



APPLICATION FOR APPEAL

RECEIVED

MAY 10 2011

CITY CLERK

Saint Paul City Clerk

310 City Hall, 15 W. Kellogg Blvd.

Saint Paul, Minnesota 55102

Telephone: (651) 266-8560

The City Clerk needs the following to process your appeal:

- \$25 filing fee payable to the City of Saint Paul (if cash: receipt number _____)
- Copy of the City-issued orders or letter which are being appealed
- Attachments you may wish to include
- This appeal form completed

YOUR HEARING Date and Time:

Tuesday, May 24, 2011

Time 11:00 a.m.

Location of Hearing:

Room 330 City Hall/Courthouse

called 5-10-11

Address Being Appealed:

Number & Street: 214 East 4th Street City: St Paul State: MN Zip: 55101

Appellant/Applicant: Union Depot Lofts Assn' Email: zachvolk@gmail.com

Phone Numbers: Business _____ Residence _____ Cell 651-343-4471

Signature: Zach Volk ^{Unit 223} Zach Volk UDLA Date: May 8, 2011

Name of Owner (if other than Appellant): _____

Address (if not Appellant's): _____

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
- Fire C of O Deficiency List
- Fire C of O: Only Egress Windows
- Code Enforcement Correction Notice
- Vacant Building Registration
- Other
- Other
- Other



CITY OF SAINT PAUL

*Christopher B. Coleman, Mayor*375 Jackson Street., Suite 220
Saint Paul, MN 55101-1806

Telephone: 651-266-8989

Facsimile: 651-266-1919

Web: www.stpaul.gov/dsi

April 29, 2011

NOTICE OF CONDEMNATION AS UNFIT FOR OCCUPANCY AND ORDER TO VACATE

Union Depot Lofts
Common Interest Community #716
214 4th St. E.
St. Paul, MN 55102

Heidi Langworthy-Groess
Agent for Union Depot Lofts, CIC #716
Paradise & Associates, LLC
971 Sibley Memorial Highway, Suite 350
St. Paul, MN 55118

Dear Sir or Madam:

The Department of Safety and Inspections, has determined that the Community Room/Roof Deck and the Trash Chute located at **214 4TH ST E** are hazards to the health, safety or welfare of the occupants or to the public. Both structures are hereby ordered vacated and are condemned as unfit for occupancy. Both structures will be placarded on **Friday, May 6, 2011 at 9:00** and are ordered vacated no later than **Monday, May 9, 2011 at noon**. In order for the inspector to gain access, you or your agent must meet with the inspector on May 6, 2011 at 9:00 am.

A material endangerment exists per SPLC 23.34(7)b, based on the following violations of the Fire Code:

1. Pursuant to International Fire Code (2006) §1019, an approved second exit is required for the use of the Community Room and Roof Deck. The structure must be secured against occupation by disabling elevator access and changing the stairway access door lock to the roof deck/ community room. The board of the Union Depot Lofts or its agent shall be the sole possessor of the new access key.
2. Pursuant to International Fire Code (2006) §707.13, a one hour fire-resistant enclosure is required around the Trash Chute. The structure must be secured against access by changing access door locks. The board of the Union Depot Lofts or its agent shall be the sole possessor of the new access key.

Remedial action must be completed no later than May 23, 2011 at noon. An inspection to verify that remedial action to secure against access and occupation has been completed will be conducted and is scheduled for May 24, 2011 at 1:00 pm.

EFFECTIVE MAY 6, 2011 AT NOON, THE AREAS OF THE COMMUNITY ROOM/ROOF DECK AND THE TRASH CHUTE SHALL NOT AGAIN BE OCCUPIED OR USED UNTIL WRITTEN APPROVAL IS SECURED FROM THE CITY OF SAINT PAUL; DEPARTMENT OF SAFETY AND INSPECTIONS, DIVISION OF CODE ENFORCEMENT.

All repairs and new installations must be made in accordance with the appropriate codes. Permit information may be obtained from the Building Inspection and Design Section, 375 Jackson Street, Suite 220, (651) 266-8989.

You may appeal this notice by filing with the legislative hearing officer a written petition requesting such hearing and setting forth a brief statement of grounds therefore within ten (10) days after the date of the original notice of code violations. Applications for appeals may be obtained at the Office of the City Clerk, 310 City Hall, City/County Courthouse, 15 W. Kellogg Blvd., St. Paul, MN 55102.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Ubl". The signature is fluid and cursive, with the first name "Stephen" written in a larger, more prominent script than the last name "Ubl".

