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AUG 30 2012

CITY CLERK

Keary Maloney
5165 Goldenrod LN N
Plymouth MN 55442

August 28, 2012

Saint Paul Legislative Hearing Officer
310 City Hall, 15 W. Kellogg Blvd., Room 330
Saint Paul, Minnesota 55102

Dear Marcia Mormond,

I am the landlord of the duplex at 1098 Marion Street. I was given permission by Mai Vang to appeal my case via this letter and accompanying documents when I spoke with her by phone on August 23, 2012.

My reason for not appearing in person is I am starting a new job on the very same day as my hearing date of September 4, at 1:30PM. Both my daughters also begin school that day. One is starting 1st grade and the other pre-school. My wife is already working full time. I cannot reschedule to a later date either since I will be in an intensive company sponsored training program that lasts several weeks nor have I accrued paid time off. Please understand my extenuating circumstances. I apologize for not appearing live before you.

As I've indicated in my previous two letters to the City Clerk, I am appealing item # 3 on the Fire Inspection Correction Notice which now bans class 5 gravel driveways in Saint Paul. My request is that I be allowed to keep my driveway as is. My reasons for the appeal are:

1. Class 5 driveways were acceptable in Saint Paul until 12/23/2009 not May 29, 2004 as I was initially told last week by someone named Mary. Karen Zacho called me with the date of the change being 12/23/09. You can verify this with her. Her phone number is 651-266-9084. This date is consistent with information I found on the Web indicating that class 5 was an acceptable paving surface for driveways at the time I put it in on 4/14/09. I did not find any information indicating that a change was to be made by the end of 2009. I am inclined to believe that 12/23/09 is the correct date of the change. I have included a dated copy of the receipt from Aggregate Industries the company that delivered the class 5 for the driveway.
2. It does not cause dust because it is compact~~ed~~ and cars can't drive fast enough on it to kick up dust.
3. Most of the driveways and even some garages on that block do not conform to the law. Almost all driveways do not meet the 4 foot easement requirement and neither do many of the garages. I've included a few photos as examples. There are a total of 3 other class 5 driveways in the same alley as mine. My class 5 driveway therefore is in character with the rest of the block. I've included photos of the other 3 class 5 driveways. None are even as nice looking as mine.
4. I've never received any complaints from neighbors or the city about the look or condition of the driveway. It was put in with good workmanship being bordered with timbers to prevent the gravel from spilling out. The neighbors immediately next door are willing to

support my appeal to keep my driveway. They like it and do not want to see it removed. Their names are Heather and Kenny Rowe.

5. It is not in close proximity to either neighbor's social gathering areas in their yards. It is close to the alley and away from where people would congregate. I've included photos of the area and layout.
6. It has improved the property. Prior to putting in the driveway, tenants against my will would sometimes park on the lawn and tear up the yard, splatter mud on the garage across the alley, and kill the grass making the property look worse.
7. It provides essential off street parking for tenants in snow emergency plowing. I have had several tenants tagged and towed because they had no off street parking in spite of being on the City's email warning notices to move their cars. It is a very big concern for renters to have off street parking. Not being able to keep my driveway harms my ability to find desirable tenants. In my experience good tenants want off street parking and will not rent from me without it. In fact, I put that driveway in as a condition for a tenant to move in in 2009.
8. I cannot afford to put in a paved driveway without exposing my family to harmful monetary risk. I have lost \$61,000 in value of the property based on property tax assessment value (more like \$91,000 in estimated resale value) due to the 2008 housing collapse and have spent an additional \$14,000 in repairs to the property since owning it. The latest fire inspection correction orders have added to this. Every additional dollar I spend on this property depletes our saving and puts us at risk of foreclosure on both this property and the one we live in. I have been unemployed for 4 years and my wife makes very little income – and no I'm not a lazy hippie. I have finally got a job offer to start a new job in September but it's not finalized yet and my wife is going to lose hers in November when her company relocates to Atlanta. We simply are running out of time and money. I have a tenant currently who has broken the lease several times and may drive my other good tenants out. If I have to evict him it could cost thousands in court fees and lost tenancy.

If the neighborhood was in an affluent area with all code complying properties I would see it reasonable for the city to order me to remove the class 5 driveway but it is not. It is in a poor working class neighborhood (that I grew up in) and is consistent with many other properties in regard to code compliance. Most properties have had some "grandfathering" in of some sort at one time or another. No one has complained about it. It improves the utility value and look of the property and it attracts good tenants to reside in Saint Paul that otherwise may not rent from me. For these reasons I ask that my appeal be granted without further attached conditions. I'm available by phone to discuss any part of my appeal further or for clarification.

