

MINUTES
BOARD OF ZONING APPEALS
15 W KELLOGG BLVD, ROOM 330
ST PAUL, MINNESOTA, JANUARY 17, 2018

PRESENT: Mmes. Bogen, Porter, Trout-Oertel and Younkin Viswanathan; Messrs. Rangel Morales, and Miller of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Benner II, Mr. Diatta and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Thomas Saylor*

*Excused

The meeting was chaired by Gloria Bogen, Chair.

Kyle Coglitore (#17-215020) 2083 Marshall Avenue: 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 However, its status was revoked after being found in violation of the Student Dwelling ordinance due to over occupancy.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.

Mr. Benner showed slides of the site and reviewed the staff report with a recommendation for denial.

Eight letters and one e-mail were received opposing the appeal.

One letter was received from District 13 opposing the appeal.

Ms. Bogen asked Mr. Benner about the March 2016 complaint. Mr. Benner stated that he is trying now to give a briefing of the applicants claim. Ms. Bogen stated that the applicant is here to make his own case. Mr. Benner replied correct. Mr. Benner went through the Student Housing Ordinance rules then completed reading his staff report to the Board.

Ms. Trout-Oertel asked Mr. Benner whether this appeal is just about the revocation of the classification of student housing or if there is another issue, was this legally established as student housing? Do we know if it was legally established? Mr. Benner stated that yes, this property was legally established as student rental housing. It does have the license to be student housing, the decision that the Board has to make is if the Fire Inspector erred in making his decision to revoke the license due to overoccupancy.

Mr. Miller asked if there is some kind of formal warning that goes along with that revocation? Or does the Fire Inspector just have the power to make that decision? Mr. Benner stated that the warning is a compliance letter, directing the property owner to bring his property into compliance explaining what needs to be done to comply. The inspectors try to educate the property owners to come into compliance but after that there is no formal warning, he could have revoked the license after one, but the practice is that inspectors will give people an opportunity try to comply. That is what he thinks that the Fire Inspector did.

Ms. Bogen stated that the Fire Inspector gave a verbal warning and the property owner had a warning in March of 2016 not to have more than 4 people living in the unit. She continued that because these are undergraduate students they are different than 4 unrelated adults that could rent a house, even if there were 4 students and 5 other unrelated people, that is still more than the City allows. Just 4 unrelated people are allowed in a house in whatever configuration. Mr. Benner stated that if the people do not meet the definition of a family as stated in the Zoning Code only 4 unrelated adults can live in a dwelling unit. In this particular case, any more than 3 students require a certificate of occupancy in addition to the

regular one that a non-owner-occupied property would get. Ms. Bogen stated that is because they are undergraduate students. Mr. Benner replied correct.

Mr. Warner stated that on page 99 of the packet is a copy of the letter from the Fire Inspector notifying the property owner of the revocation. Number one on the deficiency list states the ordinance standard for doing so, that constitutes the reason. Ms. Bogen stated that there was another complaint after this letter. Ms. Younkin Viswanathan asked if that was after the 18th? Ms. Bogen replied no after the letter of the 12th.

The applicant **KYLE COGLITORE**, 17620 Iceland Trail, was present with his attorney Loren Solfest, 14985 Glazier Avenue, Apple Valley, MN. Mr. Solfest stated that he brought a short statement and some photos he wanted to provide for the file, he submitted two copies of the packet of documents to the Board. Mr. Solfest stated that Mr. Coglitore wants to and has attempted to come into compliance, as the record reflects, made sure that he has come into compliance with any item that he has been notified of that he needs to do with the property over time. This is the first property that he has had as a landlord. He has had many contacts with Mr. Benner and Mr. Neis and he has been in communication with the St. Thomas liaison on various occasions as well. Mr. Solfest contended that looking at the property shows that it is in significantly better shape and kept up better than the houses on either side of it. This is the first time that Mr. Coglitore has been notified of any complaint related to over occupancy. There is a reference in the file from March 16, 2016, which the chair referred to. There is no notice of non-compliance from March 16, 2016, Mr. Coglitore did not receive any notice that there is any over occupancy. He contended that the record that is listed shows comments that are in reference to a comment dated March 16, 2016 by Keri Kowski, talking about 6-8 residents on the property, it does not name Mr. Coglitore in the statement it references the Property Owner admitted to sneaking things into the garage which is not the case relative to this property. The address listed on that comment says 1683 Marshall Avenue, this is not 1683 Marshall Avenue. This is 2083 Marshall Avenue and there is no other reference in the file showing that there was any notice of non-compliance given and no notice either in writing or verbally to Mr. Coglitore. They believe after a conversation with Mr. Kowski (it is Ms. Kowski), this was a mistake referenced in this file and there was no non-compliance issue at that time. There were a number of items on the deficiency list that were noted that needed to be fixed and they have been fixed. There is one item that has not been completed yet which is the Landlord 101 class, he has been attempting to enroll since the fall. He is scheduled for March 15th, 2018, this is the only remaining item on the deficiency list that the property owner will be completing this year.