Stephen Ubl
Sr. Building Inspector
City of St. Paul
651-266-9021

Notice: US Postal Service

c: Posted to ENS

uhh 4/11

May 6, 2011

RE: APPEAL OF NOTICE OF CONDEMNATION AS UNFIT FOR OCCUPANCY AND ORDER TO VACATE – UNION DEPOT LOFTS

To Whom It May Concern:

This letter serves as the Union Depot Loft Association's (UDLA) initial appeal of the above titled notice of condemnation, which was received by the UDLA on April 30th 2011. The notice of condemnation covered two topics:

- Lack of an approved second exit for the community room and rooftop deck;
- Lack of a fire resistant enclosure for the trash chute.

Factual Background

All knowledge the UDLA has regarding the history surrounding this issue is the result of a discovery request made to the City of St. Paul's Senior Building Inspector Steve Ubl, who provided copies of all notices sent out from his office relating to this matter.

- To the best of the UDLA's knowledge the City of St. Paul and its building inspectors first raised these issues in March of 2010, which at that time the UDLA was controlled by JAS Apartments (and its owner Stephen Frenz).
- In April of 2010 David Nelson, a St. Paul Building Inspector, met with Stephen Frenz to observe the community room and its exit points.
- On May 5, 2010 Mr. Nelson informed Mr. Frenz via letter (a copy of which is enclosed, Attachment #1) that a required second exit was not installed and as a result the Certificate of Occupancy issued was in error and the area was to be closed pending correction. The City of St. Paul did not disseminate this information to condo owners and Mr. Frenz took no steps to disseminate this information to condo owners or prospective owners.
- On June 11, 2010 Mr. Nelson sent a second letter to Mr. Frenz (a copy of which is enclosed, Attachment #2) indicating they had not heard anything from Mr. Frenz regarding this matter. The letter clearly stated that action had to be taken regarding the second exit and the trash chute and neither were to be used by residents. This letter gave a 10-day deadline for actions to be taken by Mr. Frenz. Again the condo owners did not receive this information from the City of St. Paul or Mr. Frenz. Thus, these areas were open to all owners and potential buyers for sales purposes.
- The City of St. Paul ceased contact regarding these matters until July 21, 2010, when in a letter (a copy of which is enclosed, Attachment #3) Mr. Nelson informed Mr. Frenz that these areas were dangerous and actions must be taken to seal all doors. Once again the owners were not given any information by the City of St. Paul or Mr. Frenz regarding this safety matter. The areas were not sealed, and left open to current residents and to potential buyers for sales purposes.

- The next letter was dated October 15, 2010 and sent by Senior Building Inspector Steve Ubl to Mr. Frenz (a copy of which is enclosed, Attachment #4). This letter stated that on or after November 1, 2010 a re-inspection would occur and included language that failure to correct these areas may result in the issuance of criminal charges and/or a civil lawsuit, and possible abatement by the City.
- Mr. Ubl sent a follow up letter on October 27, 2010 to JAS and Mr. Frenz (a copy of which is enclosed, Attachment #5), which stated no one had contacted Mr. Ubl or his office regarding this matter. Mr. Ubl termed these matters to be "Life Safety Issues." Once more the owners were not given any information or notice on this matter by the City of St. Paul nor Mr. Frenz and the areas in question were left open to all residents and potential buyers for sales purposes.
- In October of 2010 the Union Depot Lofts had sold two-thirds (2/3) of its' units. Pursuant to the Condominium Association documents, control over the Association changed from the Declarant Control Period to an owner-controlled Association. The Board was elected in October of 2010 and was from that point forward in charge of the condo's affairs.
- Some condo owners had heard rumors that the trash chute and community room/rooftop deck would potentially be reviewed by the City to see if code issues existed. At the meeting to elect UDLA board members, held in the community room, owners asked Mr. Frenz if there was anything to these rumors. Mr. Frenz informed the group that there was nothing to worry about and no actions would be taken.
- The UDLA received no notice from the City or Senior Building Inspector Ubl. In early 2011 one of the UDLA board members reached out to Mr. Ubl to check with him on this matter. Several months later Mr. Ubl contacted the UDLA to set up a meeting on this issue. The City met with UDLA board members on April 14, 2011 and informed them of the code violations and that the areas were to be closed.
- Notice of Condemnation was sent out April 29, 2011 from Mr. Ubl to the UDLA (a copy of which is enclosed, Attachment #6).

