

February 28, 2018

VIA EMAIL – Contact-Council@ci.stpaul.mn.us
and U.S. MAIL

Saint Paul City Council
Suite 310 City Hall
15 Kellogg Boulevard West
St. Paul, Minnesota 55102

**LETTER IN SUPPORT OF APPEAL
OF BOARD OF ZONING
APPEALS DETERMINATION**

Re: Administrative Review: Kyle Coglitore – 2083 Marshall Avenue
File No.: 17-215020
Our File No.: 15560.39522

Dear St. Paul City Council Members:

Our law firm represents the appellant in this matter. This correspondence serves as a letter brief highlighting some of Applicant Kyle Coglitore’s (“**Applicant**”) specific grounds for his appeal of the Board of Zoning Appeals (“**BZA**”) determination regarding the property located at 2083 Marshall Avenue, St. Paul, MN 55104 (the “**Property**”). Exhibits A, B and C, as later referenced, are attached hereto and incorporated herein. Applicant has appealed the City’s determination to revoke the Property’s Student Dwelling Status and the adverse decision by the Board of Zoning Appeals made on January 17, 2018 (the “**Revocation**”). The Applicant previously submitted 1) a completed application for appeal, and 2) the required appeal fee of \$462.00.

For the reasons outlined below, Applicant respectfully requests that the City Council find that the Board of Zoning Appeals erred as to their findings of fact and law, that the Revocation was improper and contrary to law and that the subject property had a pre-existing non-conforming use and its use as an undergraduate student rental property is “grandfathered” in an exempt from the requirements of Article VII, Section 67.700-708 of the St. Paul Zoning Code, overturn the Revocation and reinstate Applicant’s Student Housing Certificate of Occupancy for the Property.

BACKGROUND

The Property has long been used as a rental property for college students. The prior use as a student rental was acknowledged by the City’s representative, Jerome Benner II, at the Board of Zoning Appeals hearing on January 17, 2018, and evidenced by the Certification of the Student Housing Registration Application, and attached 2012 lease, submitted by the prior owner, as well as the City’s issuance of

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Michael E. Molenda (Ret.)

the initial Notice of Student Housing Registration Approval (*See Exhibit A*). The Certification by the prior Property owner in 2012 stated in part:

“...I certify that within the eighteen (18) months, immediately preceding August 8, 2012, that the use of this dwelling met the definition of a Student Dwelling under SPLC Chapter 67, and I have attached acceptable documentation in support of the same. (attachments)” (*See Exhibit A*).

The application with its certification and attached 2012 lease were accepted by the City and the Student Dwelling Status was “grandfathered” in even though it was within the minimum 150 foot limitation set under Section 67.703(1) of the St. Paul Zoning Code for other Student Dwellings.

In 2011, while Applicant was an undergraduate student at the University of St. Thomas, he was also a tenant at the Property and confirms the use of the Property for a student dwelling prior to the 2012 Ordinance. Upon information and belief, the previous owners of the Property rented the Property only to unrelated tenants, primarily college students, for many years.

In 2013, Applicant purchased the Property. Applicant purchased the Property with the express purposes to continue to use it as a rental property for unrelated tenants, mostly college students. Ever since his purchase of the Property, Applicant has only rented out the Property to unrelated college students. The rent revenue from the Property is one of Applicant’s primary sources of income.

Applicant has performed extensive improvements to the Property since he purchased it, including but not necessarily limited to, the following:

- Replaced a stove, two refrigerators, two toilets, a washer, a dryer, damaged windows, a ceiling in the basement, switch plates, interior doors, globes and light fixtures;
- Retiled the bathroom;
- Installed all new screens and additional spindles on the staircase railing;
- Removed carpet and sanded and refinished main level and upstairs wood flooring;
- Added quarter-round to the woodwork;
- Repaired defects in plaster walls and flashing; and
- Painted interior walls and ceilings.

On September 14, 2017, the Property’s residents allowed a city inspector to access the Property. The city inspector noted that a resident alleged that nine students were staying in the Property. As a result, the city inspector told the residents that the extra occupants—beyond the four students living there (“**Extra Occupants**”)—had to immediately move out. Thereafter, the city inspector contacted Applicant, told him about the alleged over-occupancy, and arranged for the city inspector and Applicant to meet at the Property on September 15, 2017. The city inspector’s September 14, 2017 phone call was the first time Applicant was made aware of an over-occupancy issue at the Property.

On September 15, 2017, Applicant and the city inspector met at the Property. When Applicant arrived at the Property, the alleged over-occupied bedrooms were all empty, and only the

rooms belonging to the four students on the lease were occupied. During the course of their meeting, the city inspector warned Applicant that if more than four students occupy the Property in the future, he would revoke the Property's Student Dwelling Status. Thus, at the September 15, 2017 meeting, the city inspector only provided Applicant with a warning regarding the alleged over-occupancy on September 14, 2017 and action of over-occupancy continued. However, as of September 15, 2017, the Property was only occupied by four, unrelated students. **In fact, the City specifically found in its "Board of Zoning Appeals Resolution" that during the city inspector and applicant's meeting on September 15, 2017, "[t]he inspector found the property to be in compliance as the four (4) students who were living in the house were also listed on the lease. Additionally, the over occupied rooms were vacated."** (See Exhibit B, 2 – the Resolution.)

Soon thereafter on the same day (September 15, 2017), Applicant received information that the Extra Occupants were planning on moving back into the Property. In an effort to prevent this, comply with the city inspector's warning, and preserve the Property's appropriate occupancy and student dwelling status, Applicant arranged for his girlfriend, McCall Bisel, to anonymously call the city with concern about the Extra Occupants' plans. (See Exhibit C – Bisel Declaration and screen shot of September 15, 2017 call.) **As a result of Applicant's efforts (at least in part), no Extra Occupants moved into the Property on September 15, 2017 or thereafter.**

On September 18, 2017, the city inspector contacted Applicant and told him that the city inspector had made certain submissions to revoke the Property's Student Dwelling Status. During their conversation, the city inspector explained that he did this because, right after their September 15, 2017 meeting, he received a call regarding the Extra Occupants. In response, Applicant explained that the call was, in fact, initiated at Applicant's request, by way of Ms. Bisel. After Applicant confirmed this by providing a screenshot of Ms. Bisel's call record, the city inspector told Applicant to appeal the city inspector's submissions regarding revocation of the student housing status. (See Exhibit C – screenshot of Ms. Bisel's call to the city inspector.) The city inspector, AJ Neis, explained that his submissions were already filed and he could not withdraw them, but stated that he would not have made the revocation submissions if he knew that the complaint was Applicant just trying to avoid over-occupancy.

By the end of September 2017, Applicant had the tenants sign a termination of lease for the Property because of their complicity in its over-occupancy, or attempts at over-occupancy, by the Extra Occupants.

ARGUMENT

I. THE PROPERTY IS A NON-CONFORMING USE TO RENT TO UNRELATED TENANTS AND STUDENTS.

The Property has a longstanding nonconforming use as an affordable rental property for unrelated tenants and student occupancy well before 2012. The Property's use as a rental property for unrelated and student tenants predates the enactment of restrictions on student

dwelling occupancy in the St. Paul Zoning Code (the “Zoning Code”) in 2012. Accordingly, the 2012 student occupancy restrictions do not apply to the Property. Further, the Revocation is a termination of the Property’s nonconforming use outside and inconsistent with the City’s limited statutory authority. As such, the Revocation is an unlawful taking of private property that must be overturned.