Mr. Solfest contended that relative to the revocation and the warning that was discussed earlier, there was no warning Mr. Coglitore was not familiar with any over occupancy and nothing in the file talks about residents, specifically of these additional people that were found on the property. He contended that his client was not aware of any additional people on the property and took action immediately when informed of it and made sure that those people were out of the property. Mr. Coglitore had the four people on the lease vacate the premises by the end of September despite the lease, he had the tenants move out. Mr. Solfest stated that Mr. Coglitore has spent a lot of time and money trying to fix up the property, a list of some of those items are in the packet submitted to the Board.

Mr. Solfest stated that on September 14, 2017, Mr. Coglitore was notified that there were other people in the property besides those on the lease. Mr. Coglitore met with the inspector the following day as requested and by that time the other people were out of the property and did not come back. There is an issue, and Mr. Coglitore was told at the time, as reflected in staff's comments, that it was important and that if over occupancy happened again the student dwelling status could be revoked. That is why he was so concerned and he heard that these other people might be coming back, not only did he talk to his

tenants but he wanted to be sure that he was ahead of the game and prohibited them from coming back and had his girlfriend called the Fire Inspectors office so that they could come out and assist if necessary to prevent these people from coming back in. There is a statement in the record that indicates that yes, Mr. Coglitore's girlfriend did call because there was some confusion about who made the call on the 15th.

Mr. Solfest contended that the record reflects that Mr. Coglitore has done everything as soon as he was told there was any issue or any deficiency. He has been attempting to do everything necessary to assure that would not happen and there is no code violation. He stated that Mr. Coglitore wants to be in compliance and wants to be a good neighbor. He has continued to fix up the property so it is a good property and will have good tenants. He also spoke with Mr. Benner about what could be done to avoid any issues with the property. He also spoke with some of the officials at the St. Thomas University about what they would recommend, some of the tenants he might be renting to are St. Thomas students. The University suggested that there is a STEP class, which is a student tenant class that is a student education class the University of St. Thomas offers for students that rent, they recommend it. Mr. Coglitore has amended his lease to specifically put in the lease that the students are required to show that they have completed that class. He also intends to make additional reference checks on students, he does not want to have students that are causing problems in the neighborhood or in the house or violating any State or City Law. Beside doing further reference checks on the students, he will also instruct the students specifically that they need to be good neighbors on the property. There are other amendments to the lease and provisions, Mr. Benner suggested that the lease allowed Mr. Coglitore to remove tenants from the property, which he did. In this case due to a violation or apparent violation. They have strengthened the language throughout the lease to make it clear that the students are required to obey City and State laws but also specifically reference the ordinance for the over occupancy issue. The students are prohibited from having any other tenants on the property apart from subleasing. Mr. Solfest stated that Mr. Coglitore has also put into the lease additional provisions about the number of people that can be on the premises and limiting them so there will not be any large parties, that had not been a problem in this revocation, but it was suggested and he added it to the lease. Mr. Solfest stated that Mr. Coglitore has and continues to make good faith attempts to comply with what is necessary and what is desired, he has been responsive to the inspectors. He was told he was not going to get a revocation at the time, but was given a warning. Nobody moved back into the property and it was vacated afterwards, there was no additional violation. He requested that the revocation be overturned and Mr. Coglitore be allowed to continue to operate as undergraduate student housing.

Ms. Bogen asked if Mr. Coglitore had anything to say. Mr. Coglitore stated that he has been learning a lot of things on the go. He was never aware of the Landlord 101 class, until last September when he received his first issue with a broken window. He has been speaking with David Smith about enrolling in this class and has gotten enrolled for March 8 & 15. He spoke with A.J. Nies, Fire Inspector, and was told if he did as instructed and did not let anybody else back in the property Mr. Nies would not revoke his student housing certificate. When he had his fiancée call in the complaint Mr. Nies did not know that Mr. Coglitore had instigated the call and had to prove it to Mr. Nies. At which point Mr. Nies stated that if he knew that Mr. Coglitore's fiancée called at his request, he never would have filed the revocation, but at that point it was too late to go back and pull it. Mr. Nies then told Mr. Coglitore that he would have to file an appeal. He has tried to do everything that Mr. Nies has noted that needed doing. Mr. Coglitore contended that he never received any letter of deficiency in March of 2016 and was never made aware of any problem. He continued that recently Mr. Benner explained to him how to look up complaints for the property. While checking this he noticed the comment that someone spoke with the property owner and he never said what is in the record. He asked Mr. Nies about this and was told that the property owners are not notified of complaints. He receives one check from his four tenants and there have only been 4 people on the property when he stopped by. He has spoken with Amy Gage about this issue but when he

has to give 24-hour to 48-hour notice, before he can enter the premises it makes it difficult.

