



City of Saint Paul

15 West Kellogg Blvd.
Saint Paul, MN 55102

Minutes - Final Legislative Hearings

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651-266-8585

Tuesday, December 23, 2014

9:00 AM

Room 330 City Hall & Court House

There will be no meeting on December 30, the fifth Tuesday of the month.

9:00 a.m. Hearings

Remove/Repair Orders

- 1 [RLH RR 14-12](#) Ordering the razing and removal of the structures at 391 VIEW STREET within fifteen (15) days after the July 23, 2014, City Council Public Hearing. (Public hearing continued from July 23) (To be referred back to Legislative Hearing on January 27, 2015 and City Council Public Hearing on February 4, 2015)
- Sponsors:** Thune
- No one appeared.*
- Ms. Moermond:*
- at the City Council Public Hearing Jan 7, 2015, she will be asking for a Layover to CCPH Feb 4, 2015
 - will be referred to Legislative Hearing on Jan 20, 2015
 - there is interest on the part of the neighborhood and in acquisition of the property
 - hasn't fully explored a shortened redemption time period
 - has identified the bank involved: City Mortgage; got that thru SafeGuard Properties; they sent an Email to their contacts and she sent them the complete record
- Inspector Steve Magner, Vacant Buildings:*
- based on this information from SafeGuard Properties, it is assumed that Deutsche Bank transferred it to City Mortgage
 - so the best faith effort has been made by the city to notify the proper parties
- Ms. Moermond:*
- yes; City Mortgage may walk on this since the mortgage is not very large: \$76,000 (registered by Ameriquest Mortgage Co in Jan 2004)
- To be referred to Legislative Hearing on January 20, 2015 (corrected date: January 27) and City Council Public Hearing on February 4, 2015*
- Referred to the City Council due back on 1/7/2015**

11:00 a.m. Hearings

Summary Abatement Orders

- 2 [RLH SAO 14-49](#) Appeal of Janine Cunningham to a Summary Abatement Order at 800 COMO AVENUE.

Sponsors: Brendmoen

Owner/occupant have taken care of the issues and abatement order closed by Code Enforcement inspector. (No hearing necessary).

Withdrawn

- 3 [RLH SAO 14-50](#) Appeal of Anastasia Mastrogiorgos to a Vehicle Abatement Order at 30 MISSISSIPPI RIVER BOULEVARD NORTH.

Sponsors: Stark

Rescheduled per owner's request.

Laid Over to the Legislative Hearings due back on 1/6/2015

11:30 a.m. Hearings**Orders To Vacate, Condemnations and Revocations**

- 4 [RLH VO 14-65](#) Appeal of Judy and Robert Gilbertson to a Notice of Condemnation as Unfit for Human Habitation and Order to Vacate at 1144 BRADLEY STREET.

Sponsors: Brendmoen

Grant until January 14, 2015 to come into compliance noting that owners have accepted an agreement with Domestic Engineering to perform services at the property.

Referred to the City Council due back on 1/7/2015

- 5 [RLH VO 14-66](#) Appeal of David Himmelsbach to a Notice of Condemnation as Unfit for Human Habitation and Order to Vacate at 893 HUDSON ROAD.

Sponsors: Lantry

David Himmelsbach, son and heir of deceased owner, Donna J. Himmelsbach, appeared.

- complaint came in Nov 24, 2014; he sent an appointment letter Nov 26 for an inspection Dec 3

- Mr. Himmelsbach came to the office and asked for an extension, which was granted to Dec 12

- on Dec 12, met with Mr. Himmelsbach at 893 Hudson Road and conducted the inspection; photos

- upon entering, front porch was cluttered with excessive storage; he could barely open the door; once inside, front stairway was completely filled - no way to access the stairs; there was about a 12 inch wide alley to walk through the completely filled living room; all windows were blocked; dining area was also full of excessive misc.

home items; the kitchen was completely unusable as a kitchen; all appliances were packed with food and maybe some garbage; main floor bathroom sink was being used as the kitchen sink for dishes and completely cluttered; one side of the rear stairway upstairs was packed full (had about a 2 foot path to walk up; all windows were blocked in the bedrooms and the upstairs was also completely full