A. General Principles.

A “nonconforming use” is a use of land that is prohibited under a current zoning ordinance but nonetheless is permitted to continue because the use lawfully existed before the ordinance took effect. *Krummenacher v. City of Minnetonka*, 783 N.W.2d 721, 726 (Minn. 2010). To protect the landowner’s interest and investment in the existing lawful use, a nonconforming use generally is allowed to continue even after an adverse zoning change. *Hawkins v. Talbot*, 80 N.W.2d 863, 865 (Minn. 1957); *see also* Minn. Stat. § 462.357, subd. 1e(a).

Nonconforming uses are protected by Minnesota’s zoning enabling act. More specifically, Minn. Stat. § 462.357, subd. 1e(a), provides, in relevant part:

Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion....

Consistent with section 462.357, subdivision 1e(a), courts have repeatedly acknowledged that although a “zoning ordinance ‘may constitutionally prohibit the creation of uses which are nonconforming,’ ” existing nonconforming uses must be permitted to remain. *White v. City of Elk River*, 840 N.W.2d 43, 49–50 (Minn. 2013) (quoting *Cnty. of Freeborn v. Claussen*, 203 N.W.2d 323, 325 (1972)); *see also Hooper v. City of St. Paul*, 353 N.W.2d 138, 140 (Minn. 1984) (deeming it a “fundamental principle” that uses of land that are “lawfully existing at the time of an adverse zoning change may continue to exist until they are removed or otherwise discontinued”); *see also Connor v. Twp. of Chanhassen*, 81 N.W.2d 789, 797-98 (1957) (stating that property interests are subject to constitutional protections).

The purpose for which the owner actually used the property at the time it became subject to the zoning ordinance and not future plans for its use determines the scope of the nonconforming use excepted from the restrictions imposed by the ordinance. *State v. Regitschnig*, 1991 WL 276185, at *2 (Minn. App. 1991). “[Z]oning ordinances should be construed strictly against the city and in favor of the property owner.” *Frank’s Nursery Sales v. City of Roseville*, 295 N.W.2d 604, 608-9 (Minn. 1980).

B. The Property’s Nonconforming Use is a Rental Property for Unrelated Students that Predates Any Restrictions on Student Occupancy.

The Zoning Code explicitly acknowledges the reality of nonconforming use properties and recognizes that “[t]here exist within the districts established by this code and subsequent amendments lots, structures, and uses of land and structures that were lawful before this code was passed or amended” and “[i]t is the intent of this code to permit legal nonconforming lots, structures or uses to continue.” *See generally* St. Paul Code of Ordinances, Title VIII, § 62.101. Under the Zoning Code, a nonconforming “use” means “the principal purpose for which land or a building is being occupied.” § 62.102. “A legal nonconforming structure is one that lawfully existed when created but does not now comply with the area, width, height, ... **or other regulations of the district in which it is located.**” *Id.* (emphasis added). A change of “tenancy, ownership, or management” of nonconforming land or structures does not affect the nonconforming status of a property as long as “there is no change in the nature or character of such nonconforming use or structure.” § 62.108; *see also Henry v. County of Anoka*, 1981 WL 1230, at *3 (Minn. Tax 1981) (suggesting that a property’s nonconforming use status is unaffected by being sold to a new owner); *Saliterman v. Burdick*, 2000 WL 272048, at *2 (Minn. App. 2000) (same). Uses are deemed “lawful” if they conform to “then-existing zoning classifications.” *Hooper*, 353 N.W.2d at 141.

Title VIII, Chapter 67, Article VII, of the St. Paul Zoning Code, or the “SH Student Housing Neighborhood Impact Overlay District” was enacted in 2012 (the “**SH Ordinance**”). *See generally* St. Paul Code of Ordinances, Title VIII, Ch. 67, Art. VII, §§ 67.700 *et. seq.*, enacted Ord. 12-34, §1, June 27, 2012.¹ The SH Ordinance defines a “student dwelling” as a “one- or two-family dwelling requiring a fire certificate of occupancy in which at least one (1) unit is occupied by three (3) or four (4) students.” § 67.702. Per the SH Ordinance, the City may “remove properties from the list of registered and established student dwellings” for the “[s]uspension or revocation of fire certificate of occupancy,” or “[r]esidence by more than four (4) students in any unit.” § 67.708. Those provisions were not in effect prior to June 2012 when the Property had been rented to unrelated undergraduate students.

The Property’s nonconforming use is a rental property to unrelated tenants. The Property’s “principal purpose” before and at the time of enactment of the Ordinance in 2012 was to provide rental housing to unrelated tenants, primarily college students. Because the Property’s student-tenancy predated the enactment of the SH Ordinance in 2012, and Applicant has only rented the Property to students since his purchase of the Property in 2013, the Property’s longstanding nonconforming use as an affordable rental property to unrelated college students is firmly established. Further, the Property’s nonconforming use status was not affected by Applicant’s purchase of the Property because Applicant continued to use the Property for exactly the same purposes as the previous owner. As such, the SH Ordinance’s prohibition on renting to more than four students does not apply to the Property.

C. The City’s Demand of Compliance with an Ordinance to which the Property is Not Subject by its Preexisting Nonconforming Use Amounts to an Unlawful Taking.

¹ All sections of SH Ordinance cited hereafter were enacted by Ord. 12-34, §1 on June 27, 2012.

An ordinance may constitutionally prohibit the creation of nonconforming uses, but “existing nonconforming uses must either be permitted to remain or be eliminated by use of eminent domain.” *Claussen*, 203 N.W.2d at 325. Eliminating a property’s nonconforming use by requiring adherence to regulations and ordinances enacted after the property’s nonconforming use results in an “unlawful taking without compensation.” *Oswalt v. Ramsey County*, 371 N.W.2d 241, 243, 247 (Minn. App. 1985) (finding that requiring a landowner to make repairs that conformed to a floodplain ordinance was an unlawful taking that “[n]either reason or precedent permits [the court] to approve this proposed means to avoid recognized obligations of the municipality in dealing with a nonconforming use.”). Instead, municipalities are bound by the statutory limitations for terminating a nonconforming use. *White*, 840 N.W.2d at 52 (citing Minn. Stat. § 465.01 (outlining procedures for eminent domain process), and Minn. Stat. § 462.357, subd. 1e (providing circumstances and means a municipality may terminate nonconforming use)); see also St. Paul City Code, Title VIII, § 62.104 (codifying statutory requirements for terminating nonconforming use in the Zoning Code). Additionally, a municipality and a property owner may terminate a nonconforming use by written agreement. *White*, 840 N.W.2d at 52 (finding that nonconforming use cannot be terminated by revoking a conditional-use permit). A municipality may not terminate a nonconforming use outside the methods provided by statute because to do so would “impermissibly add language to the governing statute that does not exist”). *Id.* at 53 (citing *Premier Bank v. Becker Dev., LLC*, 785 N.W.2d 753, 760 (Minn. 2010)).

Here, the Revocation is an unconstitutional taking without compensation. Thus, like *Oswalt*, the City is attempting to effectively terminate the Property’s nonconforming use as a rental property for unrelated students by enforcing an ordinance that directly contravenes and postdates the Property’s nonconforming use. As a result, the Revocation effectively terminates the Property’s nonconforming use as a rental property for unrelated tenants (primarily students) beyond the limited methods and authority for termination provided by the Minnesota Legislature. Accordingly, the Revocation is an unlawful and impermissible exercise of the City’s police powers.

D. Applicant’s Attempts to Comply with the SH Ordinance does not Waive the Property’s Nonconforming Use Status.

A landowner does not surrender his or her right to nonconforming use by using or attempting to use property in a manner that conforms to existing ordinances or regulations. See, e.g., *White*, 840 N.W.2d at 51 (finding that a landowner did “not surrender the right to continue a nonconforming use by obtaining conditional-use permit”). Instead, a “landowner must validly waive such nonconforming use rights before a municipality can alter or extinguish the nonconforming use,” and the landowner must waive the nonconforming use with 1) knowledge of the right, and 2) an intent to waive the right. *Id.* (citing *Frandsen v. Ford Motor Co.*, 801 N.W.2d 177, 182 (Minn. 2011)).