Mr. Rangel Morales stated he is looking at the student statements starting on page 101 of the packet. He asked if the tenants know that it was Mr. Coglitore's fiancée that called in the complaint? Mr. Coglitore replied no they did not and have no idea that she called it in.

Ms. Younkin Viswanathan stated that the house is empty now and has been since September 30th? Mr. Coglitore replied yes.

Ms. Trout-Oertel asked Mr. Coglitore if there is anything in the lease about allowing other students to occupy the building is reason for eviction? Mr. Coglitore stated that in the lease he has it stated that if there are over 4 people the lease would not work. Mr. Solfest stated that in the packet he submitted one of the pages has a copy of the modified lease provisions and it specifies that in a couple of different places. The lease specifically states that no other person's other than the residents shall be allowed to be either temporarily or permanently be residing in or on the premises. It also speaks to the other items he mentioned in his statement. This is stated twice in the lease as well as the statement that the residents agree to comply with the St. Paul City Code and written standards established by the City's Department of Safety & Inspections regarding restrictions and requirements for student housing dwellings including without limitation article 17 section 67.702 which limits occupancy to 3-4 students. Ms. Trout-Oertel asked about consequences. Mr. Coglitore stated that they would not be allowed to live there, they would be kicked out. Ms. Trout-Oertel stated that is one thing, but there has to be a way of handling residents who are not complying with regulations. For Mr. Coglitore to call like he is a citizen and complain to the City was not a transparent way to deal with this and was probably where this broke down.

Ms. Porter asked for clarification on what the Board is voting on here, not on the deficiencies, or the validity of 67.702, the Board is voting on whether the inspector erred or not. Mr. Benner replied yes, the Board's decision today is essentially to say if the Fire Inspector made a mistake or erred in the revocation of the appellants certificate of occupancy for student housing.

Ms. Younkin Viswanathan questioned that Mr. Benner has stated that the Fire Inspector has the authority to revoke without warning if there are more than four unrelated people living in the dwelling. She stated that nobody is denying that there were more than four people living on the property. Mr. Benner replied that is correct.

Mr. Rangel Morales asked about the 2016 incident, were the same tenants involved. Mr. Coglitore stated it was different tenants. Mr. Rangel Morales asked what happened at that occasion? Mr. Coglitore stated that he had no information about that until this incident. He contended that he was never made aware of a problem in 2016. When he asked Mr. Nies about that, he was told that the property owners are not notified about complaints. Mr. Rangel Morales stated that according to what the Board has the statement reads that the property owner admitted, it says that Mr. Coglitore was there. Mr. Coglitore stated that is wrong he was never there. He spoke with Kari when he found this in the system and was told by her that anybody can call in a complaint. She did not know where it came from, anybody can say anything about the property. Mr. Rangel Morales stated that the way he reads this is that the Fire Inspector noted that they spoke with the property owner that day, March 16, 2016. Mr. Coglitore stated if you look at the complaint the actual date says Kari Kowski 6-8 students reside on the property, this was a phone call somebody made to her. This isn't anything that someone talked to A.J. Nies, this is about someone who called in a complaint about the property and said: 6-8 students live in the property, the property owner admits to sneaking things into the garage when inspectors come, because the inspector never looks in the garage. It appears that there are only four students living on the property, then is says a different address.

Anybody can call it in and say that he said it, it is just heresy. Mr. Benner stated that the note that Mr. Coglitore is referencing is from a complaint that was filed into Amanda, and the comments that staff has the ability to edit, he is under the assumption that the address typed in is incorrect, because the files have to be specifically on the property address when entering. If 1683 typed into the comments section it would not have shown up under the 2083 property, because the complaint was generated under the 2083 address. Ms. Bogen stated that she has not seen that. Mr. Benner stated that since that comment was posted into our database system he only referenced it in the history section of the staff report. Ms. Bogen asked about the note that somebody wrote in there saying that they talked to the property owner. Mr. Benner replied yes. He read the statement, "6-8 students reside in the property. The PO admitted to sneaking things into the garage when the inspector comes in 'because, the inspector never looks in the garage' so it appears that only four students live on the property." Ms. Bogen asked what PO stands for. Property Owner? Mr. Benner replied yes. Mr. Rangel Morales stated that is an assumption, then right? There is nothing that specifically identifies who the PO was. Mr. Benner replied correct.

