



City of Saint Paul

15 West Kellogg Blvd.
Saint Paul, MN 55102

Minutes - Final Legislative Hearings

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651-266-8585

Tuesday, October 21, 2014

9:00 AM

Room 330 City Hall & Court House

9:00 a.m. Hearings

Tax Assessments

- 1 [RLH TA 14-607](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1502E, Assessment No. 158301 at 1793 ARLINGTON AVENUE EAST

Sponsors: Bostrom

No one appeared; approve the assessment.

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

Other

- 2 [RLH OA 14-29](#) Appeal of Sengleuame Ly to a Code Compliance Report at 755 THIRD STREET EAST.

Sponsors: Lantry

Sengleuame Ly, owner, appeared.

RE: Code Compliance Report

Appellant doesn't want to pay double fees on the building permit

Ms. Moermond:

- reviewed this file pretty carefully

- in 2013, on 3 different occasions, Inspector Nelmark told you to go get permits for the work that you were doing

Mr. Ly:

- when he called Mr. Nelmark, he said, according to Jim Seeger's list, there are some things without pulling permits

- Rich Singerhouse also said that he didn't need to pull permits to do simple jobs (painting)

Ms. Moermond:

- it looks like that the work that you were doing did require a permit

Fire Inspector A. J. Neis:

- Jan 8, 2014 notes: Legislative Hearing Officer ordered half fee due now to allow all permits; half fee only if work is finished by Jul 14, 2014. Fee process and assessment will occur as normal and fee adjustment to be handled by Legislative Hearing Officer after assessment. (talking about a Vacant Building fee)

Ms. Moermond:

- in 2013 there's also notes about pulling permits

Mr. Ly:

- he knew that he had to pull a permit to do the work but he doesn't understand why he's charged a double fee (?)

Ms. Moermond:

- because you did the work without having the permit

Mr. Ly:

- Jim Seeger's list had 12 things to finish; when he came to appeal the double fee, he had 19 items; before he appealed, he talked with Steve Ubl to see if he would remove the double fee (he's willing to pay the permit fee but not double); when he went to pull the permit, he had more items on the list

- he heard from people that if you question the city, they will add more items and that will stop you from questioning

- this is really frustrating ... if you don't understand and ask questions, they put more on and that makes him feel nervous and you don't have the heart to say anything

Mr. Neis:

- Jun 30, 3014- the existing Code Compliance Report had expired (they didn't add anything because of questioning); a new Code Compliance Inspection needs to be done

Ms. Moermond:

- looking at the Oct 3 report, he is correct; on Oct 3, there were 12 items on the building section; the next report had 19 items on the building section

- could that be because the 12 reflected a previous code compliance? (Mr. Neis: yes, that's possible)

- Jun 27, 2013 - your code compliance report lists 23 items in the building section

- code compliance letter 10-7-14; another code compliance letter 10-10-14

- she does not know why there's a discrepancy between the 2 lists

- the 1st list has 23 items; then it went to 12 items; then back up to 19 items

- doesn't know what happened between then and now

- right now there's a double fee for the permit in front of her and she sees notes in the file that the inspector told you to pull a permit for the work that you were doing; and when she looks at each Code Compliance Inspection Report, the last thing it says is that a "building permit is required" to correct the above items; however, you were doing that work without having pulled a permit

Mr. Ly:

- what work have I been doing?

Ms. Moermond:

- this was at LH earlier this year; she cut Mr. Ly a break and told him, "Go, pull your permits and if you can get this done, you can get half of the VB fee." At that point, you didn't go pull your permits even though you got a break on your VB fee

Mr. Ly:

- it's a financial thing; he's not living there, yet he has paid his taxes and street maintenance; he keeps the place clean; he does what he can but he's been paying so many things along with it even though he's not living there and he has his own place to take care of; he has to save up to come up with the money to fix the property; now, I have a couple thousand; I want to do the repair but now, I have to pay a double fee! Very frustrating! Instead of helping me to improve this property, they make it harder to improve it and live there

Ms. Moermond:

- original building fee was \$300; double, it's \$600; it's a \$300 penalty for not pulling a permit in the first place

Mr. Ly:

- he didn't realize that he had to pull a permit in the first place

Ms. Moermond:

- doubling the fee is appropriate in your circumstance
 - all 3 of the letters say that this work requires a permit; we talked about this
 - pay the \$300 penalty now so you can get the deal on the VB fee
 - you can talk to the City Council at Public Hearing Nov 5, 2013 at 5:30 pm; you could get a refund if you start working right away

Mr. Ly:

- he will be coming Nov 5, 2014
 - thinks that people should get help instead of punishment from the city
 - the Code Compliance Inspection Report should be written more clearly, so that ordinary people can understand it
 - to require the work be done by professionals, even though I can do it, is discriminatory

Ms. Moermond:

- if you feel like this was discriminatory, I will refer you to the Office of Human Rights, 2nd floor
 - will recommend denying the appeal

Referred to the City Council due back on 11/5/2014

9:30 a.m. Hearings

Orders To Vacate, Condemnations and Revocations

- 3 [RLH VO 14-56](#) Appeal of Colleen Walbran, Southern Minnesota Regional Legal Services, on behalf of Lisa Barrett, to a Correction Notice-Complaint Inspection (which includes condemnation of Units 2 and 3) at 650 OAKDALE AVENUE, UNIT 3.

Sponsors: Thune

Colleen Walbran, Attorney, Southern Minnesota Regional Legal Services (SMRLS), appeared on behalf of Lisa Barrett, occupant.
 Lisa Barrett appeared later.

Fire Inspector A. J. Neis:

- Fire Certificate of Occupancy Correction Notice re a complaint inspection conducted by Fire Inspector Sean Westenhofer

- initial complaint: Unit 1 having fleas
- during Inspector Westenhofer's inspection, he noted that the NE rear deck/staircase was in dire need of repair; some work had been done to shore it up, which the owner thought was sufficient; this compromises entry and exiting of the house
- he consulted with the Michael Palm, Sr. building inspector of the area to go out with him, who concurred that it was structurally not sound and should be Condemned and Vacated, which was done
- we are here for the appeal of the Unit 3 occupant, Lisa Barrett
- the building has 3 units
- the staircase is used by Unit 3
- a permit was pulled Oct 13, 2014 to do the repairs
- appealed is the Condemnation/Order to Vacate in addition to the NE exterior deck/staircase

Ms. Walbran:

- initially unit 1 called to complain but her client lives alone in Unit 3; Unit 3 is written up because of the deck/staircase, which is the only way her client can get in and out of her place
- Ms. Barrett likes her home and she would very much like to stay
- at this point, SMRLS hasn't filed an Emergency Tenant Remedies Act in Housing Court because Ms. Barrett was updating her that there were positive communications between the owner and inspections; they were either going to mover her to one of their other buildings or fix the deck; most recently, the property owner said they were in communication with inspections trying to iron things out

Ms. Moermond:

- for an emergency repair like this, she would anticipate that there would be a call for re-inspection pretty quickly

Ms. Barrett just arrived.

Mr. Neis:

- the property asked for a 2-week extension on Oct 10
- he would imagine that the repairs are pretty close to being handled
- he repeated the staff report for Ms. Barrett
- this file is rather confusing to him
- he has seen photos of the deck; don't know why they are not in the system
- the re-check date is Nov 10

Ms. Barrett:

- she has seen people go around but she hasn't seen any hammers or nails
- she doesn't feel safe now walking up and down those stairs or being out on the deck
- we've had inspections before but no one said anything about the deck
- so, the lady downstairs gets to complain about bugs in her apartment and then the whole building gets inspected and I need to get out and she gets to stay
- she's the complainer and I'm not complaining about anything
- it's a nice apartment; been there since Dec 16, 2013
- to the best of her knowledge, no repairs have been done to that deck within the last 6 months

Ms. Walbran:

- Ms. Barrett has a Section 8 Voucher and there aren't many landlords who accept them