Sincerely,



Keary C. Maloney
Property Owner 1098 Marion Street
651-705-5744



RECEIVED
AUG 20 2012

APPLICATION FOR APPEAL

RECEIVED
AUG 20 2012
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
- Walk-In OR Mail-In

<i>YOUR HEARING Date and Time:</i>
Tuesday, _____
Time _____
<i>Location of Hearing:</i>
Room 330 City Hall/Courthouse

Address Being Appealed:

Number & Street: 1098 Marion St. City: St Paul State: MN Zip: 55117

Appellant/Applicant: Keary Maloney Email kearymaloney@comcast.net

Phone Numbers: Business _____ Residence 651-705-5744 Cell 651-271-6130

Signature: Keary Maloney Date: 8/16/12

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

Item #3 - Please see attachment

**Petition for a Variance Allowing the Preservation
of the Class 5 gravel driveway located at 1098
Marion Street in Saint Paul**

We the undersigned want the City of Saint Paul to allow Keary Maloney the property owner of 1098 Marion Street to keep his class 5 driveway intact in it's present condition. We agree that the driveway conforms to the character of the neighborhood and is kept in good condition and does not cause any problems including air born dust. We also agree that having this driveway relieves parking congestion on the city street.

Name	Address	Date
<u>Ken Rowe</u>	<u>1094 Marion, St Paul</u>	<u>8-28-12</u>
<u>Heather Rowe</u>	<u>1094 Marion St Paul</u>	<u>8-29-2012</u>
<u>Arturo Lopez</u>	<u>1098 Marion St Paul</u>	<u>8/28/2012</u>
<u>Sandra Ahernada</u>	<u>1098 Marion St Paul</u>	<u>8/28/2012</u>
<u>Muriel Maloney</u>	<u>1297 Woodbridge St</u>	<u>8/28/2012</u>
<u>Eleanor Willette</u>	<u>12897 Woodbridge</u>	<u>8/28/2012</u>
<u>Pamela Milligan</u>	<u>1094 Wood's ridge</u>	<u>8/28/2012</u>
<u>Peggy Mott</u>	<u>1088 Woodbridge</u>	<u>8-28-12</u>
<u>Maria Mowbray</u>	<u>1088 Marion</u>	<u>8-29-12</u>

AGGREGATE INDUSTRIES

4480781

Yard A

4/14/2009 1:03 pm ORDER: CK P.O. NUMBER: CHECK

CUSTOMER: 518888 C.O.D. AGGREGATE DIVI
PRODUCT: 054 CL 5 LIMESTONE
QUANTITY: 11.05
Y-T-D SHIPPED: 11.05
SHIPPED TODAY: 11.05

	LB	TON
GROSS	44240	22.12
TARE	22140*	11.07*
NET	22100	11.05

*GROSS ENTERED MANUALLY
**STORED TARE WEIGHT

NERI MALONEY 651-705-5744
SAINT PAUL

1096 MARION STREET

CASH SALES	PRICE	AMOUNT
MATERIAL	7.85	86.74
FREIGHT		81.35
OTHER		0.00
TAX	7. %	12.31
TOTAL		182.06

HAULER: 8 TRUCK: 261 AXLE: 4
TAX: ? LOCATION 3078151 ECNE: 20
RECEIVED:

WARRANTY: SELLER'S WARRANTY IS LIMITED TO REPLACEMENT IN KIND OR EQUIVALENT AT PLANT WHEN AVAILABLE FOR A PERIOD OF ONE (1) YEAR. THIS LIMITED WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER

*Dated receipt of when the driveway
was put in on 4/14/2009.*



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

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

Telephone: 651-266-8989
Facsimile: 651-266-8951
Web: www.stpaul.gov/dsi

August 15, 2012

KEARY MALONEY
ALICIA MALONEY
5165 GOLDENROD LN N
PLYMOUTH MN 55442-2115

FIRE INSPECTION CORRECTION NOTICE

RE: 1098 MARION ST
Ref. #104741
Residential Class: C

Dear Property Representative:

Your building was inspected on August 14, 2012 for the renewal of your Fire Certificate of Occupancy. Approval for occupancy will be granted upon compliance with the following deficiency list. The items on the list must be corrected prior to the re-inspection date.

A re-inspection will be made on September 25, 2012 at 1:30pm.

Failure to comply may result in a criminal citation or the revocation of the Fire Certificate of Occupancy. The Saint Paul Legislative Code requires that no building shall be occupied without a Fire Certificate of Occupancy. The code also provides for the assessment of additional re-inspection fees.

YOU WILL BE RESPONSIBLE FOR NOTIFYING TENANTS IF ANY OF THE FOLLOWING LIST OF DEFICIENCIES ARE THEIR RESPONSIBILITY.

DEFICIENCY LIST

1. Basement - Dryer Vent - UMC 504.6 - Provide, repair or replace the dryer exhaust duct. Exhaust ducts for domestic clothes dryers shall be constructed of metal and shall have a smooth interior finish. The exhaust duct shall be a minimum nominal size of four inches (102 mm) in diameter.-The dryer vent is not constructed with the correct gauge metal. Dryer vents must be constructed of at least 26-gauge aluminum or 30-gauge galvanized. Replace the dryer vent with approved material.