Mr. Coglitore asked when someone calls in what is the process, does she relay what is said to her on the phone. Mr. Warner stated that when people make complaints that is protected data, the City will not tell who made the complaint. Mr. Coglitore stated he does not want to know. Mr. Warner stated than it is not relevant. Ms. Bogen stated that the complaint says that the Fire Inspector spoke with the property owner, not Kari who is the staff person. Mr. Benner stated for clarification Kari Kowski works in the call center, she is the person who would take in the call, she would then enter it into the database and forward to the correct inspector. Mr. Rangel Morales questioned that this was not to A.J. Nies. Mr. Benner replied it was to the property then forwarded, since A.J. Nies is the fire inspector for housing, he was notified of this particular complaint. Mr. Coglitore stated that Mr. Nies' notes came from this complaint, it was not Mr. Nies saying he had spoken with him, and heard this out of Mr. Coglitore's mouth and then gave it to Kari. This is that Kari got a call and Kari passed this note to A.J. and he wrote it in his notes as to how this came about. Mr. Benner stated that this was based on a conversation between the fire inspector and apparently Mr. Coglitore and that is what was said to the fire inspector. Mr. Solfest stated that he wanted to reference for the record the labels for the exhibits he submitted. Ms. Bogen stated that all of those will be part of the record. Mr. Warner stated if Mr. Solfest needed copies staff could get him copies for his record.

There was opposition present at the hearing.

Ms. Bogen instructed the audience when testifying to not repeat what has been said previously.

Mark Manderscheid, 2136 Goodrich Avenue, stated that he has a registered student rental across the street from him and a couple of others within a couple of blocks from his property and is very interested in the student rental issues. He is also a member of the West 7th Street Advisory Committee and of the Board of Directors of the Macalester Groveland Community Council. Both of those entities are very interested in the efforts that the City has undertaken to try and improve the quality of life in our neighborhoods and to try and put limits on the concentration of student rentals in the neighborhood. He thinks it is important for the Board to understand the proliferation of student rentals in the Macalester Groveland and Union Park neighborhood in the last few years. There is an economic incentive to student rental, in that there are students now that are paying anywhere from \$500-\$1000 each to stay in a house that they are renting. This has become quite a business and he thinks it is appropriate to apply business standards to what is being looked at here. The question was raised as to why the this is before the Board, the issue in front of the Board here is whether the Board is going to give full credit to the decision of the City officer who has recommended revocation of the student rental certificate. He stated that he is going to give reasons for the Board to give full credence to that by some reasons that have not been discussed here. On this

property at 2083 Marshall there was a complaint that was made in the middle of August of 2017 on this property. There was a deficiency/correction notice that went out from the City of St. Paul which Mr. Coglitore appealed. He appealed for the basis that he needed more time and there was unfair prejudice. Mr. Manderscheid continued that what Mr. Coglitore meant by more time and prejudice came out on September 12, 2017, during a hearing before hearing officer Marsha Mormon on this property. The reason Mr. Coglitore wanted more time was, according to the Fire Department, who were involved, has a transcript of that hearing, because his deal with the student tenants was that the kids were going to solve the problem. Mr. Coglitore was not going to, the tenants were going to fix the broken windows and all of these other things. From that transcript Mr. Coglitore says "he had new college kids every year, he had been on them about the windows they are in place to get the new windows done." Skipping down a couple of lines, "it is hard to get the kids to come up with the money when they finally get through that, they realize that they should not be breaking things that cost money." At this point the hearing officer says, "So it is your, private agreement, with these tenants, that they need to pay for these repairs along the way." Mr. Coglitore replied yes. Mr. Manderscheid stated that someone that rents to commercial tenants and expects the tenants to be compliant with the City Ordinance, in his opinion, should not be renting properties in St. Paul. Mr. Manderscheid stated that the discussion continued and is relevant to some of the comments that just came up. "Marsha Mormon stated that you as the owner will be held accountable by the City for all of these repairs, if you have avergated your responsibility and put it into the hands of the tenants, that is your private business with your tenants. You are putting your own C of O and your ability to use this as a rental investment property at risk by doing that. These orders were written August 17, 2017 based on an inspection on August 14, 2017. It would appear that you were unable to address these violations within the one month that you were granted." Mr. Manderscheid stated here we have a landlord who at the hearing which he has appealed from the citations he received on this property, blames his neighbors that they are being unfair to him and being harder on him than otherwise. He stated that he could read those comments of the transcript also, and Mr. Coglitore asked for more time, because he has not taken care of the things that need to be done. Look at the dates, the hearing was September 12, 2017, the inspection that is the basis for the City's decision to revoke the student rental license was just a couple of days later. Mr. Manderscheid stated that he would submit to the Board that a responsible landlord would go to the property, leases in this part of town typically start on June 1, of the year and continue for 12 months. What this suggests is a property owner who does not come by his own property, who didn't make the efforts to solve the deficiencies that the City noted on a timely basis, who was advised on September 12, 2017, that he better watch out, he could lose his student housing certificate if he does not take care of things around this property. The inspection and over occupancy comes a few days later. Mr. Manderscheid stated that his neighborhood is under siege some of the time by student rentals. The purpose of the student housing ordinance is to provide more spacing between student rentals. Sometimes students can be wonderful tenants, he has no problems with the students across the street from him, however, he does have some problems with the landlord across the street from him. It is the landlord who is responsible. Mr. Manderscheid asked that the Board uphold the City's decision here, this is a commercial landlord who had plenty of opportunities to make things right in a quick and timely basis. But a landlord that blames his neighbors doesn't deserve to have a student rental certificate in St. Paul.