Grounds for Appeal

1. **Valid Certificates of Occupancy and Fire Certificates were issued as far back as 2006, and we believe they should be honored.** The most recent fire inspection was December of 2010. To our knowledge the Certificates of Occupancy and the Fire Certificate have still not been flagged or rescinded. Most units were sold after March of 2010 and no actions to alert owners were taken.
2. **In the alternative and additionally, the UDLA believe a valid second exit does exist and has presented this option to the City. The UDLA believe this exit was incorrectly dismissed and information regarding how it could be brought into compliance was not provided to the UDLA.**
3. **If it is determined a valid second exit does not exist a variance should be granted in our situation due to the fact that Certificates of Occupancy and**

Fire Certificates have been granted and based on the extreme delay on the part of the city to address this matter.

The senior building inspector has informed the UDLA that this is a grave safety issue. If this is the case our owners are extremely troubled by the fact that the City of St. Paul would allow a developer to not inform the owners and potential buyers. No placarding was performed by the City of St. Paul until the UDLA allowed the building inspectors access to these areas the first week of May 2011. Additionally, nearly half of the current owners closed on units after March 2010, and were told the certificates of occupancy were valid and effective. It is startling that the City could term this issue to be such a serious safety matter and then take over a year to perform placarding and provide no notice to owners.

- 4. The City should be estopped from condemning these areas due to the extreme delay by the city in discovering and enforcing these violations, in particular due to the financial injury condemnation would have on current owners.**

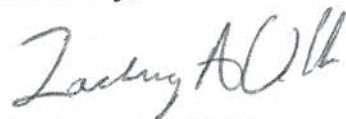
The process to appeal has been complicated by the fact that the notice from the building inspector contained errors relating to the code sections the UDLA was said to have violated. In addition, this matter had been addressed as far back as March of 2010 and was never enforced by the City of St. Paul or its senior building inspector until now. This lack of enforcement resulted in the majority of our current condo owners purchasing units with outstanding safety issues on our premises and now the developer has sold all units thus having no responsibility for the maintenance of the premises.

- 5. Due to the fact that these issue where brought during the period of declarant control and are clearly development matters, corrective action should be directed to the developers JAS and Stephen Frenz.**

Conclusion

The UDLA requests a hearing with regards to these matters and also request a stay to the condemnation process pending our exhaustion of these appeal procedures.

Sincerely,



Zachary A. Volk, Esq.

Union Depot Lofts Association Board President



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

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

Telephone: 651-266-9090
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

May 5, 2010

JAS Apartments, Inc.

Attn: Stephen Frenz, President

Re: Union Depot

Dear Mr Frenz:

This is a follow up to the meeting we had at the Union Depot with you on April 14 2010. During the walk through of the building it was noted that Olson Construction Co. never completed the required second exit stairway for the Community room and roof top deck. The second exit is required in order to use the space. The Certificate of Occupancy was issued in error and this is letter is to give official notice to NOT use the entire third floor area until the required second exit stairway is completed and approved in accordance to the approved plans permitted on the original design of this project. Upon receiving this notification, you are to close any access to this area from the tenants and public until you resolve this issue. DSI will make a site inspection to verify that these orders have been complied with.

Sincerely,

David P. Nelson
Building Inspector
City of St. Paul
651-266-9027



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

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

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June 11, 2010

Jas Apartments Inc
One E 19th St
Minneapolis Mn 55403-3785

Job Address: 214 4TH ST E
Permit # : 05 073221

Re: Union Depot

Dear Mr. Frenz,

We have not heard from you regarding the corrections at the Union Depot building. A letter sent on May 5th, 2010 requested information as to how you were to address the trash chute shaft that is used by the tenants on second floor and the completion of the south stair tower in order to have the required second exit for the community room and roof-top deck. These issues must be resolved immediately. The community room and the roof-top deck cannot be used until the required second exit is complete and inspected.

Within ten (10) days of the date of this letter you must provide a information as to how you are going to complete the required shaft for the trash chute and the required second stairway for the community room and roof-top deck.

If you have any questions regarding these issues please feel free to contact.

