could also walk on the demo assessment

Referred to the City Council due back on 3/20/2013

11:00 a.m. Hearings

Fire Certificates of Occupancy

- 4 [RLH FCO 13-51](#) Appeal of John W. Sweeney to a Fire Inspection Correction Notice at 1064 ENGLEWOOD AVENUE.

Sponsors: Carter III

Rescheduled per owner's request.

Laid Over to the Legislative Hearings due back on 3/5/2013

Summary Abatement Orders

- 5 [RLH SAO 13-8](#) Appeal of Darrell Kowarsch to a Vehicle Abatement Order at 241 SIDNEY STREET EAST.

Sponsors: Thune

Grant until May 1, 2013 to bring vehicles into compliance.

RE: 241 Sidney St E (single family)

Darrell Kowarsch appeared.

Inspector Joel Essling:

- Vehicle Abatement Order issued Jan 31, 2013; compliance date is Feb 11, 2013
- regarding 2 vehicles (Ford and Toyota) that meet the definition of abandoned vehicles per the St. Paul Legislative Code
- notice sent to Crystal Lodin and Jennifer Kowarsch (Mr. Kowarsch's nieces)
- has had phone conversations with Mr. Kowarsch and advised him that the city would give him an extension to Apr 1, 2013 or he could come to this hearing
- there have been no complaints - this was a field find

Mr. Kowarsch:

- he works construction - is a carpenter by trade
- currently, he is laid off; yesterday he had a call from Jorgenson Const when the inspector pulled up
- yesterday, he was out working on the vehicles and got them running
- the truck is the main vehicle he uses
- he gets unemployment - \$1,360; rent is \$955/mo plus utilities
- he was first able to get his license back Feb 19, 2013 but it costs \$710, which he doesn't have to put up at this moment
- if he does get back to work, he has a ride from his girlfriend to and from work until he can get on his feet
- is asking for a little bit of time (vehicles are paid for)
- he does have the "no use" tabs for the truck (a friend signed for him); the plates/tabs for the car are due in Mar
- money is the issue right now and the economy is bad; he'd love to be able to go back to work
- his sister was killed in 2007 and he is maintaining the property for his nieces until the housing market comes back; then, they will sell it; they want to sell the house to him but it's too big for him; he doesn't need that big of a house
- his nieces live in Hugo and Lino Lakes; he's lived at the property since 1964 (family home; his sister bought it from their dad; then, dad died and then, his sister was killed in W. St. Paul in 2007 on her bicycle)
- there is no garage; only a concrete driveway, shed and yard
- truck needs a radiator and a bumper; he's contacted junk yards; can put on a temporary bumper until he finds a used one
- his unemployment runs out Mar 6, 2013; he has called to see if he qualifies for an extension - no answer yet
- he will keep the cars all cleaned up so that they don't look abandoned

Ms. Moermond:

- missing key parts, having expired plates, and appearing inoperable can get the vehicles towed
- if he can show the inspector that the vehicles are drivable within the next couple of weeks, she will grant an extension to May 1, 2013; if they can't move, the deadline will be Apr 1, 2013

Referred to the City Council due back on 3/20/2013

11:30 a.m. Hearings

Orders To Vacate, Condemnations and Revocations

- 6 [RLH VO 13-10](#) Appeal of Susan Clarin to a Fire Certificate of Occupancy Revocation and Order to Vacate at 1674 MARION STREET.

Sponsors: Brendmoen

Grant the appeal to be out of the Fire C of O Program and Vacant Building Program. In the meantime, the exterior items still need to be addressed; will refer file to Code Enforcement. Grant until May 1, 2013 for exterior items (Items 2, 3, 4, 5, 6, 7, and 9) to come into compliance with the exception of the painting (Item 1) which is granted until June 1, 2013. Items 8, 10, 11 and 12 are withdrawn from Order.

RE; 1674 Marion St (single family)

Susan Clarin, owner, appeared.

Ms. Clarin:

- this the second time she has appeared regarding 1674 Marion St; the city keeps putting it under the C of O Program and it's not under that; she thought that had been covered at the last hearing*
- the inspector came out to inspect the adjacent property, 1668 Marion, which had the same ID number as 1674; 1668 was a rental that she used to own (she doesn't own it any more)*
- the inspector came to re-inspect 1668 Marion and she still had it associated with Susan Clarin's name*

Fire Inspector Leanna Shaff:

- Aug 29, 2011 - water shut-off resulting in a referral*
- Sep 1, 2011 - Inspector Martin talked to Water and went out to the property and transferred it to the Fire Certificate of Occupancy Program*
- photos in Amanda taken Feb 6, 2013*
- Inspector Martin took Inspector Neis out to look at the property*
- Notes: water consumption is 2 units; very low usage on both electric and gas per Xcel (Dec 2011)*
- Jan 29 - Inspectors Martin and Neis went to the site and noticed that it doesn't look as though any one lives there; the house is suffering from major deferred maintenance*
- given the information from utilities and the observed exterior, the C of O was Revoked and it was referred to the VB Program (suspended pending the outcome of his hearing)*
- the property needs a thorough inspection, inside and out*
- the inspectors determined this was an unoccupied building by walking around the outside looking into the windows to see whatever they could see*

Ms. Clarin:

- 1668 Marion was a rental; 1674 was not a rental (both owned by her); she currently lives in the 1674 property - so it's not vacant*
- 1668 is currently vacant and owed by Bank of America*
- the utilities' charges are very low; it's only a 400 sq. ft. home*
- is appealing that this property should not have been in the C of O Program; so, the requirements that are being asked to be done for the C of O would be different from the ones listed*
- has an Xcel energy bill - she is gone a lot, so, there isn't much usage; her Xcel bill for Jan 2013 was \$123.18 (there's no washer or dryer and there's no basement)*

- the property does have a water bill and an Xcel energy bill - there is daily usage
- she can get documentation from Xcel showing consumption, if needed
- she is also in negotiation with someone to sell the property where the house would be torn down
- she purchased 1668 Marion in hopes that the 2 would be combined and she would be able to develop some kind of apartment building but the expenses got to be too much at 1668 and the property was foreclosed
- the truck parked there is her son's and it's not supposed to be there and her son knows that
- he daughter owns a house across Larpenteur on Woodbridge where her son and her father live
- she parks at 1675 Woodbridge (her father is 81; she helps take care of him) and there's lots of going in between
- the day the Vacant Building Notice was posted, her son and his father were both there on the property; there was someone there and they did not know the notice was coming
- she didn't get Ms. Martin's appointment Notice because it was sent to her P.O. box and she picks that mail up once or twice a week.

Ms. Moermond:

- looking at footprints in the snow on the photos
- the P.O. Box is the business address (Ms. Clarin has had some mail stolen)
- her driver's license has the Marion address
- is looking for notes from the inspectors that supports the determination that this property is unoccupied

Ms. Shaff:

- Inspector Martin's Notes 2-7-13: no sign of occupancy; truck in driveway; no current tracks; screens torn; window locks broke; property owner no show; took photos; appears vacant
- Inspector Neis sent to VB
- last Truth in Sale of Housing (TISH) Report dated Jun 26, 2009; items from the 1668 Marion TISH Report were rolled over to 1674 Marion
- there's no TISH Report for 1674 Marion

Ms. Clarin:

- has owned this for many years; bought it on Contract for Deed (probably 18-20 yrs)
- when she put it on the market, it was for the land only 2 1/2 lots, right on Larpenteur and Marion (house torn down)

Ms. Moermond:

- a list of Orders has been written up for the exterior but there's no deadline
- is not seeing anything weather sensitive except for the painting
- even if this doesn't go into the Registered VB Program, all of the items are in play but for the furnace testing, the smoke detector and the interior
- exterior items and parking are still in play
- deadline - May 1, 2013 all repairs except for the painting;
- deadline for painting - Jun 1, 2013
- recommend out of the Registered VB Program and the Fire C of O Program
- all else needs to be done
- we will refer this to Code Enforcement
- if the structure is knocked down, the Corrections won't matter
- if you sell and the house is still there, it needs a TISH Report

Referred to the City Council due back on 3/20/2013

7 [RLH VO
13-11](#)

Appeal of Bill Bernier to a Fire Inspection Correction Notice (includes condemnation of Third Unit) at 776 AURORA AVENUE.

Sponsors: Carter III

Deny the appeal.

RE: 776 Aurora Ave (duplex)

Bill Benier, owner, appeared.

Fire Inspector Leanna Shaff:

- *received a complaint Nov 26, 2012 about an illegal 3rd floor unit for rent that was advertised on Craig's List*
- *Inspector Michael Efferson's Notes: he spoke to the responsible party, who admitted to trying to rent the 3rd floor space; owner stated that he had gone to the city to get permits to use this space; Inspector Efferson explained that the building was listed as a duplex and until the city changes it, it can't be used for anything more*
- *property was due for a Fire Certificate of Occupancy Inspection, which he scheduled for Dec 27, 2012; Mr. Benier didn't show*
- *Inspector Efferson called and spoke with Mr. Benier, who said that he didn't understand why the inspection was necessary; he stated that inspecting his property amounted to harassment and his attorney would be contacting him*
- *Inspector Efferson spoke with Supervisor A. J. Neis for guidance*
- *Jan 28, 2013 - received a handwritten request to re-schedule this day; this is the 2nd appointment that has been either missed or requested to re-schedule*
- *Inspector drove by building to check on the original complaint of the 3rd floor being used illegally and found 3 mailboxes at the front of the building and issued Orders*
- *Jan 29, 2013 - called owner and requested that an inspection be set up; owner began to get hostile, complained about city government, requested my full name; he said that he could rent this to anyone he wanted; he partially admitted that the 3rd floor is being used as a triplex but then retracted and said it was a duplex; he refused to answer questions completely, etc.*
- *a general building permit was pulled Jun 2011 - some work was done on the 3rd floor*
- *there's declaration that declares the duplex consists of a lower level (first floor) - the 1st Unit; and combined 2nd and 3rd floor are the 2nd Unit*
- *no locks may be placed on any interior doors separating the 2nd and 3rd floors / common area of the house*
- *Inspector Neis says that there are locks separating the 2nd and 3rd floors*
- *Inspector Efferson has been at the property since and spoke with a man who claimed to be the 3rd floor tenant; the tenant said that the owner told the tenant not to answer the door for the city; the owner also came to him and wanted him to sign a piece of paper saying that he shared the 2nd floor space with the 2nd floor tenant*
- *the last C of O inspection - there's an approved C of O with Corrections dated Mar 19, 2012 (started Oct 19, 2011) by Inspector Imbertson*

Mr. Bernier:

- *is appealing the whole Order - items 1 - 6*
- *bought duplex in 2008; got it cleaned-up, occupied and approved by city officials*
- *Oct 2011- got his C of O; now, they want him to do the inspection again or maybe they haven't even given him a C of O; ever since he's made an observation and comment about some of the inspectors, the city has had some issues with their disposition toward him*
- *Inspector Efferson talked with the tenant without notifying Mr. Bernier (Mr. Bernier finds that quite improper); he has threatened the tenant with signs of Condemnation on the door*

- he put \$28,000 into the 3rd floor and now, the inspector wants to Condemn it
- that is not a 3rd Unit; there's 2 Units (there are 2 furnaces and 2 water heaters and 2 kitchens and 2 electrical boxes: first floor and 2nd & 3rd floor; that's the way it's built and it was all approved through the city; doesn't know why this end of the city is duplicating the issue and then, Condemning the property
- he has spoken with a state building inspector (Mr. Hedquist) as well as an attorney already
- Inspector Hedquist told him he could put locks on any door he wanted to (there's no law that says you can't do that); he will get Mr. Hedquist to find that law

Ms. Moermond:

- she is hearing something different; she is hearing that the building permit is a separate issue than calling it a duplex when it's being used as a triplex
- it had a duplex status for the last C of O
- Mr. Hedquist is a licensed building official, a private inspector, not a state inspector

Ms. Shaff:

- reading from a copy of the Declaration of Restricted Deed Covenant signed by Mr. Bernier, filed with Ramsey County; it specifically states: "No locks may be placed on any interior doors separating the second and third floors / common areas"

Mr. Bernier:

- if that's such a big deal, he'll take the lock off
- that Declaration was a written agreement he signed under duress
- probably 70% of third floors are finished in that area of town
- Inspector Imbertson came through the building before the 3rd floor was done or during the process of fixing it up

Ms. Shaff:

- Oct 19, 2011 - Inspector Imbertson letter for C of O appointment asked for access to 2nd floor unit
- Nov 21, 2011 - Inspector Imbertson letter asking for access to the upper unit
- Dec 23, 2011 - Inspector Imbertson letter asking for access to the upper unit
- Jan 10, 2012 - inspector still asking for access to the upper unit
- Jan 27, 2012 - still asking for access to upper unit
- Feb 23, 2012 - still asking for access
- Mar 2012 - C of O was approved

Mr. Bernier:

- during that time, he had a tenant who took about 6 months to vacate; he and his wife had pit bulls up there and 4 kids; he was working for Mr. Bernier; they hired Southern Minnesota Regional Legal Services (SMRLS); he had to hire an attorney to get rid of them; he didn't get them out until Mar 7, 2012
- this guy slashed all of Mr. Bernier's tires and threatened him, physically, on 3-4 occasions; it's not fun dealing with some tenants; when they finally left, the inspector was able to get in
- he was bitten by one of the pit bulls

Ms. Moermond:

- staff thinks this is an illegal triplex; Mr. Bernier is saying that it's a legal duplex
- part of staff's argument is tenant testimony; the locks between the 2nd and 3rd floors; a Craig's List ad and the 3 mailboxes in front
- the city has zoning codes in place for a reason
- from what she is seeing, she thinks this building is a triplex based on the evidence provided at this hearing
- we will put this in front of the City Council on Mar 20, 2013 at 5:30 pm

- *she will recommend denying this appeal*
- *no enforcement on the existing Orders will take place until the City Council makes a decision on this appeal*

Referred to the City Council due back on 3/20/2013