Mr. Neis:

- Inspector Westenhofer was out there Jun 19, 2014 and subsequently, approved the Fire C of O Jul 2014
- but there have been no repairs since he was out there
- there were never any Orders issued to repair/replace the deck structure; it's possible that he noticed it at his next inspection
- another complaint came in Aug 2014; he didn't notice any issues with the deck; he went back out in Sep to check and didn't notice any issues on the deck
- the deck has held up for the last few months
- he is concerned with a snow fall; work should be completed quickly
- it is his understanding from speaking with the owner that the work would have been done by now; he was asking for only a couple of weeks extension to get the work completed

Ms. Moermond:

- sounds like the deck needs more support for 2-story tall structure
- she wants to get this fixed so that Ms. Barrett and others aren't in danger

Ms. Barrett:

- the owner has been in the hospital for the past 2 weeks; he's an old man
- she has never seen him do the work himself

Ms. Walbran:

- she apprised Ms. Barrett of her right to go to housing court and file a complaint and ask that the judge order that this be done right away

Ms. Barrett:

- she thought that they'd get right on it because they told her they were but then, she heard that he was in the hospital
- Boris Tsvetovaty is the maintenance person

Ms. Moermond:

- housing court can hold the owner in contempt and issue a warrant - maybe end up a day in jail
- she can force the house to be emptied and the landlord collects no rent
- she needs to select which of those hammers will be more effective and more appropriate
- will LAY THIS OVER for 1 week
- in the meantime, we'll get a statement from Michael Palm and get him here next week
- would like the district court and city council act together on this - re-enforcing the other's decision
- is hopeful that a Tenant Remedies Action can be brought, which would provide housing for Ms. Barrett, should she need it

Mr. Neis:

- he plans to contact Boris after this meeting and find out where he's at with this; hopefully, get a definitive deadline
- he was looking for only 1-2 weeks to get this finished

Ms. Moermond:

- will send letters to Ms. Barrett, Ms. Walbran, the property owner, Mr. Tsvetevaty
- we'll get Mr. Palm notified to be here next week Tue, Oct 28 at 11:30 am
- if she has to Order the place vacated, she will look at later in Nov
- Layover to Oct 28 LH at 11:30 am to get more information from building inspector Mike Palm.

Laid Over to the Legislative Hearings due back on 10/28/2014

Fire Certificates of Occupancy**10:30 a.m.**

- 4 [RLH FCO
14-157](#) Appeal of David Hoffman to a Fire Inspection Correction Notice at 696 COOK AVENUE EAST.

Sponsors: Bostrom

NOTE: Appellant did not appear.

Inspector A. J. Neis:

*- looks as though they are simply scraping and painting
- based on the time of the year, he has no issue with allowing that to go until Jun 1, 2015*

Ms. Moermond:

- will grant until Jun 1, 2015 for compliance

Referred to the City Council due back on 11/5/2014

- 5 [RLH FCO
14-149](#) Appeal of Karen Haug, CEO for Advance Shoring Company to a Correction Notice - Complaint Inspection at 1400 JACKSON STREET.

Sponsors: Brendmoen

Karen Haug, CEO, Advance Shoring Company, owner, appeared.

Fire Inspector A. J. Neis:

*- Fire Inspection Correction Notice
- complaint Sep 25, 2014: received call from St. Paul Fire Dept about spray finishing with oil based paint; unsafe conditions at this property
- Fire Inspector David Bergman and Mr. Neis responded to that call to investigate
- Advance Shoring has large equipment such as cranes; they paint them to keep them maintained
- the complaint said there were noxious odors caused by oil based paint and employees who were painting didn't have proper protective equipment/gear
- they found that there was evidence of recent painting in one portion of the property
- office personnel were very cooperative
- Mr. Neis and Inspector Bergman advised that they could continue to paint; however, they would need to do it with a pad, a roller or a brush to keep down the odors; Inspector Bergman called it under the city nuisance conditions, which cover anything that is noxious and potentially hazardous to the community
- 45.03 St. Paul Legislative Code, subdivision 9 under Health Hazards: "Anything or condition by which the property, in the opinion of the enforcement officer, creates a health hazard or is in violation of any health or sanitation law...." (the odor of oil based paint can be hazardous depending on whether people have asthma or breathing issues; in addition, they were not given protective gear)
- the property is zoned Industrial
- they are not opposed to them continuing to paint to maintain their equipment; just do not use spray paint; use a pad, brush or roller and use proper gear*