In this matter, any attempts by Applicant or the previous owner to adhere to the SH Ordinance did not waive the Property’s nonconforming use as a rental property for unrelated students. In a spirit of the cooperation, Applicant worked with the city inspector assuage any concerns related to the occupancy of the property. However, the Property’s nonconforming use status remains until either 1) the City lawfully terminates it by a statutorily recognized method, 2) Applicant affirmatively waives it, or 3) the City and Applicant terminate it by agreement. As

explained above, because the Property's nonconforming use has not been terminated by any of these methods, the Revocation is an unconstitutional taking of Applicants' property.

E. Other Alleged Violations Unrelated to Student Rental Certification Cannot Be the Basis for the Revocation.

"Violations of ordinances unrelated to land use planning do not render the type of use unlawful." *Hooper*, 353 N.W.2d at 141. "The general rule that only existing lawful uses are entitled to due process protection as nonconforming uses established is directed primarily to the protection of uses established in compliance with then existing zoning classifications." *County of Morrison v. Wheeler*, 722 N.W.2d 329, 334 (Minn. App. 2006). If a municipality finds a property in violation of an ordinance or regulation unrelated to property's nonconforming use, the municipality may not outright deny "a use permitted under the zoning code in effect when the use was established." *Hooper*, 353 N.W.2d at 141 (finding that the property's violation of the building code may be remedied, but the City cannot use those building code violations as justification to denying the property's continued nonconforming use as a two-family residence).

Here, there were three letters of opposition to Applicant's appeal to the BZA. The opposition letters cited alleged conduct at the Property completely unrelated to the SH Ordinance. As such, the opposition letters should not be considered by the City Council and cannot serve as a basis for the Revocation.²

II. THE REVOCATION WAS BASED ON FACTUAL AND LEGAL ERROR.

Notwithstanding, and without waiving the preexisting nonconforming use right to rent the property to unrelated student tenants, we note that the Revocation is based on additional factual and legal error even under the uncontrolling code provision itself, and must be overturned. Specifically, the city inspector revoked the Property's student dwelling status based on a complaint of over-occupancy at the Property on *September 15, 2017*. For the reasons stated below, this amounts to factual and legal error.

First, the Revocation is invalid because it is based on alleged over-occupancy on *September 15, 2017*. "The department of safety and inspections may remove properties from the list of registered and established student dwellings" because of the "[r]esidence by more than four (4) students in any unit." St. Paul Code of Ordinances, § 67.708. However, as explained above, the city inspector revoked the student dwelling status as result of Bisel's call on September 15, 2017. Yet, there was *no over-occupancy on September 15, 2017*, as the Extra Occupants vacated the Property by that date. In fact, because the Extra Occupants had already left the Property by the time of their meeting, the city inspector only provided Applicant with a warning about over-occupancy on September 15, 2017. Thus, even the city inspector was

² Moreover, any reliance by the Board of Zoning Appeals on the alleged March 16, 2016 over-occupancy of the Property is based on factual and legal error. In fact, based on further investigation, the alleged over-occupancy in March 2016 was never verified by an actual fire inspector or city official. Instead, the City merely received an uncorroborated phone call report alleging over-occupancy. Further, despite what was represented to the Board of Zoning Appeals, Applicant never acknowledged or admitted any over-occupancy in or around March 2016.

satisfied with the Property's occupancy status as of September 15, 2017 when he was *physically at the Property*. (See **Exhibit B** – the City expressly made these findings in its Resolution.) Instead, as he admitted later, the city inspector decided to revoke the student dwelling status only after Ms. Bisel's call alleging over-occupancy may be likely to occur—that is, the anonymous phone call that *Applicant* arranged to prevent the Extra Occupants from returning to the Property (a plan that worked because **the Extra Occupants did not occupy the Property after the inspectors visit on September 15, 2017**). As such, the city inspector's revocation was based on a clear err of fact because the Property was not over occupied on September 15, 2017 or thereafter.

Second, Applicant was not provided with an opportunity to cure the alleged over-occupancy of the Property on September 15, 2017. Instead, Applicant relied on the good faith representations of the city inspector that he was only providing a warning. Despite their understanding on September 15, 2017, the city inspector later revoked the student dwelling status based on an uncorroborated call alleging the Extra Occupants may be intending to return - **the very call that Applicant orchestrated in an effort to work with the city inspector to ensure that the property did not become over occupied**. Indeed, if Applicant would have been granted an opportunity to cure the alleged possible threat of over-occupancy at the Property on September 15, 2017, this whole matter would have been avoided, and the city inspector could have confirmed the Property remained lawfully occupied.

Third and finally, as a matter of fairness and equity, the Revocation cannot be based on Applicant's own efforts to prevent over-occupancy at the Property. Again, the city inspector revoked the Property's student dwelling status only after Ms. Bisel's call. While the Ms. Bisel call may have caused confusion, it was Applicant's good faith effort to comply with the city inspector's warnings and wishes expressed earlier that day and prevent the Extra Occupants from returning to the Property. Applicant should not be punished for merely trying to work with the city. This is especially true given that the Property's rent revenue is one of Applicant's chief sources of income.

CONCLUSION

The Property had a pre-existing nonconforming use as a rental property to unrelated tenants (primarily college students). The Property's longstanding use as a rental property to unrelated undergraduate students predates the enactment of the SH Ordinance in 2012, and as a result, the Property is not bound by the occupancy provisions in section 67.700 of the Zoning Code. Therefore, the Revocation is an unlawful taking of Applicant's Property, and must be overturned.

Further, the Revocation was based on additional factual and legal error. The city inspector revoked the Property's student dwelling status based on alleged over-occupancy on September 15, 2017. However, the Extra Occupants had vacated the Property by this time and never returned. In fact, as reflected in the Board of Zoning Appeals' Resolution upholding the Revocation, the Board of Zoning Appeals affirmatively found that there was no over-occupancy on September 15, 2017. Moreover, Applicant was never granted an opportunity to cure the alleged (and nonexistent) over-occupancy on September 15, 2017, and the

Revocation should not be based on notification to the city inspector that Applicant arranged in a good faith effort to ensure compliance with the city inspector's wishes.

Applicant respectfully requests that the City Council grant the relief requested in his appeal, overturn the improper revocation and confirm the use of the Property is not in violation of, and is exempt from the requirements of the Student Dwelling Ordinance set forth in Article VII, Sections 67.700-708 of the St. Paul Code.

Yours truly,

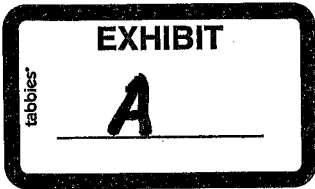
DOUGHERTY, MOLENDIA, SOLFEST, HILLS & BAUER P.A.

A handwritten signature in blue ink, appearing to read "Loren M. Solfest", with a long horizontal flourish extending to the right.

Loren M. Solfest
SPB/dms

Enclosures

cc: Client



Loren Solfest

From: Benner II, Jerome (CI-StPaul) <jerome.benner.ii@ci.stpaul.mn.us>
Sent: Tuesday, January 30, 2018 4:32 PM
To: Loren Solfest
Subject: requested documents
Attachments: 20180130160313935.pdf

Mr. Solfest,

Please see the attached document. The contents within contain the following:

- Student Housing approval documents
- Student Housing Application (Initial Establishment Period)
- Lease Agreement with tenants and tenants' IDs

Let me know if you have any additional questions.