Sincerely,

David P. Nelson
Building Inspector
City of St. Paul
651-266-9027



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Christopher B. Coleman, Mayor

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

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July 21, 2010

Jas Apartments Inc
One E 19th St
Minneapolis Mn 55403-3785

Job Address: 214 4TH ST E
Permit # : 05 073221

Re: Union Depot

Dear Mr. Frenz,

Orders were submitted to you on May 5th and June 9th of this year regarding the above referenced project. No response has been given to this department regarding those issues at the Union Depot. The Trash Chute and the Community Room/Deck on the upper level are dangerous in their given situation and cannot be used. You are to STOP all usage of the Trash Chute and mechanically seal ALL doors. You are to discontinue any usage of the Community room and roof top deck.

You must contact me immediately in order to inspect these items and confirm that they have been abandoned and sealed off. If you have any questions regarding these issues please feel free to contact.

Sincerely,

David P. Nelson
Building Inspector
City of St. Paul
651-266-9027

Cc: Jim Bloom



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

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

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov

October 15, 2010

JAS Apartments Inc.
One E 19th St.
Minneapolis, MN 55403

Attn: Steve Frenz

Job Address: 214 4TH ST E
File# : 10 910257

Dear Sir,

The city of St. Paul, Department of Safety and Inspections inspected the above referenced property on March 23, 2010 and has determined that the following deficiencies exist in violation of the current building code:

1. The trash chute used by the residential units must be separated from the ventilation shaft by rated assemblies. The framing must be inspected prior to sheetrocking.
2. The Community Room/deck on the upper level does not have the required second exit to the stair tower.

You are hereby notified to correct these deficiencies in accordance with the appropriate building codes. The Enforcement Officer will re-inspect these areas on or after November 1, 2010, by which date the violations must be corrected. **Failure to correct these deficiencies may result in the issuance of criminal charges and/or a civil lawsuit, and possible abatement by the City.** All repairs and new construction must be made in accordance with the current building codes. Permits must be obtained and information regarding those permits may be obtained by calling 651-266-8989.

You may file an appeal to this notice by contacting the Building Official office at 651-266-9090. Any appeal must be made in writing within ten (10) days of this notice. (You must submit a copy of this Notice when you appeal, and pay a filing fee)

If you have any questions regarding this matter, you may contact me at 651-266-9021 between 7:30 and 9:00 a.m.

Sincerely,

Stephen Ubl
Sr. Building Inspector
651-266-9021

An Equal Opportunity Employer

Attachment #4



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

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

Telephone: 651-266-9090
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

October 27, 2010

JAS Apartments, Inc.
One E 19th St.
Minneapolis, MN 55403

Attn: Steve Frenz

Job Address: 214 4th St. E
Permit #: #2005-073221

Dear Sir:

The city of St. Paul, Department of Safety and Inspections inspected the above referenced project on March 23, 2010 specifically to determine if two issues were addressed:

- 1.) The Trash chute used by the residential tenants had been separated from the Ventilation shaft with a one hour assembly and,
- 2.) The community room/deck had an approved second exit

Orders have been sent to you on two different occasions to abandon the use of Trash Chute and the Community Room/ Deck until you correct these Life Safety issues. You were ordered to correct these issues and contact me for an inspection of the work to confirm that the work complies with the approved plans and documents per permit # 2005-073221. To date, you have not contacted this department regarding these issues and it is assumed that these issues have not been corrected.

You are hereby notified to correct these deficiencies in accordance with the appropriate building codes. The Enforcement Officer will re-inspect these areas on or after November 15, 2010, by which date the violations must be corrected. **Failure to correct these deficiencies may result in the issuance of criminal charges and/or a civil lawsuit, and possible abatement by the city.** All repairs and new construction must be made in accordance with the current building codes. Permits must be obtained and information regarding those permits may be obtained by calling 651-266-8989.

You may file an appeal to this notice by contacting the Building Official office 651-266-9090. Any appeal must be made in writing within ten (10) days of this notice. (You must submit a copy of this notice when you appeal, and pay a filing fee)
Be obtained for these permits prior to obtaining final building permit approval.

If you have any questions regarding this matter, you may contact me at 651-266-9021 between 7:30 and 9:00 a.m.

Sincerely,

David P. Nelson
Building Inspector

cc: Rachel Tierney
Eddie Walker
Jim Bloom