

RLH FCO 18-194



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

NOV 13 2018

We need the following to process your appeal: **CITY CLERK**

- \$25 filing fee (non-refundable) (payable to the City of Saint Paul) (if cash: receipt number #6433)
 - 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>NOV. 20, 2018</u>
Time <u>1:30</u>
Location of Hearing:
Room 330 City Hall/Courthouse

Address Being Appealed:

Number & Street: 2165 Selby City: Saint Paul State: MN Zip: 55104

Appellant/Applicant: DPH Investments LLC Email KVKRENTS@gmail.com

Phone Numbers: Business 651 647 0478 Residence 651 647 0478 Cell 651 329 3026

Signature: DPH Investments LLC, by David Kvasnil, its Manager Date: 11/8/18

Name of Owner (if other than Appellant): _____

Mailing 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/Correction
- Code Enforcement Correction Notice
- Vacant Building Registration
- Other (Fence Variance, Code Compliance, etc.)

Comments: Please See Attached Letter & Copy of Lease Agreement.



CITY OF SAINT PAUL

November 5, 2018

Dph Investments Llc
2190 Marshall Ave
St Paul MN 55104-5758

CORRECTION NOTICE - COMPLAINT INSPECTION

RE: 2165 SELBY AVE
Ref. # 110106

Dear Property Representative:

An inspection was made of your building on November 5, 2018 in response to a referral. You are hereby notified that the following deficiency list must be corrected immediately. **A reinspection will be made on December 3, 2018 at 10:00am.**

Failure to comply may result in a criminal citation or revocation of the Certificate of Occupancy.

The Saint Paul Legislative Code requires that no building shall be occupied without a Certificate of Occupancy. The code also provides for the assessment of additional reinspection fees.

DEFICIENCY LIST

1. 2165 SELBY - Sec. 67.708. - Revocation of status as registered and established student dwellings.

The department of safety and inspections may remove properties from the list of registered and established student dwellings under the following circumstances:

- (1) Suspension or revocation of fire certificate of occupancy;
- (2) Residence by more than four (4) students in any unit;**
- (3) Residence by less than three (3) students for more than twenty-four (24) of the preceding thirty-six (36) months.

A revocation of student dwelling status may be appealed to the board of zoning appeals pursuant to Legislative Code § 61.701(a)–(c).

-Student housing status has been revoked due to over occupancy. On November 5, 2018 dwelling was found to be over occupied by a total of six unrelated adults/students. You must reduce to 2 or less students by December 3rd, 2018 unless an appeal is filed.

2. SPLC 34.19 - Provide access to the inspector to all areas of the building. -A full inspection of the building will be conducted on December 3, 2018. You or your representative must be present to allow the inspector access to the building.

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 the original orders.

If you have any questions, email me at: adrian.neis@ci.stpaul.mn.us or call me at 651-266-8992 between 7:30 a.m. - 9:00 a.m. Please help to make Saint Paul a safer place in which to live and work.

Sincerely,

A.J. Neis
Fire Inspector

Ref. # 110106

11/8/2018

To Whom it May Concern,

DPH Investments LLC owns the 7 bedroom home located at 2165 Selby Ave. St. Paul, MN 55104. The home was inspected by Inspector A.J. Neis on 11/5/2018 and was found to be over-occupied. The home has a Student Rental Certificate and it is located directly across the street from the University of St. Thomas. DPH Investments LLC has owned the home since 3/24/2012. It has been inspected multiple times in the past and has had minimal correction orders and no over-occupancy orders. The four current tenants on the lease for the house have lived there since 6/1/2018. They are all St. Thomas students and they play on the University Girls Basketball team. The proximity to the school makes this a very sought after home and demands much higher rents than other locations that require a car or multiple block walks to the campus.

According to Inspector Neis, the home received an anonymous complaint and he went by to check and see if the home was over-occupied. He met a person at the door and she apparently told him that there were 6 residents in the home. Inspector Neis then came directly to the DPH Investments office at 2190 Marshall Ave and asked us if we were aware that it was over-occupied. David Kvasnik told Inspector Neis that he was not aware that it had been over-occupied and that he had not even been in the home since the tenants had moved in. He repeatedly told Inspector Neis that he had no knowledge of any over-occupancy of the home by any squatters or scofflaws not listed on the four person lease. David Kvasnik stated that he had a lease with four individuals and that they paid him with one check every month. Additionally, the lease included language specifically prohibiting tenants from over occupying the home and language allowing the landlord to evict or remove the tenants that broke the law regarding the City of St. Paul Occupancy limits.

David Kvasnik immediately called the tenants of the home and they confirmed that they did have 2 additional residents living in the home. David Kvasnik was not aware of these tenants, does not know their names, was never paid by them and never allowed them to live at the home. David Kvasnik told the tenants to remove the 2 additional residents that evening. The tenant told David Kvasnik that Inspector AJ Neis had told them that all 6 could remain in the property until a final decision was made in regards to the anticipated correction order. David Kvasnik spoke to Inspector Neis 2 days later and verified that this was true and that the residents could stay until a resolution was made.

We are appealing the correction notice dated 11/5/2018 revoking the status of the home as a registered student rental. DPH Investments LLC did not know that the home was over-occupied and had a legal contract with the four residents in which they explicitly agreed to follow the 4 person limit of the City of St. Paul. Additionally, DPH Investments LLC has never met, spoken to or received payment from either of the 2 additional residents. Plainly said, DPH Investments LLC is also a victim of these unlawful and unknown actions propagated by the residents. The language of the ordinance Sec. 67.708 says "The Departments of safety and inspections MAY remove properties from the list of registered and established student dwellings". The use of the word "May" is purposeful and for a reason. The word used is not "will". "May" suggests that there must be some subjectivity and due process in issues

regarding revocation of status. DPH Investments argues that the word "MAY" was added for moments exactly like the one we are confronting here.

Removing the student rental certificate from 2165 Selby Avenue would be a miscarriage of justice and an affront to due process. DPH Investments LLC should not be unfairly punished for the unknown and illegal actions of people they have never met, never contracted with and never received money from. We cannot start to punish people who are not guilty of, or complicit in, doing anything wrong.

Sincerely,

A handwritten signature in black ink that reads "David Kvasnik". The signature is written in a cursive style with a long horizontal stroke extending to the right.

David Kvasnik

Manager

DPH Properties II LLC