Thanks,

Jerome

-----Original Message-----

From: Benner, Jerome [mailto:jerome.benner.ii@ci.stpaul.mn.us]
Sent: Tuesday, January 30, 2018 4:03 PM
To: Benner II, Jerome (CI-StPaul) <jerome.benner.ii@ci.stpaul.mn.us>
Subject: Message from "RNPO0267336C100"

This E-mail was sent from "RNPO0267336C100" (Aficio MP C3001).

Scan Date: 01.30.2018 16:03:13 (-0600)
Queries to: cece.hauge@ci.stpaul.mn.us

DEPARTMENT OF SAFETY AND INSPECTIONS

Ricardo X. Cervantes, Director

FIRE INSPECTION DIVISION



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

375 Jacksons Street Suite 220
Saint Paul, MN 55101-1806

Telephone: 651-266-8989

December 3, 2012

PO BOX 16725
CULLEN LLC
3750 Huntington Ave
Saint Louis Park MN 55416-4918

Re: 2083 MARSHALL AVE

**NOTICE OF
STUDENT HOUSING REGISTRATION APPROVAL**

Dear Property Owner or Responsible Party:

The Department of Safety and Inspections has received and reviewed the application and support documentation for Student Housing Registration as required by Chapter 67 of the Saint Paul Legislative Code.

The application has been **Approved**

The above referenced property is **Registered as Student Housing** within the SH zoning overlay district.

This document IS NOT a Fire Certificate of Occupancy

A Fire Certificate of Occupancy is required in addition to this registration to use or occupy the dwelling

If you have questions, email me at: mike.urmann@ci.stpaul.mn.us or call me at 651-266-8990.

Sincerely;

Michael G. Urmann, CFI
Fire Inspector II
Department of Safety & Inspections
375 Jackson Street – Suite 220
Saint Paul, MN 55101-1806
tel: 651-266-8990
fax: 651-266-8951



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

375 Jacksons Street Suite 220
Saint Paul, MN 55101-1806

Telephone: 651-266-8989

December 3, 2012

ROBERT PAGE
512 HARRINGTON RD
WAYZATA MN 55391

Re: 2083 MARSHALL AVE

NOTICE OF STUDENT HOUSING REGISTRATION APPROVAL

Dear Property Owner or Responsible Party:

The Department of Safety and Inspections has received and reviewed the application and support documentation for Student Housing Registration as required by Chapter 67 of the Saint Paul Legislative Code.

The application has been **Approved**

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This document IS NOT a Fire Certificate of Occupancy

A Fire Certificate of Occupancy is required in addition to this registration to use or occupy the dwelling

If you have questions, email me at: mike.urmann@ci.stpaul.mn.us or call me at 651-266-8990.

Sincerely;

Michael G. Urmann, CFI
Fire Inspector II
Department of Safety & Inspections
375 Jackson Street – Suite 220
Saint Paul, MN 55101-1806
tel: 651-266-8990
fax: 651-266-8951

**Student Housing Registration
Application**

(Initial Establishment Period)
Aug 8 - Dec 5, 2012

Send Application to:
Department of Safety & Inspections
375 Jackson Street - Suite 220
Saint Paul, MN 55101-1806
tel: 651-266-8989
fax: 651-266-8951



Chapter 67 of the Saint Paul Legislative Code requires all non-owner occupied one and two family dwellings, used as student housing, which are located within the Student Housing (SH) overlay district, to be registered with the Department of Safety & Inspections.

Property Address: 2083 Marshall

Number of residential units: 1 Single Family () 2 Duplex
Number of STUDENT residents in each unit: 4 students (only 3 gave me I.D.s)
Number of bedrooms in EACH unit: 4 beds
Number of TOTAL residents in each unit: 4 tenants

Owner Name(s): 2083 Marshall LLC

Owner Mailing Address: PO 16725
Minneapolis MN 55416

Owner Telephone Number: Home: N/A Cell: 612 223 6293
Office: 612 223 6293 Fax: N/A

Property Manager or Responsible Party Name: Nick Sobotman

Property Manager or Responsible Party Mailing Address: PO 16725
Minneapolis, MN 55416

Property Manager or Responsible Party Telephone Number:
Home: _____ Cell: _____
Office: 612 223 6293 Fax: _____

Certification of use:

I certify that I have possessed either a valid Provisional Fire Certificate of Occupancy or a valid Fire Certificate of Occupancy, prior to June 27, 2012, and that the Fire Certificate continues to be valid. In addition, I certify that within the eighteen (18) months immediately preceding August 8, 2012, that the use of this dwelling met the definition of a Student Dwelling under SPLC Chapter 67, and I have attached acceptable documentation in support of same, (attachments)

Submitted by: Property Owner or Responsible Party; (print name) 2083 Marshall LLC

Signature: [Signature] Date: 10-30-12

Applicant, see back for definitions and additional information.

DSI - Review: Property meets requirements of SPLC 67 for initial establishment

YES () NO () Additional comments of reviewer on additional sheet.

Reviewed by: [Signature] Date: 12/03/12

Residential Lease

2083 Marshall Avenue, Saint Paul, Minnesota 55104

BY THIS AGREEMENT made and entered into on 4/19/12,
2012 between Cullen LLC, herein referred to as Lessor, and
Don Neuhoff, Alex Quinell, John Young, D. Chipala, collectively
referred to herein as Lessee, Lessor leases to Lessee the premises situated at 2083 Marshall
Avenue, in the City of Saint Paul, County of Ramsey, and State of Minnesota, together with all
appurtenances for a term of 1 year (12 consecutive months), to commence on June 1st, 2012,
and to end on May 27th, 2013 at 10:00 am.

1. Rent. Lessee agrees to pay, without demand, to Lessor as rent for the demised premise the sum of
three thousand nine hundred sixty dollars (\$3,960.00) per month in advance of the 2nd day of each
calendar month beginning June 2nd, 2012. The parties executing this Lease and their co-signers agree and
acknowledge that each of them is jointly and severally liable for the full amount of the rent for the term of
the Lease.

2. Form of Payment. Lessee agrees to pay rent each month in the form of one personal check or one
cashiers check made out to Cullen LLC.

3. Late Payments. For any rent payment not paid by the due date, Lessee shall pay a late fee in the
amount of fifty dollars.

4. Returned Checks. If, for any reason, a check used by Lessee to pay Lessor is returned without having
been paid, Lessee will pay a charge of twenty dollars (\$20.00). After the second time a Lessee's check is
returned, Lessee must thereafter secure a cashier's check or money order for payment of rent.

5. Security Deposit. On execution of this lease, Lessee shall deposit with Lessor three thousand nine
hundred sixty dollars (\$3,960.00), receipt of which is acknowledged by Lessor, as security for the faithful
performance by Lessee of the terms hereof, to be returned to Lessee, on the full and faithful performance
by Lessee of the provisions hereof. The security deposit shall bear no interest except as required by
Minnesota law.

6. Quiet Enjoyment. Lessor covenants that on paying the rent and performing the covenants herein
contained, Lessee shall peacefully and quietly have, hold, and enjoy the demised premises for the agreed
term.

7. Use of Premises. The demised premises shall be used and occupied by Lessee exclusively as a private
single family residence, and neither the premise nor any part thereof shall be used at any time during
the term of this lease by Lessee for the purpose of carrying on any business, profession, or trade of any
kind, or for any purpose other than as a private single family residence. Lessee shall comply with all the
sanitary laws, ordinances, rules, and orders of appropriate government authorities affecting cleanliness,
occupancy, and the preservation of the demised premises, and the sidewalks connected thereto, during the
term of this lease.

8. Condition of Premises. Lessee stipulates that he or she has examined the demised premises, including
the grounds and all buildings and improvements, and that they are, at the time of this lease, in good order,
repair, and in a safe, clean, and tenantable condition.

