



# APPLICATION FOR APPEAL

Saint Paul City Council – Legislative Hearings

310 City Hall, 15 W. Kellogg Blvd.

Saint Paul, Minnesota 55102

Telephone: (651) 266-8585

RECEIVED

AUG 25 2017

CITY CLERK

Reference # 10147

We need the following to process your appeal:

- \$25 filing fee (non-refundable) (payable to the City of Saint Paul) (if cash: receipt number \_\_\_\_\_)
  - 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

HEARING DATE & TIME (provided by Legislative Hearing Office) Tuesday, <u>Sept. 12, 2017</u>
Time <u>11:30 a.m.</u>
Location of Hearing: Room 330 City Hall/Courthouse

## Address Being Appealed:

Number & Street: 529 Portland Avenue City: St. Paul State: MN Zip: 55102

Appellant/Applicant: William J. Uhlenbott Email c/o attorney: grahambutler@backpack.net

Phone Numbers: Business \_\_\_\_\_ Residence \_\_\_\_\_ Cell \_\_\_\_\_

Signature: Graham Butler, A.R.N. 0013742 Date: August 25, 2017

Name of Owner (if other than Appellant): \_\_\_\_\_

Mailing Address if Not Appellant's: Graham Butler Legal Services, P.A.  
2499 Rice St. N. - Suite 125, Roseville MN 55113

Phone Numbers: Business (651) 486-9400 Residence \_\_\_\_\_ Cell (651) 278-0028

## What Is Being Appealed and Why?

Attachments Are Acceptable

- Vacate Order/Condemnation/Revocation of Fire C of O
- Summary/Vehicle Abatement
- Fire C of O Deficiency List/Correction
- Code Enforcement Correction Notice
- Vacant Building Registration
- Other (Fence Variance, Code Compliance, etc.)

Reasons for Appeal of Revocation. See attached letter. The Deficiency list is ~~in part~~ erroneous. Number 2 states, "Provide ... ceiling construction with approved materials and methods" (Emphasis supplied). A contractor stated he called to ask the Fire Inspector specialist a questions regarding the requirements. No return telephone call was made. This occurred between June 19, 2017 and August 25, 2017. Graham Butler, attorney, then called and left messages for



CITY OF SAINT PAUL  
*Christopher B. Coleman, Mayor*

375 Jackson Street, Suite 220  
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989  
Facsimile: 651-266-8951  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

August 18, 2017

WILLIAM J UHLENKOTT  
529 PORTLAND AVE  
ST. PAUL MN 55102

### **Revocation of Fire Certificate of Occupancy and Order to Vacate**

RE: 529 PORTLAND AVE  
Ref. # 10147

Dear Property Representative:

Your building was inspected on August 17, 2017, for the renewal of the Certificate of Occupancy. Since you have failed to comply with the applicable requirements, it has become necessary to revoke the Certificate of Occupancy in accordance with Section 40.06 of the Saint Paul Legislative Code.

**A reinspection will be made on August 31, 2017 at 11:00 AM or the property vacated.**

The Saint Paul Legislative Code further provides that no building shall be occupied without a Certificate of Occupancy. Failure to immediately complete the following deficiency list or the building vacated may result in a criminal citation.

#### DEFICIENCY LIST

1. Basement - MSFC 315.3.1 - Provide and maintain a minimum of 18 inches clearance between the top of the storage and the sprinkler heads throughout the space.
2. Basement - MSFC 703.1, 1106.1 - Provide and maintain fire rated floor and/or ceiling construction with approved materials and methods. This work will require a permit(s). Call DSI at (651) 266-8989. The minimum rating must be: 1 hour. -Provide fire separation between storage area and residential units, or add sprinkler heads to cover the area, or remove the storage.
3. Throughout - SPLC 34.08 (6) - Remove the accumulation of exterior storage that creates a nuisance or harbors rodents.-Remove all exterior storage of items from the property. (Buckets, recycle bins, tarps, pallets, furniture, buffet, and pots.) Bricks may be left for the remained of the construction season.

Saint Paul Legislative Code authorizes this inspection and collection of inspection fees. For forms, fee schedule, inspection handouts, or information on some of the violations contained in this report, please visit our web page at: <http://www.stpaul.gov/cofo>

You have the right to appeal these orders to the Legislative Hearing Officer. Applications for appeals may be obtained at the Office of the City Clerk, 310 City Hall, City/County Courthouse, 15 W Kellogg Blvd, Saint Paul MN 55102 Phone: (651-266-8585) and must be filed within 10 days of the date of this order.

If you have any questions, email me at: [Justin.Elvestad@ci.stpaul.mn.us](mailto:Justin.Elvestad@ci.stpaul.mn.us) or call me at 651-266-8982 between 7:30 - 9:00 a.m. Please help to make Saint Paul a safer place in which to live and work.

Sincerely,

Justin Elvestad  
Fire Inspector

Ref. # 10147

William J. Uhlenkott, Appellant

Ref # 10147

and  
Department of Safety and Inspections, City of St. Paul

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3 City of St Paul employees: Justin Elvestad, the supervisor of fire inspectors and the fire inspector whose name was supplied to Graham Butler by DOSI.

