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ATTORNEYS

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November 8, 2010

Bo Kessler, Director
DEPARTMENT OF SAFETY AND INSPECTIONS
CITY OF SAINT PAUL
375 Jackson Street, Suite 220
St. Paul, MN 55101

RE: 929 Summit Avenue

Dear Mr Kessler:

Our office represents LHB Properties, LLC, the owner of the property located at 929 Summit Avenue. The property is rental property which has been the subject of recent Fire Certificate of Occupancy inspection.

The following is a recent timeline of relevant events. On October 25, 2010 an order to vacate Unit 6 was posted at the property. On October 26, 2010 a letter listing deficiencies relating to Unit 6 was sent by the Fire Inspector to the property manager. The documents require Unit 6 at the property to be vacated by November 8, 2010. Both documents were signed by Inspector Imbertson on behalf of the City. Both documents notify the owner of the right to appeal the determinations made. Copies of these notices are attached.

On October 29, 2010 these determinations were appealed by our office on behalf of the property owner. A copy of the Application for Appeal is attached.

On November 2, 2010 a hearing on the Appeal was heard by Marcia Moermond, the Legislative Hearing Officer. Neither Inspector Imbertson nor a representative of DSI attended the hearing. The issues at the Hearing were whether a second means of egress should be required for the Unit and, if so, whether more time to comply should be granted. At the hearing, the Legislative Hearing Officer indicated that she would take the matter under advisement and make a decision in the near future. She stated that based on the information presented that more time was needed to comply. We are still awaiting a decision on the Appeal.

The Municipal Code for the City of St. Paul is clear that the filing of the Appeal stays the Action for Revocation or Condemnation.

The City of St. Paul Municipal Code, Section 40.06(c)(2) provides that: "Enforcement proceedings on the suspension, revocation or denial of the fire certificate of occupancy, or orders to correct violations, **shall be held in abeyance if the owner shall file an appeal** to the

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legislative hearing officer within ten (10) days of receiving the written order issued by the enforcement officer...”

The order requiring Unit 6 to be vacated is dated October 25, 2010. An appeal was filed on October 29. Therefore, the Order is stayed and the unit does not have to be vacated unless the enforcement officer has determined that the unit is both in an unsafe condition and dangerous to life or limb. That has not occurred. The City did not participate in the Appeal and has not informed the property owner you that the unit is unsafe and dangerous.

Nonetheless, Inspector Imbertson informed the property manager today that he would issue a citation for not vacating the unit unless he heard from the hearing officer before he returned to his office this afternoon.

We are writing to you today to request that no citation of any sort be issued relating to the property given that the order to vacate is stayed until the decision of the Hearing Officer is made.

Thank you for your consideration. I look forward to hearing from you.

Very truly yours,



Brian D. Alton
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BDA:mm
Enc.

cc: Marcia C. Moermond
Greg Ertz
Norlin Boyum