9. Keys. Lessee will be given four (4) keys to the premises. Lessee shall not duplicate these keys for
any reason or give keys to any other persons, even for what is deemed a short period of time. Under
circumstances necessitating the production of a new Key, permission must be obtained from the Lessor.

10. Locks. Lessee agrees not to change locks on any door or mailbox without first obtaining written
permission from Lessor. Having obtained written permission, Lessee agrees to pay for changing the locks
and to provide Lessor with one duplicate key per lock.

11. Lockout. If Lessee becomes locked out of the premises after management's regular stated business
hours, Lessee will be required to secure a private locksmith to regain entry at Lessee's sole expense.

12. Parking. Parking is strictly self-park and is at owner's risk. Parking fees are for license to park only.
No bailment or bailee custody is intended. Lessor is not responsible for, nor does Lessor assume any
liability for damages caused by fire, theft, casualty or any other cause whatsoever with respect to any
vehicle or its contents. Vehicles shall not be parked in an alleyway or rear yard of the premises. Snow

removal is the responsibility of the vehicle owner.

13. **Assignment and Subletting.** Without the prior written consent of Lessor, Lessee shall not assign this lease, sublet or grant any concession or license to use the premises or any part thereof. A consent by Lessor to one assignment, subletting, concession, or license shall not be deemed to be a consent to any subsequent assignment, subletting, concession, or license. An assignment, subletting, concession, or license without the prior written consent of Lessor, or an assignment or subletting by operation of law, shall be void and shall, at Lessor's option, terminate this lease.

14. **Occupancy.** Lessee agrees that should any tenant or tenants abandon the premises and the duties to the lease, the Lessee is obligated to continue paying rent, in full in accordance with the terms and conditions contained herein.

15. **Alterations and Improvements.** Lessee shall make no alterations to the buildings on the demised premises or construct any building or make other improvements on the demised premises without the prior written consent of Lessor. All alterations, changes, and improvements built, constructed, or placed on the demised premises by Lessee, with the exception of fixtures removable without damage to the premises and moveable personal property, shall, unless otherwise provided by written agreement between Lessor and Lessee, be the property of Lessor and remain on the demised premises at the expiration or sooner termination of this lease.

16a. **Partial Damage to Premises.** If the demised premises, or any part thereof, shall be partially damaged not due to Lessee's negligence or willful act or that of his guests, the premises shall be promptly repaired by Lessor. Should the premises be damaged to the extent that the Lessor shall decide not to rebuild or repair, the term of this lease shall end, and the rent shall be pro-rated up to the time of the damage. If the demised premises are partially damaged due to Lessee's negligence or willful act or that of his guests, Lessee shall reimburse Lessor for all costs of repair and/or replacement.

16b. **Catastrophic Damage to Premises.** If there is a catastrophic loss of property not due to Lessee's negligence or willful act or that of his guests, the term of this Lease shall end and the rent shall be prorated up to the date of the damage. If there is a catastrophic loss of property due to Lessee's negligence or willful act or that of his guests, Lessee shall reimburse Lessor for the insurance deductible and Lessor's insurance policy will cover the remaining expenses.

17. **Dangerous Materials.** Lessee shall not keep or have on the leased premises any article or thing of a dangerous, flammable, or explosive character that might increase the danger of fire on the leased premises or that might be considered hazardous by any responsible insurance company. Lessee shall not keep or burn candles of any sort in the leased premises.

18. **Smoking.** Lessee shall not smoke in or around, within 30 feet, any building on the leased premises.

19. **Weapons.** Lessee shall not have or store any items potentially considered dangerous weapons, including but not limited to, firearms, razors, knives, swords, bombs, recreational explosives, firecrackers or any other item used or having potential to cause bodily harm or death.

20. **Utilities.** Lessee shall be responsible for arranging for and paying for all utility services required on the premises, including gas and electricity, except that normal garbage pickup, water and special assessments shall be paid for by Lessor. Lessee must provide documentation they have assumed billing responsibility for utility services prior to move in. Failure to provide said documentation will result in postponement of move-in without discount in rent.

21. **Right of Inspection.** Lessor and his agents shall have the right at all reasonable times during the term of this lease and any renewal thereof to enter the demised premises for the purpose of inspecting the premises and all buildings and improvements thereon.

22. **Maintenance and Repair.** Lessee will, at his sole expense, keep and maintain the leased premises and appurtenances in good and sanitary condition and repair during the term of this lease and any renewal thereof. In particular, Lessee shall keep the fixtures in the house or on or about the leased premises in good order and repair; keep the electric bills in order; keep the walks free from snow, dirt, and debris; keep the lawn mowed and, at his sole expense, shall make all required repairs to the plumbing, range, heating, apparatus, and electric and gas fixtures whenever damage thereto shall have resulted from Lessee's use, misuse, waste, or neglect or that of his guests. Major maintenance and repair of the leased

premises, not due to Lessee's use, misuse, waste, neglect, or that of his guests, shall be the responsibility of Lessor or his assigns. Lessee agrees that no signs shall be placed or painting done on or about the leased premises by Lessee or at his direction without prior written consent of the Lessor. Lessee shall maintain heat to the premises at a temperature of at least 67 degrees at all times, including when Lessee is absent from the premises. Any damage caused by Lessee's failure to maintain the temperature of the premises, accordingly, including the bursting of plumbing, shall be the responsibility of Lessee. Lessee shall not be allowed to use nails or tacks, or any other hardware which will damage any of the surfaces of the premises.

22. **Maintenance of Cleanliness and Sanitation.** At the time of lease the home is sanitary and in a generally good state of cleanliness. It is free from rodents, insects, bedbugs, and generalized filth. Failure to maintain the home in current condition is grounds for forfeiture of part or all of the damage deposit and additional damage payments in necessary.

23. **Painting.** Lessor reserves the right to determine when the dwelling will be painted.

24. **Pets.** Pets shall not be allowed without the prior written consent of the Lessor. Discovery of a pet on or in the property is grounds for forfeiture of the damage deposit.

25. **Display of Signs.** The Lessor or his agent shall have the privilege of displaying rental, vacancy, or sale signs on the demised premises and of showing the property to prospective purchasers or tenants.

26. **Rules and Agreements.** Lessor may adopt other rules and regulations at a later time provided that such rules have a legitimate purpose.

27. **Subordination of Lease.** This lease and Lessee's leasehold interest hereunder are and shall be subject, subordinate, and inferior to any liens or encumbrances, the interest payable on any such liens or encumbrances, and any and all renewals of such liens or encumbrances.

28. **Holdover by Lessee.** Should Lessee remain in possession of the demised premises with the consent of Lessor after the natural expiration of this lease, a new month-to-month tenancy shall be created between Lessor and Lessee, which shall be subject to all the terms and conditions hereof but shall be terminated on 60 days written notice served by either Lessor or Lessee on the other party. Rent for each occupant holding over shall be \$950 per month.

29. **Notice of Intent to Vacate.** (This paragraph applies only when this agreement is or has become a month-to-month agreement.) Lessor shall advise Lessee of any changes in terms of tenancy with advance notice of at least 30 days. Changes may include notices of termination, rent adjustments or other reasonable changes in the terms of this agreement.

30. **Surrender of Premises.** At the expiration of the lease term, Lessee shall quit and surrender the premises hereby demised in as good state and condition as they were at the commencement of this lease, reasonable use and wear thereof and damages by the elements accepted.

31. **Default.** If any default is made in the payment of rent, or any part thereof, at the times heretofore specified, or if any default is made in the performance of or compliance with any other term or condition hereof, the lease, at the option of the Lessor, shall terminate and be forfeited, and Lessor may re-enter the premises and remove all persons there from. Lessee shall be given written notice of any default or breach, and termination and forfeiture of the lease shall not result if, within 10 days of receipt of such notice, Lessee has corrected the default or breach or has taken action reasonably likely to effect such correction within a reasonable time.