- basement: the boiler and water heater were clear of combustibles
- he gave Mr. Himmelbach until Mon, Dec 22 to have all the life-safety issues (smoke and CO detectors; kitchen usable as a kitchen; etc.); he sent Orders on Tue and posted the property

Ms. Moermond:

- read the affidavit, dated Dec 23, 2014, submitted by Mr. Himmelbach (attached), noting that the house has not been used as a duplex since before 2000; the windows are covered because of heating costs with exception of 2nd floor bedroom and 2 on main; there's one sink, one toilet, one bathtub and one stove in good working conditions; he's installed 4 smoke detectors and 1 CO detector; he is packing items for removal and requests weekly follow-up inspections by James Hoffman beginning Dec 26 or Dec 29 to monitor progress until conditions are met
- you want time

Mr. Himmelbach:

- from 1990 - mid 90's, there were 3 tenants, his sister for a while, a couple, then a single adult male
- he has lived in this house since 1990
- there is no trash in the house; items are left from his uncle, who passed away; a few things from his aunt; and a lot of his own accumulation

Ms. Moermond:

- the house is full; normally, we need to clear excess, get rid of combustibles and provide access to all areas of the house including escape windows, doors and stairways to make it safe for Mr. Himmelbach and for fire fighters; the house needs to have basic living facilities
- has not heard that there is an unsanitary condition; there are no pets either

Mr. Himmelbach:

- his health has not been good and his car had been rear-ended from which he still has migranes
- for the past year he hasn't done very much at all except watch TV
- so far he has filled 10 book boxes of 75; he would like to proceed with the removal of items

Fire Inspector Sean Westenhofer:

- asked if he has tried to get any assistance to help clear the house

Mr. Himmelbach:

- doesn't think he needs it; if he comes to a point where he does need assistance, he will consider it
- a suggestion has been made of a roll-off; he thinks that he can manage on his own

Ms. Moermond:

- advised that he take advantage of a dumpster through the House Calls Program (Kay Witgenstein)
- asked how long things have been in this shape
- looking at the photos, she wonders if he is understanding the gravity of this situation
- he could lose his housing because it has become unsafe
- if the house does get cleaned out, she doesn't believe that it would stay that way

unless he gets some support

- she finds that most people need help; they can't do it by themselves

Mr. Himmelbach:

- it's been a while; too long; had things stacked on the couch to move out to the family home in Little Canada

- he wasn't immobilized; thinks he may have been depressed from having the migranes

- he sleeps in the rear room on the 2nd floor

- he is fully aware of the situation and it will be a enormous job; has not talked with anyone about hoarding

- all he has to do is remove items until the house meets code; lately, he has been very busy cleaning out and he has the removal of things planned out; has a place to move things to and has transportation; he's ready to keep on going - is in the middle of a good beginning

- he gets SSI

- he would like to go as far as he can by himself if they can come to an agreement

Ms. Moermond:

- at this point, it's not a question of agreement; we're in enforcement mode, now; now, it's a matter of how the code will be enforced in this situation

- she will make the decision and hopes that Mr. Himmelbach is OK with it; it's not a negotiation; we will move forward and try to make it achievable

- she is not seeing safe living conditions here; it's good that there are smoke and CO detectors and that the furnace and water heater are clear

Mr. Hoffman:

- all the basic facilities need to be there: a working bathroom (between 2 bathrooms, Mr. Himmelbach has a working bathroom); the 2nd floor bathroom is used just for bathing; the basement has a tub, toilet and vanity-the sink is used for multiple purposes and the toilet works

Ms. Moermond:

- there is a sanitation concern there: food preparation, cleaning, needs to be separate from the toilet facilities

- we have to get that kitchen back into working order with proper clearances around them

Mr. Himmelbach:

- the property is in his deceased mother's name; it needs to be probated; his sister's name is Mary Himmelsbach

Ms. Moermond:

- you will need to vacate today but she wants to give you a chance to get this squared away

- we will focus on the first most major concerns: the kitchen needs to get cleaned out and the egress paths throughout the house need to be opened up

