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November 17, 2010

St. Paul City Council
City of St. Paul
15 West Kellogg Boulevard
St. Paul, MN 55102

RE: Appeal of Jeffrey DeLisle to Notice of Condemnation, 520 Rice Street

Dear Members of the City Council:

Be advised that I am the attorney for MW#1 doing business as Corner Meats & Grocery ("Corner Meats"). Corner Meats is a tenant on the ground floor of the Property at 520 Rice Street. Corner Meats serves the needs of the surrounding community for their meat and grocery requirements and is a thriving local business. The business employs five local individuals. The business is managed by Antar Wazwaz. Mr. Wazwaz has managed this store since its opening approximately one and one-half years ago and in that short period of time has become an integral member of the Rice Street community. This is Mr. Wazwaz' sole source of income and he relies on this business to support his wife, four children and numerous members of his extended family. If this business is condemned it would result in a substantial negative economic impact to its employees, customers and Mr. Wazwaz and his family.

The condemnation under discussion was originally posted on the building on or about October 21, 2010. It was amended on or about October 29, 2010. The condemnation revoked the building's Fire Certificate of Occupancy. Corner Meats requests that the building be given a partial Fire Certificate of Occupancy while the remainder of the items contained on the Notice of Condemnation are completed by the Landlord. Corner Meats has completed all of the items regarding the interior of the store. Yesterday an electrical permit was issued to complete the remaining electrical items in the store premises. Those items were completed today and my client will request an inspection tomorrow to review those electrical items.

The Notice of Condemnation has issued only one finding with regard to life safety issues referencing the store premises. That dealt with the floor of Corner Meats. In the meeting of minutes of Legislature Hearing Officer, Marcia Moermond, dated November 16, 2010, she indicates in pertinent part as follows: "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.” The Landlord has completed a temporary shoring in the basement to hold up the Corner Meats’ floor. This was completed and reviewed by William Lindau, a structural engineer hired by the Landlord. A copy of Mr. Lindau’s report on the temporary shoring plan is attached hereto as Exhibit A.

The replacement of floor will primarily impact the meat market in Corner Meats. Corner Meats has applied for a permit to move the butcher shop portion of the meat market to an adjacent room while the floor is being replaced. St. Paul City Ordinances allow the issuance of a Fire Certificate of Occupancy for a portion of the building as long as there are no life safety issues.

Analysis

In the City of St. Paul all buildings are required to have and maintain a Fire Certificate of occupancy. St. Paul Ordinance, Title 6 §40.01. In the event a Notice of Condemnation is issued for a building within the City of St. Paul the property owner may appeal within ten (10) days to the Legislative Hearing Officer. See St. Paul Ordinance, Title 6 §40.06 (b)(1)(d). When a Condemnation Notice is appealed to the Legislative Hearing Officer, the enforcement proceedings “shall be held in abeyance if the owner shall file an appeal to the legislative hearing officer within ten (10) days of receiving the written order” for condemnation. St. Paul Ordinance Title, 6 §40.06 (c)(2). However in the case of an order to vacate a structure that has been determined to be in an “unsafe condition and dangerous to life and limb” the order will not be delayed until the building is determined to be safe. *Id.*

In the event a property’s Fire Occupancy Certificate is suspended or revoked the property may not be occupied until an inspection can be completed and the Fire Certificate can be reinstated. St. Paul Ordinance, Title 6 §40.06 (d). If a portion of the condemned premises has been brought into compliance with the city’s fire code, a Partial Fire Certificate of Occupancy may be issued. St. Paul Ordinance, Title 6 §40.03. The Partial Fire Certificate of Occupancy shall indicate, “that a portion of an existing structure complies with all state and local safety codes allowing its use as a commercial building” and “describe specifically which portion of the building is approved for occupancy.” *Id.*

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Corner Meats is requesting that they be given a Partial Certificate of Occupancy for the retail store continuing through the time when the first floor posts and beams have been replaced and the new floors installed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. J. Foster', with a long horizontal flourish extending to the right.

Robert J. Foster
Attorney for Corner Meats

RJF:dk
enclosure
cc: client