32. **Abandonment.** If at any time during the lease Lessee abandons the demised premises or any part thereof, Lessor may, at his option, enter the demised premises by any means without being liable for any prosecution therefore, and without becoming liable to Lessee for damages or for any payment of any kind whatever, and may, at his or her discretion, as agent for Lessee, re-let the demised premises, or any part thereof, for the whole or any part of the then unexpired term, and may receive and collect all rent payable by virtue of such re-letting, and, at Lessor's option, hold Lessee liable for any difference between the rent that would have been payable under this lease during the balance of the unexpired term, if this lease has continued in force, and the net rent for such period realized by Lessor by means of such re-letting. If Lessor's right of re-entry is exercised following abandonment of the premises by Lessee, the Lessor may consider any personal property belonging to Lessee and left on the premises to

also have been abandoned, in which case Lessor may dispose of all such personal property in any manner Lessor shall deem proper and is hereby relieved of all liability for doing so.

33. **Binding Effect.** The covenants and conditions herein contained shall apply to and bind the heirs, legal representatives, and assigns of the parties hereto, and all covenants are to be construed as conditions of this lease.

34. **Radon Gas Disclosure.** As required by law, Lessor makes the following disclosure:

"Radon Gas is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in every state. Additional information regarding radon and radon testing may be obtained from your county public health unit."

35. **Lead Paint Disclosure.** "Housing built before 1978 may contain lead-based paint.

Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, Lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling."

36. **Severability.** If any portion of this lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this lease is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

37. **Insurance.** Lessor has obtained insurance to cover fire damage to the building itself and liability insurance to cover certain personal injuries occurring as a result of property defects or Lessor's negligence. Lessor's insurance does not cover Lessee's possessions or Lessee's negligence. It is required that Lessee obtain an HO4-Renters Insurance Policy listing Lessor as an additional insured, in order to cover damage or loss of personal possessions as well as losses resulting from Lessee's negligence.

38. **Noise.** Lessee will not exceed reasonable noise levels or use any speakers or noise magnification devices while outside the structures on the premises.

39. **Complaints.** Should the police respond to any complaints at the demised premises, or should there be an excessive number of complaints from neighboring homes or persons, this lease, at the option of the Lessor, may be terminated.

40. **Gatherings.** Lessee agrees to not host or permit gathering of more than 20 persons anywhere on the demised premises.

41. **Limitation of Liability.** Except as required by Minnesota statute, Lessor shall not be liable for any damage occasioned by failure to keep the premises in repair, and shall not be liable for any damage done or occasioned by or from plumbing, gas, water, steam or other pipes, sewerage, or the bursting, leaking or running from any cistern, tank, washstand, water closet or waste pipe in, above, upon or about the premises, nor for damage occasioned by water, snow or ice, being upon or coming through the roof, skylight, trap door or otherwise, nor for any damage arising from acts or neglect of any owners or occupants of adjacent or contiguous property.

42. Lessee hereby irrevocably constitutes any attorney of any court of record in the state of Minnesota, attorney for Lessee in Lessee's name, on default by Lessee of any of the covenants herein, and upon complaint made by Lessor, his agent or assigns, and filed in any such court to enter Lessee's appearance in any such court of record, waive process and service thereof, and confess judgment, from time to time, for any rent which may be due to Lessor, or to Lessor's assigns, by the terms of this lease, with costs and a reasonable sum for attorney's fees, and to waive all errors and all right of appeal from said judgment, and to consent in writing that a writ of execution may be issued immediately.

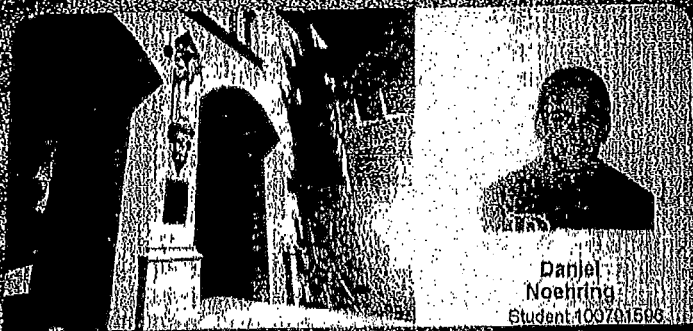
Lessor: _____ Date: _____

Lessee: Daniel N. Harkins Date: 5/3/2012
Co-Signer: Shirley Harkins Date: 5/3/2012

Lessee: D. King Date: 7-27-12
Co-Signer: _____ Date: _____

Lessee: John Young Date: 4-22-12
Co-Signer: Paula Young Date: 4-27-12

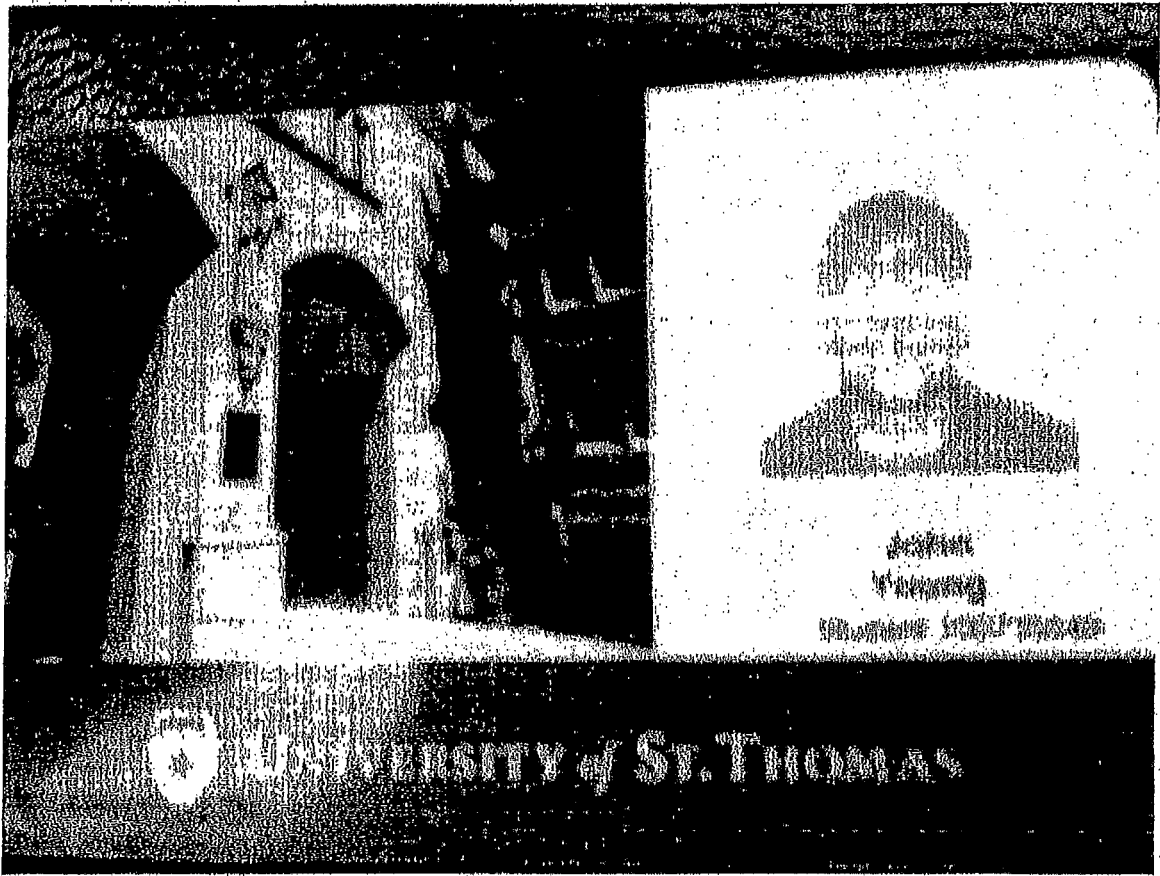
Lessee: Alf Young Date: 4-19-12
Co-Signer: Paula Young Date: 4-19-12