- the volume needs to be diminished by 50%

Mr. Himmelbach:

- he has a good start and wants to continue to decrease the volume

Mr. Hoffman:

- will be available to visit the house Tue, Dec 30

Ms. Moermond:

- will set up a plan/goal to be met by next Tue, Dec 30; then, a new goal will be set; if a goal isn't met at any given point, she will close down the house
- by next Tue: get all egress windows and doors clear
- clear a 36 inch (minimum) path to get from room to room
- nothing can be stored on stairways and landings; both stairways need to be cleared
- both bathrooms need to be fully operable
- need to call House Calls: Domestic Engineering; first start with Kay Witgenstein, 651/266-1285
- she thinks that working with the House Calls Program will be a condition to get you out of your circumstances
- wants 50% gone in 1 week, including pathways, clearing water heater and furnace, clearing egress ways; wants him to contact Kay W
- next Tue we will discuss the next steps; this will allow you to stay in your home while this gets sorted out
- get rid of the things that you know you can get rid of; and start pecking away at those in the gray area

Mr. Hoffman:

- asked that Ms. Moermond clarify 50% for him
- clearing pathways will be roughly 20% - 25%

Ms. Moermond:

- OK; that's 20% - clearing all egress pathways throughout the house (36 inch clearance)
 - then, let's get the kitchen completely cleared out
 - there will be no LH next Tue; Mr. Hoffman will connect with her and decide the next expectations; then, they will communicate with Mr. Himmelbach so all have the same understanding
 - will be on City Council Public Hearing Wed Jan 7, 2015
- Grant owner an extension until December 30, 2014 to reduce the volume of excessive accumulation in the house and porch by clearing out pathways of at least 36 inches in clearance, pathways to all egress windows, doors, stairways, basement; and, kitchen must be completely cleaned out. If owner meets the 50% mark, will grant additional time for the remaining items to come into compliance.

Referred to the City Council due back on 1/7/2015

1:30 p.m. Hearings

Fire Certificates of Occupancy

- 6 [RLH FCO 14-185](#) Appeal of Scott Beck to a Fire Inspection Correction Notice at 278 BAKER STREET EAST.

Sponsors: Thune

Grant a variance for the ceiling height. No hearing was necessary.

Referred to the City Council due back on 1/21/2015

2:30 p.m. Hearings

Vacant Building Registrations

7 [RLH VBR](#)
[14-101](#)

Appeal of Renae Reed to a Vacant Building Registration Fee at 609
SNELLING AVENUE NORTH.

Sponsors: Stark

Renae Reed, owner, appeared.

Inspector Matt Dornfeld, Vacant Buildings:

- Vacant Building registration fee
- Inspector Mike Kalas opened a Category 1 Fire Exempt Vacant Building on Aug 6, 2014 due to severe fire that had occurred on Jul 28, 2014
- the Fire Dept was called to a report of a dwelling fire; fire fighters arrived to find heavy fire in the rear of the upstairs unit of an up and down duplex; the occupants of the upstairs unit report awakening to smoke detectors going off; they saw flames in the kitchen and rear porch area; occupants deny any problems with their refrigerator; the ignition source was an electrical malfunction within the base of the refrigerator; the first fuel ignited in the insulation around the electrical wiring around the base of the refrigerator; the action that brought these items together is an electrical short; the cause was accidental
- currently, we have open electrical, building and plumbing permits (general building permit pulled Sep 10, 2014; plumbing pulled Nov 25, 2014; electrical pulled Dec 6, 2014)
- we have held the VB fee since Aug 6, 2014

Ms. Reed:

- is re-building; insurance is coming through
- the contractor is hoping to have the house ready in 2 months so, it will be done around Mar 1, 2015; that would be about 6-7 months from when the fire occurred

Ms. Moermond:

- the VB fee is an annual fee
- we'll probably be looking at half a year fee
- she has 2 choices: 1) to say now, that it will be half; or 2) to wait until it comes forward as a proposed tax assessment onto the property then, we could delete it or decrease it at that point - you will get a bill in about 2 months, or so and then, you would appeal that