Linda Simmons, 2111 Marshall Avenue, she has lived in her home for 43 years and they are saturated from Cretin to Cleveland there are 11 student houses. She is here to ask the Board to deny this appeal. It is simple 2083 Marshall Avenue's landlord and occupants broke the law. Instead of the four occupants the law permits they had nine occupants. It would seem that this also creates a dangerous situation for the students. She does not know if the Board is aware of what four college students can do to a house in a year, but nine can do a lot more damage. Many students and landlords ignore this law because it is rarely enforced. She believes that it is time to send a message to the landlords that turn a blind eye to the situation and to the students that believe that they are above the law.

Cathy Plessner, 2038 Summit Avenue, stated that she has lived within 1 mile of St. Thomas University for 45 years. The past four years she has represented the Groveland-Macalester Community Council on the West Summit Advisory Committee, she is also a landlord of a four-plex at 2003 Ashland and has a registered student rental duplex at 2099 St. Clair Avenue. These roles involve her in the creative tension that whorls around our neighborhood. She puts herself in these situations because she is inspired by the people around her who are doing the same thing. Recent challenges have created opportunities for the City and neighborhood constituent groups to recognize our interdependence. Student rentals in our neighborhood are called the "Golden Egg", we applied for them and it keeps balance in our neighborhood. No landlord is perfect but we must have a base standard to know and obey the laws that govern our properties and our businesses. DSI (Department of Safety and Inspection) is our partner, to help us act as our best self. Our first priority is to ensure the safety of our student tenants. No one celebrates when someone is caught breaking the law. When one of us has a consequence, it impacts all of us. It gives pause to others that act outside of the law, it gives credence to those that practice best practices. Ms. Plessner stated that she wishes that she could say that people are not doing this, but they are. The district councils, WIZNAC (West Summit Neighborhood Advisory Committee), she is on the housing committee of both and they are working so hard to bring collaboration among the parties and have the landlords help each other be better. She asked the Board to play a role in their neighborhood to enhance the livability of the neighborhood. By upholding DSI's findings, they have been partners to the landlords for the 18 years that she has been a landlord and they have made her a better landlord and kept out students safe. They are not punitive they try to work with us.

Lillian Hang, 2093 Marshall Avenue, she lives two houses down from this property, one house separates her home from this property, she has lived in her home since 2012. Ever since then 2083 Marshall Avenue has always been a student rental. There have been several occasions when her family has come home with their two young children and found students' cars, a white Durango, black sedan, gray GMC, Black SUV, a green moped and after a while she has lost track, parked in their alley driveway. They have watched those students or their guests get into their cars, parked in our driveway and driven off. On three occasions, this past year she has intercepted student parents as they backed up their trucks, car and trailer into her driveway. She has asked them not to park in her driveway as they dropped off, waited for or visited their child. Ms. Hang stated that visiting family members had to park a block away, because there was no street parking on a Sunday afternoon. It was no surprise to her on September 2017 that 2083 Marshall Avenue was cited as being over occupied. Nine students living in what should only be a four student rental dwelling. As a neighbor that walks these alleys on a daily basis, of course that house is over occupied. One look at the parking situation and it is clear that more than four students live there. In Mr. Coglitore's over occupancy appeal he stated as point #3 "when A.J. Nies left the house the boys began telling me how they rented a U-Haul and they put all the over occupants stuff in the U-Haul and they planned to move everybody back in later that day." This is a clear admission of over occupancy what concerns her most is that if Mr. Coglitore could not and would not enforce his own lease agreement that per the City's student rental ordinance states "A student rental can only have a maximum of four students." Isn't Mr. Coglitore neglecting his responsibilities as a landlord and as a neighbor and isn't Mr. Coglitore ever interested in the house that is his own investment. Inspector Nies noted that Mr. Coglitore's tenants have acknowledged that there is over occupancy here. Mr. Coglitore has admitted that there is over occupancy here himself for his appeal statement. Ms. Hang stated that she and several other neighbors have also noticed this too. As a result, she asks that the Board denies Mr. Coglitore's over occupancy appeal. More than four students live at 2083 Marshall Avenue.