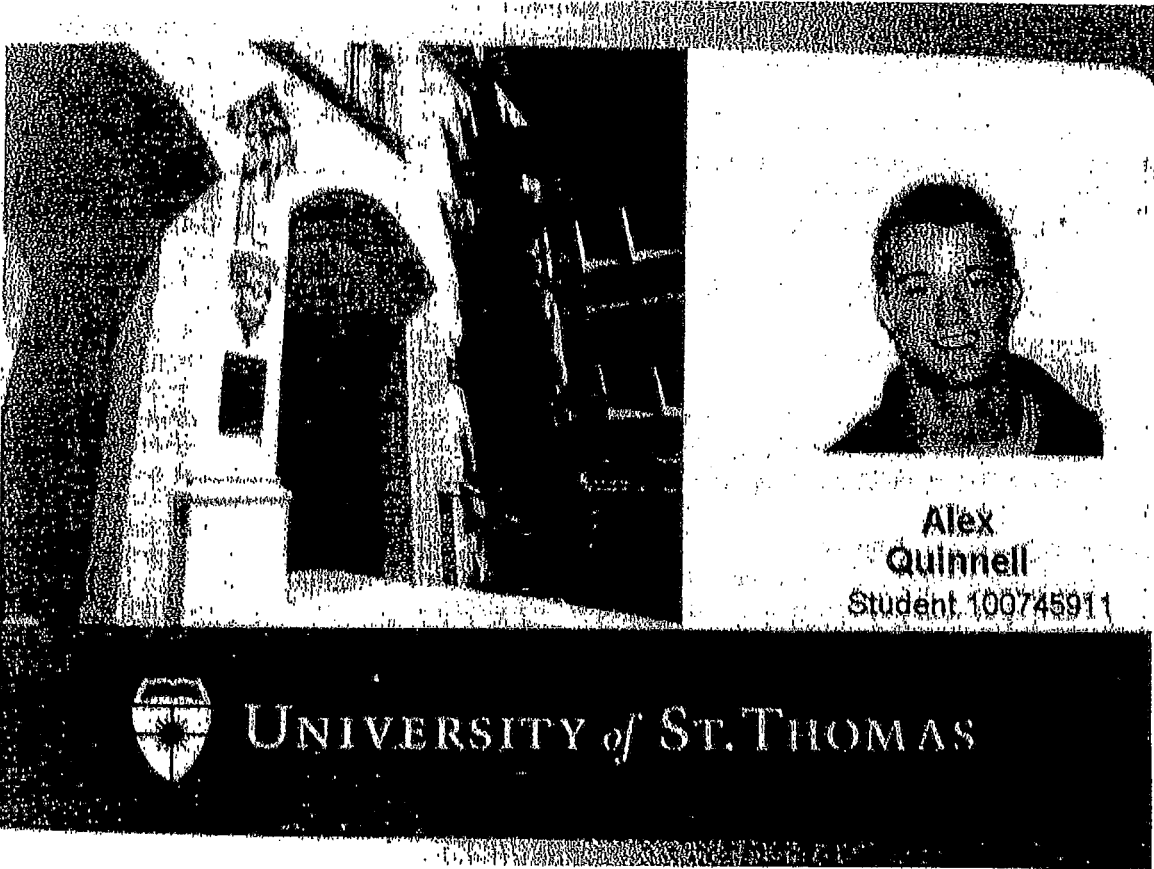


Daniel
Noehring
Student: 100701598



UNIVERSITY of ST. THOMAS





UNIVERSITY of ST. THOMAS

67.700 STUDENT HOUSING NEIGHBORHOOD IMPACT OVERLAY DISTRICT
Process for reviewing proposed new student dwelling

67.706 Establishing new student dwellings

DSI main webpage – stpaul.gov/dsi – scroll near the bottom of the page, click on *NEW* [Student Housing Registration Information](#) link, this will take you to the Student Housing Overlay District site (Frequently Asked Questions, Application Form, Ordinance Language, Zoning Study)

DSI Zoning webpage – stpaul.gov/zoning – scroll near the bottom of the page to Overlay districts, 3rd bullet down, click on [Student Housing](#), this will take you to the Student Housing Overlay District site (Frequently Asked Questions, Application Form, Ordinance Language, Zoning Study)

* coming soon: list of registered student housing properties will be available to the general public from our website* - this list will be updated by Pam Stanley, DSI Admin, at least weekly.

Student housing application includes:

- Student housing registration application
- Zoning Code Section 67.700
- Boundaries / map of student housing overlay district
- Example of site plan
- CO provisional application (1 page "Invoice for provisional fire certificate of occupancy")

Over the counter / in-take procedure

Applicant submits

- Completed student housing registration application
- Site plan – drawn to scale and fully dimensioned
- Proof of CO or completed CO app with payment of \$50 per dwelling unit

Ensure the submittals are complete

- check that the applications are signed and dated
- check that the site plan is drawn to scale and fully dimensioned
- check that the payment information is complete

WHEN THE APPLICATION IS RECEIVED - DATE STAMP, WRITE IN THE TIME AND STAFF INITIALS ON THE APPLICATION

Validation -

Does this meet the student housing definition? (must answer yes to all questions) –

Is this a single family dwelling or duplex that requires a CO

NOT owner occupied?

Occupied by 3 or 4 students (in at least one unit)?

Student = person enrolled in or has been accepted to an undergraduate degree program at a university, college, community college, technical college, trade school or similar and is enrolled during the upcoming or current session, or was enrolled in the previous term, or is on a scheduled term break or summer break from the institution.

Verify 150' separation requirement on GIS map,

If not met, write a note on the app that the zoning request is denied or rejected because it does not meet the minimum distance requirement -- return the application to the applicant. No need to enter the application in AMANDA

Verify CO

If no CO, applicant must submit a completed provisional application and pay the fee (\$50 per dwelling unit). Completed applications should go to the folder/bin labeled Maynard Vinge (located next to the front counter camera). Maynard will then collect the applications for entry into AMANDA.

Verify the site plan

Minimum required parking -- SFD = 1; duplex = 3 (stacked parking does not count)

The site plan must clearly show an accessory parking garage structure to be used for parking and/or paved (asphalt/concrete) parking area

Note: Zoning can conditionally approve the site plan for paving within a specific time frame. Zoning will have to manually set up a followup inspection (via GT folder).

Verify setbacks

AMANDA entry procedure

Search property

Folder button / all

Ensure no other folders/activities on address will affect application process (Warnings, building permits, ...)

Right click, insert row

Folder tab

Folder type = HS, Student Housing Registration

In date must reflect date and time application received

Folder Subtype = SFD or duplex

Folder name = SHR -- "applicant last name", "address"

Update

People tab

Enter applicant info

If there is a CO, AMANDA will automatically bring in the property owner and responsible party information

Responsible party is a required people type in this process

If you want to enter a new People type = applicant, right click to insert a row or copy an existing row by highlighting the row, then click the copy button. Change the People type to applicant.

Update

Info tab

Registered student housing? Y or N - Y means that zoning has approved the student housing and a CO folder is in AMANDA

students

residents

Update

Process tab

Right click to add an attempt -- insert row

Attempt status = under review

The reason an attempt status of under review could be used - because zoning is waiting for the CO folder to get processed in AMANDA

or

Attempt status = approved

The info field "Registered Student Housing" must be Y and CO folder must be in AMANDA before AMANDA will allow you to pick an attempt status of approved

An automatic email is sent to Fire "Folder #" at address for Student Housing Registration was approved by zoning staff name – Please follow up with the Certificate of Occupancy.