No telephone calls were returned to assist getting the fire inspection questions answered or to set up a conference - either telephone or personally - with the contractor and the fire inspector specialist. Without consultation there could not + cannot be progress. If the City is under-populated in DOSI - i.e. not enough inspectors - they should acknowledge that and set up a conference ~~anyway~~ on a definite date.

The inspector stated the fire inspector would have to separately inspect the sprinklers and did not bring the inspector on August 17, 2017. ~~If the~~ Mr. William J. Uhlenkott told ~~the~~ Mr. Justin Elvestad the work was scheduled for the following

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week, August 21, 2017 - August 25, 2017.

In spite of this Justin Elvestad did not say he was going to revoke the Certificate of Occupancy. In spite of the Fire Inspector being unavailable on August 17, 2017, no one week extension was granted.

Justin Elvestad revoked the Certificate of Occupancy the following day, August 18, 2017, a Friday. He then set up a ~~reinspection~~ <sup>reinspection</sup> date of August 31, 2017, ~~and~~ after revoking the Certificate.

He stated the "property (will be) vacated" on that date "or" "(a) reinspection will be made on August 31, 2017...."

Specifically, he ~~stated~~ wrote, "A reinspection will be made on August 31, 2017 at 11:00 A.M. on the property vacated." Underlined & bolded.

The revocation is based on failure to communicate, also called, lack of due process.

~~It is to~~ Due process

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requires communication. I call it  
fairness. Fairness requires talking  
or writing to the taxpayer and  
owner. This failed to  
happen! There is no  
reason not to return my  
calls. They are not  
unreasonable questions - to  
ask to speak to the fire  
inspection specialist.

It is bad City policy  
~~to say~~ to refuse to return  
telephone calls.

It is bad policy to even  
call back and not leave  
a message. The message  
should move the process  
along by saying, "Call the  
Fire Inspector specialist for  
residential buildings or  
his supervisor at this  
number with your  
questions."

There are no  
privacy issues here  
when you leave such  
a message. Calling the attorney

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back by one of the ~~three~~  
two fire inspection specialists  
would have answered  
the need for the contractor  
to ask the fire specialist  
his construction-type questions.

Therefore, that reason  
for revocation is wrong.  
The Certificate of Occupancy  
should be immediately  
reinstated.

Next, Number 1 of the Deficiency  
list: "Provide and maintain a minimum  
of 18 inches clearance between the  
top of the storage and the  
sprinkler heads throughout the  
space. That was done  
before the inspection, yet  
on August 17, 2017.

The inspector did not  
inspect the area to see that.  
We understand why, probably.

The early construction of the  
additional sprinklers ~~had~~ was going to  
be done the following week & Mr.

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Whitcomb had stated that to Mr.  
Justin Elvestad when he inspected  
the property on August 17, 2017. It  
the same objections of  
lack of due process, lack  
of fairness and common sense  
apply to Number One.

Incidentally, the <sup>additional</sup> spunker  
heads were installed ~~on~~ during  
the ~~week~~ <sup>three days</sup> of August 21 through  
August 23, 2017. as outlined

Finally the objections to  
Number 3 - Remove the accumula-  
tion of exterior storage that creates  
a nuisance (emphasis supplied) or harbors  
rodents. (emphasis supplied)

There ~~are~~ <sup>is not a</sup> ~~no~~ nuisance.  
An "attractive nuisance" would  
be a dangerous situation - such  
as a swimming pool - that is  
inherently dangerous. No such  
situation here. The items listed in the  
details either do not exist - such as the  
buffet removed some time ago before  
~~the~~ August 17, 2017 - are required by



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low - such as the recycle bins -  
or are lawn furniture - such  
as the glass table and chairs  
surrounding the table - or are  
storing wood on pressure-treated  
pallets (2 of them) - or are used  
seasonally in spring, summer and  
fall to plant flowers ~~or~~ - such  
as pots.

There is one pallet of  
large cut pieces of wood  
which has been removed. The  
pots have flowers. There  
are no yard conditions which  
harbor rodents - mice, voles, rats.  
The yard is safe. Buckets will be stored. So will tanks.

There are squirrels in the  
neighborhood and yard. They  
are not considered rodents which  
are to be ~~exterminated~~ removed  
from ~~such~~ the yard.

Now, no one returns telephone  
calls to ~~me~~ Graham Butler  
to date regarding the sprinklers  
or setting up ~~but~~ telephone  
conferences.

I will take ~~good~~ pictures of

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the yard for Mr. Justin  
Elvestad's inspection in the  
period between August 25, 2017  
through the date of the  
hearing, September 12, 2017.

I believe the pictures will  
clarify and lead to ~~of deficiency~~  
Number 3 being removed from  
Mr. Elvestad's Deficiency list.

My client and ~~his attorney~~  
will ~~respond~~ continue to respond  
positively to the final sentence in  
every Department of Safety and  
Inspections letter which states:

Please help to make ~~the~~ Saint  
Paul a safer place (emphasis  
supplied) in which to ~~work~~  
~~and~~ live live and work.

Sincerely,

Graham Butler  
Attorney for William J. Uhlenkott