



City of Saint Paul

City Hall and Court House
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Master

File Number: RLH VO 11-33

File ID: RLH VO 11-33

Type: Resolution LH Vacate
Order

Status: Passed

Version: 2

**Contact
Number:**

In Control: City Council

File Created: 06/22/2011

File Name: 785 Cook Avenue East

Final Action: 07/06/2011

Title: Appeal of Gregory L. Sutton and Megan Gordon to a Notice of Condemnation as Unfit for Human Habitation and Order to Vacate plus Correction Notice at 785 COOK AVENUE EAST.

Notes:

Agenda Date: 07/06/2011

Indexes: Ward - 6; Vacate Order; Correction Order

Agenda Number: 69

Sponsors: Bostrom

Enactment Date:

Attachments: 785 Cook E.appeal.6-28-11.pdf, 785 Cook Ave.Sutton Ltr 7-1-11.doc

Financials Included?:

Contact Name:

Hearing Date:

Entered by: Racquel.Naylor@ci.stpaul.mn.us

Ord Effective Date:

Approval History

Version	Date	Approver	Action
1	06/22/2011	Moermond, Marcia	Approve
2	06/29/2011	Moermond, Marcia	Approve
2	06/29/2011	Dan Bostrom	Approve

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Legislative Hearings	06/28/2011	Referred	City Council	07/06/2011		
	Action Text: Referred to the City Council due back on 7/6/2011						
	Notes: Deny the appeal and grant extension until July 15, 2011 for property owners to find new housing if the power is not restored. (No use of generator on site or extension cord from neighbors. If Inspector or watch commander finds out that the generator or extension cord is being used, property owners will						

need to be vacated within 24 hours).

RE: 785 Cook Ave E (single family)

Gregory Sutton, co-owner, appeared.

Inspector Ed Smith:

- City and owner/occupant received a shut-off notice from Xcel (required by law under Section 4602 Notice of Disconnect Service)
- contacted Xcel and confirmed that gas service has been locked and that the electric service has been shut-off at the pole
- inspected property on June 6, 2011 with a compliance date of June 9, 2011
- issued Orders to owner to get services re-connected
- services had not been re-connected and the property was Condemned for lack of basic facilities and material endangerment

Mr. Sutton:

- Xcel shut-off power for non-payment
- the bill, over \$10,000, is not his; it's his partner, Megan's bill
- he has been working to getting it paid down since May, 2011
- the bill has been let go for 6 yrs
- Xcel told him that he could have power in his name if he lived somewhere else; he can't have it there, which makes no sense to him
- he and Xcel have been going back and forth on this issue
- he and Megan have 5 children - all live here
- he needs more time to pay off Xcel
- he is using a back-up generator for cooking, heating, warming water, etc.
- financially, they have money coming from one resource plus a benefit coming from him, which is supposed to be used for the Power On Program as a payment to Xcel
- he doesn't understand why the Xcel bill was left to continue on and on without anything being done until now
- he has been out of work for 4 years while he was in school full time
- got a job Nov 2010 and began to send Xcel money to begin to pay down - then, Xcel initiated the cut-off and all of their troubles began
- he tried to work with Xcel to decide a reasonable payment but they refused to work with him
- he fixed up a lot on the property
- he knows it will be resolved soon; just needs a little more time

Mr. Smith:

- contacted supervisor at Xcel and was told that they are requiring a down payment of \$1,700 and a payment plan before they will re-connect the services
- according to the National Electric Code, generators are supposed to be used only during periods of construction, emergencies and testing (not as a permanent source of power)

Mr. Sutton:

- in Standards of Technology under Homesteaders' Options, 216b, it states that he can run a generator for his house without being connected to power company
- this is an emergency
- generator has a fuse box and overload switch
- neighbors can't hear the generator

Mr. Smith:

- according to Steve Magner, all households within the City of Saint Paul are required to be connected by Xcel Energy and Saint Paul Regional Water Services; also that generators within the City of Saint Paul are unacceptable. If you must have one, you are required to have permits and it has to have a transfer switch. It must be approved by the Fire Dept for fire safety issues and by Environmental Health due to the noise ordinance.
- City does not view this as an emergency
- City's definition of an emergency is when a storm knocks out the power and you need to run vital appliances
- when service is shut-off for non-payment, it's not an emergency in the City's opinion

Mr. Sutton:

- feels Mr. Smith has continued to show hostility toward him because he is having problems; also feels

attacked by Mr. Smith

- Mr. Smith seems to be doing everything he can to put him and his family on the street
- Mr. Smith gave him the Correction Notice June 7 but refused to talk with Mr. Sutton about it; hung up on him 3 times
- Mr. Smith gave him a pre-dated Eviction Notice, which he knew would generate a police visit to his house
- Mr. Smith has not and is not helping him; he told him to figure things out on his own

Mr. Smith:

- the only reason that the City went out there was because Xcel shut-off the utilities
- when the City does an inspection, they check to see if there are other deficiencies, as well
- received notice on June 1, 2011; he inspected the property on June 6, 2011
- sometimes there's a lag time between when the power is shut-off and the City is notified; sometimes not

Ms. Moermond:

- the Code talks specifically about needing to have both gas and electric service in order to maintain habitability
- the Code considers it unsafe not to have those
- a long-term generator isn't safe
- a lot of time has already been in play
- she doesn't think it's on point to say that Xcel is at fault for allowing the provision of energy to continue; they're very lucky that those services were provided since the bill was so high
- she doesn't know if Power On Program can help with the down payment of \$1,700 but he does need to find that money
- she reminded Mr. Sutton that this is not a personal thing; it's an automatic notification that law requires the City to check out
- she can't allow this situation to continue
- because the power was cut at the pole and the gas was locked, there may have been tampering involved

Mr. Sutton:

- the generator is currently running
- would like a little more time for my benefits to come through, perhaps by Friday so that he can pay the \$1,700

Ms. Moermond:

- it was the correct call to order this property vacated
- the conditions still exist and are unsafe
- this will be presented at City Council on July 6, 2011 at 5:30 p.m.
- between now and then there is an opportunity to get gas and electric restored
- she will recommend that Mr. Sutton be given until July 15, 2011 to find new housing but he is not allowed to run generators or extension cords
- if Mr. Smith or the Watch Commander for Eastern District Police find that Mr. Sutton is running generators or extension cords, he and his family will need to vacate within 24 hours

2	City Council	07/06/2011	Adopted	Pass
	Action Text:	Adopted		
		Yea: 6	Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune, and Councilmember Stark	
		Nay: 0		
		Absent: 1	Councilmember Bostrom	
2	Mayor's Office	07/11/2011	Signed	
	Action Text:	Signed		

Text of Legislative File RLH VO 11-33

Appeal of Gregory L. Sutton and Megan Gordon to a Notice of Condemnation as Unfit for Human Habitation and Order to Vacate plus Correction Notice at 785 COOK AVENUE EAST.

WHEREAS, in the matter of the appeal of Gregory L. Sutton and Megan Gordon to a Notice of Condemnation as Unfit for Human Habitation and Order to Vacate plus Correction Notice at 785 COOK AVENUE EAST, the Legislative Hearing Officer has reviewed the appeal and considered the testimony of City staff and the appellant; and

WHEREAS, the Legislative Hearing Officer recommends that the City Council deny the appeal and grant an extension until July 15, 2011 to restore the power. (No use of generator on site. If Inspector or watch commander finds out that the generator is being used, property owners will need to be vacated within 24 hours); Now, Therefore, Be It

RESOLVED, that the Saint Paul City Council hereby accepts and adopts the Legislative Hearing Officer's recommendation in this matter.

I need the help.