Ms. Haug:

- they have several issues:

- the complaint is invalid - not based on fact; they were told that the complaint came in Sep 24; however, they were not painting that day
- Fire Inspector Dave Bergman was on site shortly after the complaint and he didn't see evidence that we were painting that day; he saw evidence that we had painted previously; so, the person who called could not have smelled anything emanating from the site because they were not painting
- argued that there's no public nuisance; the city's Legislative Code defines nuisance under Section 45.03 as something "that threatens the public's peace, health, safety or sanitary conditions of the city, or which is offensive or has a blighting influence on the community." The actions that were complained about, even if true, wouldn't meet that stated definition because there was no threat to public peace, health, safety or sanitary condition of the city and there was no activity that was offensive or had a blighting influence on the community
- in fact, the complaint was not made by a member of the community that could have been impacted if we were painting;
- their employee came into the office and told her that he had complained to his friend, who is a fire chief and with whom he work with as a volunteer fire fighter; he had complained about painting and his friend had called the city to complain
- re safety gear: the Safety Data Sheet clearly says that you have to wear a respirator if you are painting in a booth but if you're outside, you don't have the levels of concentration in the paint so you don't have to wear a respirator; they do provide painters with masks that certainly protect them while they are outside painting
- they talked with their safety consultant and he recommended not using the respirators; they don't want you to use a respirator unless you have to
- they do allow painters to use a respirator if they want to use it; however, they can't just take one off the shelf; you need to get stress tested by a doctor, etc.
- this particular employee is very annoyed; he wants to get sent out on service calls; he's not happy about painting
- to meet the definition of "nuisance," it must impact the community and there is no evidence that this impacted the community from either a subjective or an objective perspective
- anyone can complain: a competitor; a ticked-off employee; someone who doesn't like someone, personally; etc., but it has to be objectively offensive and there is no proof of that
- in the 30+ years that they have been at this location, never once have they had a complaint from the community or their neighbors regarding painting outside nor would such a complaint of this type be justified in an industrial district that's provided for this kind of use
- they have been at this location for decades and have not changed the way they use the property
- they don't paint very often; they are painting now because during the recession, their equipment was moth-balled and it got rusty
- the equipment is huge and it would be cost prohibitive to take it to a facility large enough to take care of painting
- the complaint referenced the state fire code; however, that code is silent on outside painting so there isn't a violation of the fire code
- the Correction Notice is factually inaccurate and doesn't meet the standard of a public nuisance because it wasn't affecting any of their neighbors
- they paint only when there is very low wind for all sorts of reasons
- she would have brought the employee to today's hearing but she was informed that she could not bring him with

Ms. Moermond:

- that was wrong information and it will be corrected in house

Mr. Neis:

- commented on the process for getting a respirator; it's a long daunting process; requires a spirometry, check lungs, electrocardiogram, many other tests to get certified (he knows from experience)
- one issue with the complaint - when they get a complaint, they are required to look at it from all angles to validate it (or not)
- the complaint came in from St Paul Fire and was vastly different from what was described; he was told that they were actively painting; based on that, he, as well as Inspector Bergman went to the property immediately - they were there within 15 minutes of the initial call
- when they was at the property, they saw the evidence of having painted but there was no active painting going on while they were there; oil based paint does emit an odor and can last a couple of days

Ms. Moermond:

- there was not sufficient information/evidence/conditions to justify issuing an Order
- will recommend granting this appeal noting that this is an Industrial zoning area; the business has to comply with OSHA standards and there is the ability for employees to access respirators and other equipment should they so desire

Referred to the City Council due back on 11/5/2014

**6 RLH FCO
14-155**

Appeal of Kyle Dalton for Asbury Real Estate to a Re-Inspection Fire Certificate of Occupancy with Deficiencies at 1958 MARGARET STREET.