Rita Levin, 2073 Marshall Avenue, stated that her family has lived in her home for more than ten years. During that time, she has regularly driven through the alley behind 2083 Marshall Avenue on the way to

and from her own garage. She has repeatedly seen 5, 6 and sometimes more cars parked in and around the garage behind 2083 Marshall, during the day, evening and on weekends. This has led her to believe, this is not just this past year, she stated that she is talking about many years past. This has led her to believe that student occupancy this past year is not an isolated occurrence for this particular landlord, and perhaps for the landlord from whom he purchased the property from. Based on this and the fact that she has regularly seen numerous students in the back yard 2083 Marshall, and not just when there was a large party going on, parties are frequent in our neighborhood. This is just two houses from her own back yard. The number of kids in the yard has led her to believe that more than four students regularly live on this property in an ongoing basis. She finds it hard to believe that any landlord does not visit his property often enough to realize that more than four students with cars, occupy a property that clearly everyone in the neighborhood knows has more than four occupants at any one time.

George Bounds, 2072 Iglehart Avenue, he lives down the alley, two houses to the east from this property. He stated that most of his points have been covered so he will not reiterate them. The neighbors knew that the house was over occupied but had a hard time proving it. Finally, it has been established in the record, we hope that the Board notes that this is very important to the neighbors. Mr. Bounds requested that the Board deny this appeal. We heard quite an itinerary about what Mr. Coglitore is doing, he thinks it is too little, too late. The neighbors have known that the house was over occupied for four years he has owned it for that long, and really before that he thinks Mr. Coglitore could have known it was over occupied the same way the neighbors did, by the number of cars parked, and the garbage cans overflowing. Mr. Bounds stated that he would suggest that Mr. Coglitore does not deserve another chance.

David Sill, 2111 Marshall Avenue, he has lived in his home since 1973. Mr. Sill stated that over occupancy is the open secret of student housing in their neighborhood. Landlords buy these big 6-8 bedroom houses and they rent them out to the students for around \$3000 a month usually and the students promptly fill all the bedrooms to get the rent down. They do it because they get away with it. The students are very clever and know that over occupancy is very hard to prove. The land lords don't seem to care as long as they get their money. The Board has an opportunity today to send a message to the landlords and the students. Over occupancy, the parking, the traffic and the noise factors will not be tolerated, he urges the Board to deny this appeal. To do otherwise would be a slap in the face to those of us that are working so hard to keep our neighborhood livable, so that we can stay in our homes.

Amy Gage, 215 Summit Avenue, stated that she is the Director of Neighborhood Relations at the University of St. Thomas. Ms. Gage stated that she did not intend to testify today, it is not common practice that we do, however, Mr. Coligtore's attorney invoked her name once and her title twice, and therefore, she feels compelled to speak. She is also in attendance as a member of the Board of the Union Park District Council, and a member of its committee of Land Use and Economic Development which voted unanimously against having the student rental certificate reinstated. She has not heard that decision referenced here today, she has also not heard that testimony here today. She forgets the exact date that Julie Reiter, Executive Director, could tell us the date, but we heard stories of bedroom doors being locked in this property, without the landlord having a key. Ms. Gage stated that she needs to go on the record here that St. Thomas University dose not endorse, does not condone, and steadfastly opposes our students living illegally in the neighborhood. She does not think that she needs to go into the safety issues that such a situation could entail. One of the nine students that was living on this property was on a panel recently called Renter 101, this young man was addressing first year students who now live in our residence halls and are intending to move off-campus. This is one step that we try to take to educate them about living in the neighborhood as responsible citizens. St. Thomas University has a bad reputation in the neighborhood and we have some fine students, she fears that they are not being seen at their best.