Ms. Reed:

- she has no money coming in and she still is paying taxes, and with the cost of the permits, she thinks it's sad that the city expects owners to pay this kind of money

Ms. Moermond:

- the building permits fees coming in cover the services going out the door
- the VB fee is intended to cover the cost of running the VB Program: monitoring the VB and managing that things get done internally
- it's fantastic that you are trying very hard to get this up and running again after the fire; the city waives these fees for 90 days to get these things under control again; it has been much longer than that now

Ms. Reed:

- initially, one of the inspectors said, "Don't worry about the letter." (probably 60 days after the fire); nothing had much begun then because they had to line up all the contractors, etc; she got the next letter and now, she's past due

Mr. Dornfeld:

- this property has not been a nuisance at all; it's been secured and maintained; zero

neighborhood complaints

Ms. Moermond:

- let's let this ride until the assessment comes; if there aren't any issues, we could/may delete it, based on Mr. Dornfeld's recommendation
- talk with Mr. Dornfeld when the assessment comes; you may/may not need to come in for a hearing - you might be able to deal with Mr. Dornfeld over the phone
- she probably won't go beneath 1/4 of the assessment
Deny the appeal and allow the Vacant Building fee to go to assessment. Owner stated contractor may have work done by March 1, 2015.

Referred to the City Council due back on 1/21/2015

Other - 3:00 p.m. Hearings

- 8 [RLH OA 14-34](#) Appeal of Heating & Cooling Design of an e-mail from Stephen Ubl requiring that Heating & Cooling Design provide a responsible party that has obtained a Master's Competency card for each represented discipline in order to obtain permits and work in the City of Saint Paul.

Sponsors: Lantry

Dwayne Lee and Boris Sharkevich, Heating & Cooling Design, appeared.

Ms. Moermond:

- this is an appeal of the determination made by the Building Official, Steve Ubl, who made that determination in writing and Emailed it to the Appellants
- she needs to made a recommendation on this to the City Council

Gary Reinsberg, Senior HVAC/General Sheet Metal Inspector:

- several employees and himself encounter Heating & Cooling Design doing work without proper permits and having guys without comp cards for trade work; things have come to a head and staff decided that they needed to have a meeting with the Master holder, Mr. Lee, and tell him what the city's legislative code states and how it's to be enforced; in that meeting, they went over the code, how staff interprets it and what they expect out of it; at that time, they believed that both Mr. Sharkevich and Mr. Lee understood their requirements were

Ms. Moermond:

- as she read it, there has to be one Master competency card holder under which other people operate; that card holder needs to be responsible for the work of the other people; they may be called to the site, they are responsible for making sure that permits are pulled, kind of a supervisor
- DSI says that in this case, we don't have a supervisor who meets the conditions established in the code
- as she read Mr. Ubl's Email, it basically comes down to the clause in the code about Direct Supervision...."Registered trade workers may only work under the direct supervision of a journeyman or Master, who holds an applicable Certificate of Competency to perform the relevant type of work. The purposes of this section in terms of direct supervision shall mean that the supervising journeyman or Master Certificate of Competency holder in the type of work being performed by a registered trade worker and employed by same, shall be physically present and immediately available for assistance and direction; and electronic and telephonic supervision of any kind shall not be sufficient to meet the requirement for the supervising journeyman or Master be immediately available; that the same shall actually review the trade work being performed by the registered trade worker and that the same

shall be able to determine and shall determine that all trade work performed by the registered trade worker is performed in compliance with all applicable codes."

Section 370.17 of the Legislative Code, letter e. 1-4.

- and the Appellant is saying that there is a Certificate of Competency card holder, who does meet those qualifications

Mr. Lee:

- you have to have a Competency card to work in St. Paul; so, there is a journeyman present constantly with a card on site; that's not the Master Card holder

- it says the "Competency card holder" not the Master Competency card holder"

Ms. Moermond:

- one of the clauses does say "Master"

Mr. Reinsberg:

- a Master card hold is supposed to be readily available

Ms. Moermond:

- asked, "So, Mr. Lee, are you readily available?"