Sponsors: Lantry

Kyle Dalton, owner, appeared.

Fire Inspector A. J. Neis:

- Fire Certificate of Occupancy Correction Notice by Inspector George Neimeyer
- ceiling height issue in 2nd floor bedrooms
- ceiling height: 6'4" both bedrooms at highest point (#13 and #15)
- south 2nd floor bedroom square footage is 65.25 sq.ft. (#16) and has 2 children sleeping in it
- north 2nd floor bedroom square footage is 90 sq.ft. (#14) and has 2 children sleeping in it
- went thru a full Code Compliance Inspection in 2003
- 2008 or 2009: permit pulled for installation of 3 egress windows, which was finalized and approved by the building inspector assigned to that property, as well
- Appellant is asking for a variance on the height requirements
- 2 bedrooms on 2nd level and 1 bedroom on main level

Ms. Moermond:

- asked who made the determination that this was a 3 bedroom house?

Mr. Neis:

- there was 1 Fire C of O issued between the Code Compliance Certificate and now
- asked Appellant about smoke detectors and he said that a hard wired smoke detector was on the 2nd floor (must be as close as possible to sleeping rooms)

Mr. Dalton:

- looking to be able to use these 2nd floor rooms as sleeping rooms
- he has owned the house over 10 years; it has always been rental and has gone thru a number of Fire C of Os and has passed
- he put in 4 egress windows a few years ago - upstairs bedrooms and the lower bedroom; he would not have gone thru that expense had he known that those

upstairs rooms may not be legal sleeping rooms
- in addition to the hard wired smoke/CO detector, he has battery-operated smoke detectors in each bedroom

Mr. Neis:

- Orders from Inspector Mike Rikertson in 2008: "Provide and maintain legal escape windows in both 2nd floor sleeping rooms or immediately discontinue use for sleeping purposes and remove all bedroom furniture."

Ms. Moermond:

- that was a poor inspection in the past
- both of those sleeping rooms have insufficient square footage to have a second person sleeping in them
- in the case of the south bedroom, you don't even have 70 sq.ft. (needed for one person sleeping)
- in the case of the north bedroom, you have enough square footage to support only one (100 sq.ft are needed for two)
- in both these bedrooms, the ceiling height is insufficient (need 70 inches)

Mr. Dalton:

- in some cases, you can't change the structure of the building and be cost effective; it's part of the character of the city that we have houses built in many decades

Ms. Moermond:

- however, we can't made assumptions that these rooms were built to be bedrooms, either
- also, she doesn't know what past city code was

Mr. Dalton:

- both the upstairs bedrooms have closets and they are original to the building; he is pretty sure that they were built as sleeping rooms
- he did make some improvements: both are now sheet rocked; the house has a newer roof on it

Mr. Neis:

- looking back, this house appears to be one of the old 1-bedroom small house and the upstairs was used, predominantly for storage

Ms. Moermond:

- for sure, each upstairs room should have only 1 child sleeping in it; there isn't enough square footage
- re ceiling height, she will talk to the building inspector, probably Jim Seeger, to see what was on his mind when he was looking at this - what codes he was referring to, etc.
- she needs confirmation
- will LAY THIS OVER for 1 week to talk with Mr. Seeger

Laid Over to the Legislative Hearings due back on 10/28/2014

7 [RLH FCO
14-153](#)

Appeal of Petra Meyer to a Fire Inspection Correction Notice at 681 SIMPSON STREET.

Sponsors: Stark

Petra Meyer, owner, appeared.