Update

Update

Scan the application documents

Attach to AMANDA document tab

Generate document for zoning approval, denial, or revocation

Section 67.708-- Revocation of status as registered and established student dwellings.

DSI may remove properties from the list of registered and established student dwellings under the following circumstances:

- a) suspension or revocation of the CO.
- b) residence by more than 4 students in a unit
- c) residence by less than 3 students for more than 24 of the past 36 months.

An email must be sent to zoning when a CO folder, Student Housing sub, changes to a folder status of condemned, or not certified, or razed, or revoked.

The student housing GISmap must be updated to reflect this change.

CO folder should send email to zoning when CO folder, Student Housing sub, status = condemned, not certified, razed, revoked

**CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 17-215020
DATE: January 17, 2018**

WHEREAS, Kyle Coglitore has applied for an Administrative Review under the strict application of the provisions of Section 67.708 of the Saint Paul Legislative Code pertaining to the Student Dwelling ordinance. This property was a registered Student Dwelling as defined in Sec.67.702. of the Zoning Code. However, its status was revoked after being found in violation of the Student Dwelling ordinance due to over occupancy. The applicant is appealing the revocation under Sec.67.708, which allows a revocation of a student dwelling status to be appealed to the Board of Zoning Appeals in the R3 zoning district at 2083 Marshall Avenue. PIN: 322923440130; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on January 17, 2018 pursuant to said application in accordance with the requirements of Section 61.601 of the Legislative Code; and

WHEREAS, the Saint Paul Board of Zoning Appeals based upon evidence presented at the public hearing, as substantially reflected in the minutes, made the following findings of fact:

1. *Background of Student Dwelling Ordinance.*

The appellant purchased this property in June of 2013 as an established student dwelling as defined in Section 67.702 of the zoning code. A student dwelling is a one- or two-family dwelling requiring a Fire Certificate of Occupancy in which at least one (1) unit is occupied by three (3) or four (4) students. For the purposes of this provision, a student is an individual who is enrolled in or has been accepted to an undergraduate degree program at a university, college, community college, technical college, trade school or similar and is enrolled during the upcoming or current session, or was enrolled in the previous term, or is on a scheduled term break or summer break from the institution. The Student Overlay District is bounded by I-94 on the north, Snelling Avenue on the east, St. Clair Avenue on the south, and Mississippi River Boulevard to the west.

2. *History of over occupancy.*

On March 16, 2016, DSI – Fire Inspection received a citizen complaint stating that this property may be over-occupied. The inspector responded to the complaint and found that six (6) to eight (8) students were residing in this single-family dwelling. City records indicate that the property owner admitted to the fire inspector that the residents that were not on the lease were storing their belongings in the garage in order to evade enforcement action from the city.

On September 13, 2017, DSI received another citizen complaint regarding a potential over-

occupancy at this property. On September 14, 2017, a fire inspector went to the property and found that it was occupied by nine (9) students. The fire inspector contacted the property owner to inform him of the over occupancy complaint and made arrangements to meet the owner on site on September 15, 2017, to discuss those issues among other property maintenance problems. The inspector found the property to be in compliance as the four (4) students who were living in the house were also listed on the lease. Additionally, the over occupied rooms were vacated. The fire inspector gave a verbal warning to the appellant stating that any more complaints regarding over-occupancy may result in the revocation of his Student Housing Certificate of Occupancy.

3. *Applicant's Claim*

As stated above, the DSI fire inspector met with the appellant at the property on September 15, 2017. According to the appellant, after the fire inspector left the house, the tenants on the lease told him that the additional residents rented a moving truck to store their belongings and planned on moving back into the house after the inspector left the property. The property owner became worried that he would lose his Student Housing Certificate of Occupancy, so he had his girlfriend file an anonymous complaint on his property as a good faith effort to demonstrate transparency and being a responsible landlord.

The fire inspector sent a Correction Notice to the appellant on September 18, 2017, stating that his Student Housing Certificate of Occupancy has been revoked due to over occupancy. The appellant claims that since his girlfriend called in the complaint on his behalf, the certificate of occupancy to rent to students should not have been revoked. The applicant submitted a photo illustrating the time of the call to the City complaint line, however, he did not indicate whom his girlfriend had spoken to at the city.

Although the appellant has lost his privilege to rent the property to three (3) or more undergraduate students as defined in Section 67.702 of the zoning code, he still has the ability to rent to four (4) unrelated adults or a family as defined in Sec.65.111 of the zoning code.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the Fire Inspector did not error in the decision to revoke the Student Housing Certificate of Occupancy due to over occupancy per the provisions of Section 67.708 on property located at 2083 Marshall Avenue; and legally described as Roblyn Park Additionst Paul Lot 20 Blk 5; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

BE IT FURTHER RESOLVED; that the appeal is hereby denied.

MOVED BY: Miller

SECONDED BY: Maddox

IN FAVOR: 4
AGAINST: 0

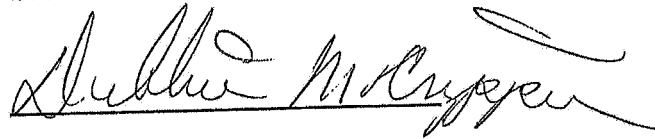
MAILED: January 31, 2018

TIME LIMIT: No decision of the zoning or planning administrator, planning commission, board of zoning appeals or city council approving a site plan, permit, variance, or other zoning approval shall be valid for a period longer than two (2) years, unless a building permit is obtained within such period and the erection or alteration of a building is proceeding under the terms of the decision, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of the approval, unless the zoning or planning administrator grants an extension not to exceed one (1) year.

APPEAL: Decisions of the Board of Zoning Appeals are final subject to appeal to the City Council within 10 days by anyone affected by the decision. Building permits shall not be issued after an appeal has been filed. If permits have been issued before an appeal has been filed, then the permits are suspended and construction shall cease until the City Council has made a final determination of the appeal.

CERTIFICATION: I, the undersigned Secretary to the Board of Zoning Appeals for the City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on approved minutes of the Saint Paul Board of Zoning Appeals meeting held on January 17, 2018 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS



Debbie M. Crippen
Secretary to the Board

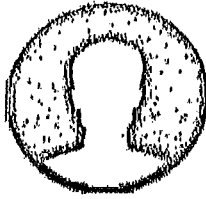
Verizon 47-7

2:35 PM

65% battery

← Recents

FILE
17-215020



(651) 266 8989
Minneapolis, MN



message



call

video

September 15, 2017

1:58 PM

Outgoing Call

10 minutes

Share Contact

Share My Location

Create New Contact

Add to Existing Contact

Favorites

Recents

Contacts

Keypad

Voice Mail

8

To: Board of Zoning Appeals, City of St. Paul
From: Mccall Bisel
Re: Student Dwelling Status, Administrative Review
2083 Marshall Avenue, St. Paul, MN
(#17-215020)

I called the city of St. Paul's complaint telephone number (651-266-8989) for the Fire Inspector on September 15, 2017 with, and at the request of, the property owner, Kyle Coglitore, to seek assistance from the Fire Inspector in case unauthorized students might try to move into the property located at 2083 Marshall Avenue, St. Paul, MN following the occupancy inspection that took place on the previous day. A copy of my telephone "screen shot" is attached showing my outgoing call at 1:58 pm to the Inspector's office. I placed the call because Kyle Coglitore indicated to me that he wanted to make sure that his tenants would not violate the city's occupancy code requirements.

Dated: 1-16-18

Signed: Mccall Bisel
Mccall Bisel

Address: 14904 Utah Place
Savage, MN 55378

Telephone: 507-380-9802