This young man told the class that nine students were living in this house that could legally have four. He told the students that the tenants of the house were partiers. This is not the message that she wants St. Thomas' first year students to hear. We do not want them getting lessons in breaking the law. Mr. Coglitore has been in touch with her, they were first in touch on May 2015. When she was first made aware of this property she was ten months into this job, when the house hosted, the case race. Ms. Gage stated that Ms. Levin made her aware of this and when she approached the house she could hear the noise from the party a block away, she drove through the alley with her husband and they saw masses of drinking pulsating bodies. She applauds Mr. Coglitore for saying he will require STEP (Student Tenant Education Program), she has been asking landlords to do so since she assumed this role, in June of 2014. One landlord out of 263 who rents to students requires STEP, that landlord is not here today. She routinely advertises Landlord 101, she has taken this class herself, as she rents out her late mothers' home in the St. Catherine's area. Leanna Shaff, DSI Fire Inspector, has written her and thanked her for recommending it to landlords. The existence of Landlord 101 should not be news. She did not intend to testify today and would have appreciated notice in advance that her name would be invoked today. St. Thomas does not condone our students breaking the law in this neighborhood, in this city. All for the common good, is our motto and it goes back to our catholic roots. Nine students in one property is not for the common good.

Ms. Bogen invited the appellants back to address comments. Mr. Solfest contended that the first speaker and a couple of others are also landlords and in direct competition with Mr. Coglitore's property and there is a personal interest for anybody that is a landlord. Ms. Bogen stated that Mr. Coglitore could rent to any four-unrelated people as long as they are not undergraduate students, correct? Mr. Solfest replied yes. Ms. Bogen stated it is not really a competition. Mr. Solfest replied that is incorrect, as Mr. Manderscheid spoke and as the others have spoken having a student dwelling designation on it increases the property valuable. Ms. Bogen stated because he can charge a student more than he could charge a regular person at market rate. Mr. Solfest stated because of the number of people that would be interested in renting the property right there in the neighborhood of St. Thomas. He stated that he is not attempting to impugn any reputations at all. He contended that there is an interest in eliminating the competition. He contended that his client is trying to help the communication between landlords and has addressed the deficiencies as soon as he was notified of them and is taking steps to take care of them. There are no outstanding issues on the property other than the outstanding Landlord 101 class, which he has signed up for. Mr. Solfest contended that Mr. Coglitore had only received one notice of deficiencies and was at the property the next day with the inspector who then told him if he did not change he would lose his student housing certificate. He took action and terminated the lease.

Ms. Bogen asked Mr. Solfest about the statements from the student renters Malik, Conner, Charles and Conner did write a statement that was notarized where they indicate that they discussed as a group to stay or move out and they called Mr. Coglitore to see if they could get out of their lease. This does not seem that your client, Mr. Coglitore, was the one that asked them to leave, it sounds like the boys said that they did not think that it was worth the headache of staying, with all the bad blood with the neighbors. They started looking for new places right away. Mr. Rangel Morales stated that it does not seem that the tenants had all the information as to why the fire inspector was there to begin with. He wonders if this statement would have been provided if they had known it was Mr. Coglitore's fiancée that called the fire inspector. Mr. Coglitore stated that his fiancée called in after all of this. The fire inspector was at the residence 24 hours before she made the call. Mr. Rangel Morales stated after this letter from the students was written. Ms. Bogen stated that this letter was written on October 31, 2017. Mr. Coglitore stated that this letter was written afterwards, he asked the students to state what happened on their end and they did. Ms. Bogen commented that the students stated in their statement that they asked Mr. Coglitore if they could move out, and now his attorney has been telling the Board that Mr. Coglitore kicked the students

out. She suggested that Mr. Solfest should have read the statement from the students before he started making up facts or testifying on Mr. Coglitore's behalf. These statements do not line up for her. Mr. Solfest stated that he was not making up facts. There was a discussion about termination and the lease, they came to terms about terminating the lease and they were out by the end of September. He contended that Mr. Coglitore has changed his lease to address these issues, going above and beyond what the other 263 landlords of student rental properties, setting restrictions on the leases. The revocation is based on a misunderstanding about who called in a complaint, contending that Mr. Nies turned a 180 degree turn on what he had told Mr. Coglitore the day before when he was given a warning. Mr. Solfest stated that Mr. Coglitore asks that his appeal be granted.

Hearing no further testimony, Ms. Bogen closed the public portion of the meeting.