2. Basement - MSFC 315.2.5 - Fueled equipment, including but not limited to motorcycles, mopeds, lawn-care equipment and portable cooking equipment, shall not be stored, operator or repaired within a building.-Remove all fueled equipment (lawn mowers/weed whips) and charcoal/lighter fluid stored in the basement. These items must not be stored inside the building.
3. Exterior - Driveway/Parking Space - SPLC 34.08 (7) - All parking spaces shall be paved with asphalt, concrete, or durable dustless surfacing. Before any existing spaces may be paved, site plan approval must be obtained as specified in the St. Paul Zoning Code. Contact DSI Zoning at 651-266-9090.-The driveway/parking space consists of gravel/class 5. Gravel and class 5 is not an approved parking surface. Provide an approved driveway/parking space.
4. Upper Floor - Kitchen and West Bedroom - SPLC 34.12 (2), 34.35 (1) - Repair and maintain all required and supplied equipment in an operative and safe condition.- Repair/replace the inoperable smoke detectors.
5. SPLC 34.11 (6), 34.34 (3) - Provide service of heating facility by a licensed contractor which must include a carbon monoxide test. Submit a completed copy of the Saint Paul Fire Marshal's Existing Fuel Burning Equipment Safety Test Report to this office.
6. SPLC 39.02(c) - Complete and sign the smoke detector affidavit and return it to this office.

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: (651-266-8688) and must be filed within 10 days of the date of this order.

If you have any questions, email me at: wayne.spiering@ci.stpaul.mn.us or call me at 651-266-8993 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,

Wayne Spiering
Fire Inspector

Reference Number 104741

original letter
request an appeal

8-16-12

To whom it may concern,

I am appealing item # 3 on the Fire inspection correction notice. My reason is this:
The class 5 driveway in question was put in before the law was changed to the best of my knowledge. I took the time to look up what was acceptable at the time and class 5 was acceptable.

A permit was not pulled because to my understanding it was not required at the time. Maybe I'm wrong but I recall being told permits were only needed for electrical, mechanical, heating, plumbing, and permanent structures. Moreover, I read that permits are not required for work costing under a certain value and the class 5 gravel was under that value.

Therefore, the driveway should not have required a permit so there is no City record of when the driveway was put in but I believe I can produce evidence it was put in before the law change if granted an appeal hearing.

Kindest Regards,

Keary Maloney



original follow
up letter
requesting an
appeal

8-17-12

To whom it may concern,

I am appealing item # 3 on the Fire inspection correction notice. My reason is this:
The class 5 driveway in question was put in at I time, to the best of my knowledge, was acceptable. However, now I know I was wrong. I spoke with Mary in zoning today and found out that I put the class 5 driveway in after the change in the law. When I Googled what was legal for driveways in 2009 I read class 5 was an acceptable surface. Apparently, this was either old or misinformation.

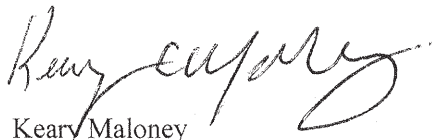
A permit was not pulled because to my understanding it was not required at the time. Maybe I'm wrong but I recall being told permits were only needed for electrical, mechanical, heating, plumbing, and permanent structures. Moreover, I read that permits are not required for work costing under a certain value and the class 5 gravel was under that value.

This was an unintentional error on my behalf but since the driveway is already in and there have been no complaints from any neighbors I would like to keep it as is. It does not produce dust since is highly compacted now and you cannot drive fast enough on it to kick up dust. I believe I can get signed signatures from the neighbors next door saying they like the driveway there. (The other house on the other side is vacant). I believe the driveway improves the property. Before putting it in, tenants had complained about lack of off street parking. There were many incidences of towing during snow plowing before the driveway was put in. This is in spite of my tenants being on the city email plowing notices.

Many people refuse to rent without off street parking. It makes my job getting good tenants much harder without the driveway. I cannot afford a new driveway. I am out of work and my wife is going to be laid off in November when her company relocates to Atlanta. My rental house is worth 40% less than when I bought it. I can't even sell it because it is worth less than what remains on the mortgage. If we deplete our savings having to put in a new driveway and possibly other things that may come up like furnace, roof, new porch etc., we run the risk of losing our own house we live not just our rental property which we vested our retirement savings in. We could be homeless with our two children. I am not kidding about this.

I would like an exception and one day when I have a job again and can save money I will put in a paved driveway or even a garage and bring up the value of the neighborhood. If I'm forced to spend money I can't afford right now and end up losing the property to foreclosure no one really wins. The city will have another vacant property, my tenants will be disrupted and I will have lost my life savings. Please help me. I would like an appeal hearing to plead my case.

Kindest Regards,



Keary Maloney

P.S. I'm enclosing the \$25.00 appeal fee I forgot the first time. Sorry.