- "If they call you, could you be there in a certain period of time?"

Mr. Lee:

- I'm not standing there but they could call

- I could be there; it could take a little while

Mr. Reinsberg:

- he lives in Saskatchewan, Canada

Mr. Lee:

- he didn't see anything in that clause that would not make it right for them to do what they are doing

- there is someone on site with a Competency card; he doesn't see what the problem is

Mr. Reinsberg:

- the Master holder should have control of everyday operations of the business and the employees who are licensed and work directly underneath him; with him being out of the country, he doesn't think that Mr. Lee could be there within a 24 hour period after getting a phone call; if we'd catch one of their employees working without having a competency card and we summon him to the site, 24 hours would have lapsed by the time he could get there.. so that's not working

Mr. Lee:

- he thinks that he is accessible enough

- there is a journeyman with a competency card on site anyway

- if you do find someone who's not holding a competency card, he believes that you can fine the company anyway

Mr. Reinsberg

- typically, when we find someone working without the proper licensing, we send the Master holder a letter stating that they're not working under the same legislative code and give them 3 chances; the Master holder (it all goes to the Master holder)

- there were several instances where they found that work was being performed without a permit (here, permits are being obtained by Boris and his brother; they're running the company; licensed general contractor); typically, we need to contact them by phone; they are usually double-feed and there are re-inspection fees - that's

where the Master should be stepping in and saying that this needs to be remedied; we need to step up the game; he's the ultimate responsible party; if there were a failure in the installation of that system, he's the one whose license is on the line

- they do an investigation: who was the contractor doing the work and other pertinent information and they try to contact the person; they also try to get resolution right away
- when they need a Master card holder on site, they end up getting a visit from Boris or his brother, which isn't the same as having the Master there

Mr. Lee:

- generally, you don't have to have the Master remedy the correction; it's just a correction that will be corrected by the journeyman competency holder

Mr. Reinsberg:

- it could be that way but if we request your presence, you need to be there
- Mr. Ubl wants them to stop using Dwayne's license to pull permits; they need to get one who is more readily accessible
- the company does a lot of work in St. Paul and needs to have that responsible party readily available
- they think that their interpretation of the legislative code is not being met
- it was found that work was being done in Mr. Lee's area for which there were no permits

Mr. Lee:

- in this letter where he says, "It's my opinion that you still do not represent the intent of the section...", there's nothing in the wording that says we don't meet it; it doesn't say that you have to be 5 miles from the site; he has come every time that they've asked him to come and he will come I came the last time when you asked and I came this time as well, and I will come into town every time I need to
- he doesn't understand exactly what's not being met; he hasn't seen that problem; he always comes when asked
- you won't find anymore unlicensed trade workers on the job or he will quit
- just recently, there was an instance where Boris had applied for a permit and they started working; then, the permits didn't get approved because there was some red flag on the building; he wasn't trying to go behind the city's back; he had applied for it but then, it didn't go through (Mr. Reinsberg: You need to wait for the permit's approval before you start work; just because you've applied for a permit doesn't mean it's going to be approved; they do have systems in place for emergency situations, like when a furnace goes out in the winter.)

Inspector Matt Dornfeld, Vacant Buildings:

- at the request of LH, he looked into 605 Lafond Ave from a VB perspective
- it was a Fannie Mae property Category 2 Vacant Building passed on to these gentlemen; Reid Soley entered the following into the system on Oct 23, 2014, "New owner entered by STAMP on 10-14-14; Fannie Mae's waiver cancelled; VB fee is now due; warning letter now generated and mailed
- VB fee went to assessment Dec 1, 2014
- code compliance inspection on file from May 20, 2014

Ms. Moermond:

- if there was a hiccup in the system, did it have to do with the nonpayment of the VB fee? (that the permit wasn't issued right away)

Mr. Dornfeld:

- if a permit was not issued, it was probably because the VB fee hadn't been paid

Ms. Moermond:

- so, they were looking for a check for the VB fee before they would issue the permits

Mr. Reinsberg:

- Section 370.16: Journeymen work under direction of Master Certificate holder. All journeymen Certificate of Competency holders shall be required to work under the direction and supervision of a duly licensed Master
- that's pretty tough to do that from another state or country

A 5 minutes recess was taken.