Ms. Younkin Viswanathan asked if this is revoked, or if we uphold the Fire Inspectors decision, what does it take to get another Student Rental Certificate? Mr. Benner questioned if Ms. Younkin Viswanathan is asking if the Board denies this appeal, revoking the Student Rental Certificate for 2083 Marshall, could there be another one at this property? Ms. Younkin Viswanathan stated that presumably he would have the opportunity to reapply. Mr. Benner replied not on this property. Ms. Younkin Viswanathan asked for a quick summery on how to get a Student Rental Certificate. Mr. Benner replied that the Reason Mr. Coglitore could not get another certificate for this house is that there is another student rental property within 150' next to 2083 Marshall, if this one is taken off the list, it cannot be a student rental until another property within the 150' is removed from the list, or with a variance. Ms. Bogen stated that is because this is one of the original student rental properties. Ms. Younkin Viswanathan commented it was grandfathered in when the new ordinance when in. Mr. Benner replied correct, when the student housing overlay was put into place everyone had the opportunity. Ms. Younkin Viswanathan asked what year the student housing overlay was put into effect. Mr. Benner replied 2012. Ms. Younkin Viswanathan that was when everyone was given the opportunity to apply for grandfather status. Mr. Benner replied correct, whether or not they met the requirement. After that application period, all properties renting to 3 or more undergraduate students needed to meet that provision of the 150' separation. The only way that this property could be a student rental again is if a variance is requested, because of the other student rental properties within 150' of this property. Ms. Bogen stated but Mr. Coglitore can rent to anybody, such as a big family, as long as they are not undergraduate students. Mr. Benner replied correct. This does not take away the ability to rent the property, only three or more undergraduate students cannot rent the property.

Mr. Rangel Morales stated that the concern that he had is whether the property owner knew, everybody has said that he should have known, because of all the cars. He does think that it is a very bit property right that he would be losing, not to understate that he could still rent to other people. He is concerned about whether the landlord knew and was going along with the over occupancy or if he really did not know about it. If he did not know it seems a little unfair. He wonders if these students would have given this testimony if they had known that Mr. Coglitore's fiancée was the one who called the inspector on the property. Ms. Bogen stated that happened after, the inspector was there on September 14, and the fiancée called on the 15th. Mr. Rangel Morales stated that the students wrote the letter. Ms. Bogen replied because Mr. Coglitore asked them to write it. Mr. Rangel Morales replied yes, but they still wrote this letter without knowing the reason why the fire inspector came the second time. Ms. Bogen stated that they know because the night before they had all the occupants put their stuff in the U-Haul. Mr. Rangel Morales stated that if there is an agreement under the table and someone wanted to get out of it, this would have been a really good thing to do, to get out of it. He is just not sure if these kids knew that or not. He is unsure how much weight should be given to the student's statement document. Ms. Bogen stated that she thinks that the kids knew that they were not supposed to have more the four-people staying

there. Mr. Rangel Morales stated that he does not know whether the kids would have included the statement that they did not know, if the landlord knew that they had more than four people living there. Ms. Bogen stated that she is also a landlord, if she does not visit her property and check it out than she is not a good landlord. She stated that ignorance is not an excuse. Mr. Rangel Morales replied right.

Ms. Younkin Viswanathan stated that the issue before the Board is whether A.J. Nies had the authority to revoke Mr. Coglitore's Student Rental Certificate. Everyone admits that there were nine people living in the house, they are not allowed to have nine people living there. For better or worse it is the landlords' responsibility, whether he knew or not. This house is huge, the landlord could have closed off rooms to make it less likely to be over occupied. She continued that A.J. Nies stated in his letter that this is the first time he has done this in five years, she does not think that he did this lightly. Everybody admits that there were nine people living in the house and he absolutely had the authority to revoke the certificate. That is what the Board is deciding, not whether Mr. Coglitore is a good landlord or if it was a problem property. A.J. Nies had the authority to revoke the Student Rental Certificate.

Ms. Porter asked staff what is the duration of the lease with the tenants, and if it is annual is there a required inspection? Mr. Benner stated that the rental properties in St. Paul are given a letter grade A-F, an A-grade meaning the property is good, DSI staff is not called out there often and they do not get a yearly inspection. The lower down the grade scale the more often they are inspected. He does not know the grade of Mr. Coglitore's property, but he believes it is not in good standing, given the deficiencies listed in the deficiency letter. Since that information is not really why the Board is hearing this case, he did not reference it for the Board. The scale is based on complaints, how the property is maintained, as the Board can see from this deficiency list this property has not been maintained well and it seems to be a pattern for the property. Ms. Porter stated that her point is that based on that grade there should be an awareness for the property owner. Ms. Bogen replied yes, the property owners know what grade their property is and when the inspector will be coming back. The inspector would also come out if there is a complaint.

Ms. Younkin Viswanathan moved to deny the appeal and that the Fire Inspector did not error in revoking the student rental housing certificate based on the over occupancy.

Ms. Porter seconded the motion, which passed on a roll call vote of 6-0.

Submitted by:

Approved by:

Jerome Benner II

Diane Trout-Oertel, Secretary