Fire Inspector A. J. Neis:

- Fire Certificate of Occupancy Correction Notice by Fire Inspector Jay Bohan
- 13 violations
- Appellant wants more time to complete the list

Ms. Meyer:

- in the past, they have completed all repairs that had been required of them within the time frame but a tree branch fell on part of the roof and damaged it; the ceiling inside is also damaged; the roof of the little nook that was added onto the kitchen
- she reviewed the photos with Ms. Moermond and Mr. Neis

Ms. Moermond:

- is trying to determine what needs to be done sooner, rather than later
- # of items for Dec 1, 2014 deadline:
 - #1 repair/remove awning located above the back door leading to the rear deck
 - #2 repair/replace step that has broken away on the front stairway (Mr. Neis: could replace with wood steps)
 - #3 hire an electrician to hook-up and secure or remove the power wires leading from the house to the garage
 - #5 repair, patch flat roof to prevent leak into light fixture (temporary fix until next Jun)
 - #7 repair light fixture located in dining nook
 - #11 clean-up mold on wooden joist in near/in basement bathroom structure and floor
 - #12 provide fuel burning equipment test
- Mar 1, 2015 deadline: remaining balance
- Jun 1, 2015 deadline: permanent nook roof repair #5
- Inspector Neis will have the inspector send out an appointment letter on or about Dec 1, 2014

- Grant an extension until December 1, 2014 for Items 1, 2, 3, 5 (temporary fix), 7, 11 and 12; grant until March 15, 2015 for remaining balance; grant until June 1, 2015 for roof.

Referred to the City Council due back on 11/5/2014

8 [RLH FCO
14-158](#)

Appeal of Juan Ruiz to a Fire Inspection Correction Notice at 668 YORK AVENUE.

Sponsors: Bostrom

Juan Ruiz appeared.

Fire Inspector A. J. Neis:

- Fire Certificate of Occupancy Correction Notice by Fire Inspector Sean Westenhofer
- Southwest bedroom in lower unit has a square footage of 73 1/2 sq. ft (meets legal size) and a ceiling height of 6'9"

Mr. Ruiz:

- all other items have been completed
- Inspector Westenhofer wanted him to ask for a variance on the ceiling height

Mr. Neis:

- he spoke with Sean yesterday and everything else has been completed

Ms. Moermond:

- will recommend that Council grant this appeal

- will recommend granting a 3-inch variance on the ceiling height in the southwest bedroom of the lower unit.

Referred to the City Council due back on 11/5/2014

Correction Orders

11:00 a.m.

- 9 [RLH CO 14-12](#) Appeal of Lawrence Moloney, Southern Minnesota Regional Legal Services, on behalf of Leonard Anderson, to a Correction Notice at 559 MCKNIGHT ROAD SOUTH.

Sponsors: Lantry

Forthcoming.

10/21/14: No hearing was conducted; see correspondence.

Referred to the City Council due back on 11/5/2014

11:30 a.m.

Vacant Building Registrations

- 10 [RLH VBR 14-75](#) Appeal of Zin Hao Liang to a Vacant Building Registration Notice at 2346 SEVENTH STREET WEST. (Public hearing to be continued to November 19, 2014)

Sponsors: Tolbert

Zin Hao Liang, owner, appeared.

Ms. Moermond:

- at a previous hearing, we were trying to prevent your building from being a Registered Vacant Building and turned into a Preliminary Vacant Building so there would not be VB fees on it

- we had talked about maintaining the building and getting the water and power restored

Mr. Liang:

- his attorney called and said that the court date is Oct 23, 2014; after that, they can get the the Xcel account back into his name

- the guys owes over \$6,000

- if Mr. Liang opens an Xcel account for the property, he will have to pay that bill

Ms. Moermond:

- when will he be evicted?

Mr. Liang:

- attorney said that normally, the person doesn't show for court but everything should be cleared up at that time and the, he can get the power back on again

Ms. Moermond:

- *City Council Public Hearing is Nov 5, 2014*
- *she will ask Council to LAY THIS OVER for 2 weeks*

Between now and November 19, 2014, if the power is not restored, the Appellant will be in the VB Program as a Category 2, but if the power is restored, it will be classified as a preliminary vacant building.

Referred to the City Council due back on 11/5/2014