Ms. Moermond:

- we're talking about the determination made by Mr. Ubl
- she must determine whether Mr. Ubl's determination seems reasonable and deny your appeal or it doesn't seem reasonable and she will grant it
- the trick in this one is that a violation of this section of the code would be brought up in court to you; if Mr. Ubl determines that there's a violation here, he would write a Criminal Citation
- if there's a violation, the other way that this could go would be to try to Revoke, Suspend or Take Back Mr. Lee's Competency card; it's not clear to her whether that would happen through an administrative law judge or district court
- ultimately, it will get decided by the City Council if this is a matter of taking away your Competency card; to her, it looks like that's where it would be headed; however, a judge.... you never know
- she is stuck on "physical availability and that electronic or telephonic supervision shall not be sufficient.... and shall actually review the trade work being performed by the registered trade worker" (assumes that you are there to review it)

Mr. Lee:

- he thinks that when they say a registered trade worker, that must be an apprentice because a Competency card holder is on site; he's the one who tracks the registered license holder's work; the Competency holder has got to be there and he is there

Ms. Moermond:

- she doesn't agree because Section 370.16 says, "All journeymen Certificate of Competency holders shall be required to work under the direction and supervision of the duly licensed Master;" direction and supervision is a lot more touchable than a management role that's removed from the site
- she thinks Mr. Ubl was correct in his determination; it seems right to her
- City Council Public Hearing is Jan 21, 2015 at 5:30 pm
- the bigger problem is the actual enforcement; that piece will follow

Mr. Lee:

- asked if there was any way that the company could have time to hire another Master

Ms. Moermond:

- she can only look at the determination itself; Mr. Ubl did not make a determination/decision on time, so she must be silent on that; that needs to be worked out with DSI and it would also be appealable
- suggested that they talk with DSI about time and other questions; perhaps a plan could be developed

Mr. Lee:

- noted that in the letter, DSI did not mention 370.16 at all; they were questioning 369.04; now, we're into 370.16

Ms. Moermond:

- *thinks that Section 370 is consistent and outlines this situation more clearly*
- *will recommend denying the appeal*

Referred to the City Council due back on 1/21/2014

9 [RLH OA 14-35](#) Appeal of Meeghan Francisco to an Encroachment Permit Denial at 155 SIDNEY STREET EAST.

Sponsors: Thune

Meeghan Francisco, owner, appeared. Colleen Paavola, Public Works, also appeared.

Ms. Moermond:

- *Fence Encroachment permit appeal*
- *Public Works reasoning for denying permit: 1) need accessibility for maintaining the trees; 2) lighting conduit runs underground along that side of the property; and 3) per Chap 134 of St. Paul Legislative Code, the request can be accomplished on your own private property (attached)*

Ms. Paavola:

- *they are trying to protect the right-of-way from encroachment and make an exception when something is extraordinary; this can be done reasonable on her own property*
- *lighting as well as other utilities are placed in the right-of-way; anything placed over that conduit would be undermined*
- *at this time, there is no sidewalk but in the future there may if the city were to rebuild the street and put in a sidewalk*

Ms. Francisco:

- *bought the house in Jun 2014*
- *Ms. Moermond, Ms. Paavola and Ms. Francisco discussed the diagram entered by Ms. Francisco*
- *wants to enclose the walk way within her fence line; asking for a maximum of 6 feet, which would still leave approximately 14 feet for the blvd, etc.*
- *she is going through a professional fencing company and they won't erect the fence without her getting the encroachment permit*

Ms. Moermond:

- *if you do get the permission to build into the right-of-way, you need to be clear that the city can take down your fence or do whatever they need to do at any time (a condition of getting an encroachment permit)*
- *an alternative would be to move that walk way*
- *needs to do some research on this; and needs to get a feel for where the City Council will go on it*

Layover for Legislative hearing officer to look at couple similar cases.

Laid Over to the Legislative Hearings due back on 1/6/2015