



City of Saint Paul

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File Number: RLH FCO 15-65

File ID: RLH FCO 15-65

Type: Resolution LH Fire C of O

Status: Passed

Version: 2

**Contact
Number:**

In Control: City Council

File Created: 04/27/2015

File Name: 2554 Como Avenue Building C

Final Action: 06/03/2015

Title: Appeal of Tara Schweiger, Maypop Sales and Services, to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 2554 COMO AVENUE, BUILDING C.

Notes:

Agenda Date: 06/03/2015

Indexes: Ward - 4; Fire C of O Letter

Agenda Number: 33

Sponsors: Stark

Enactment Date:

Attachments: 2554 Como Ave Building C.appeal.4-27-15, 2554 Como Ave. Email and Class N Application.5-13-15, 2554 Como Ave.Maypop Sales and Service Business Plan.5-7-15, 2554 Como Ave.Fischbach Email.5-8-15, 2554 Como Ave.Fischbach Email.5-8-15, 2554 Como Ave.DSI License Ap Materials Submitted (partial, no fee), 2554 Como Ave.SPLC 408 Recycling Collection-Processing Center, 2554 Como Ave.SPLC 401 Motor Vehicles, 2554 Como Ave.Fischbach Note, 2554 Como Ave.Maypop Sales & Service Business Plan.5-7-15, 2554 Como Ave.Staff Rev-Post CA Disc-of Maypop Sales & Service Business Plan, 2554 Como Ave.Hope Ltr.5-28-15

Financials Included?:

Contact Name:

Hearing Date:

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

Ord Effective Date:

Approval History

Version	Date	Approver	Action
1	04/27/2015	Moermond, Marcia	Approve
2	05/27/2015	Moermond, Marcia	Approve
2	05/28/2015	Russ Stark	Approve

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Legislative Hearings	05/05/2015	Laid Over	Legislative Hearings	05/19/2015		
	Action Text: Laid Over to the Legislative Hearings due back on 5/19/2015 Notes: Owner(s)/Interested Parties present: Tara Schweiger, Maypop Sales & Services Staff present: AJ Neis, DSI -Fire Inspections, Jean Birkholz and Mai Vang-Council Research Offices Rosanne Hope, attorney representing the owner, Benji Helberg						
	<p>Mr. Neis:</p> <ul style="list-style-type: none"> - this is a Fire C of O Correction Notice for Bldg. C issued to Tom Tomaro, Danford LLC -what's being appealed is propane tank, water heater and tire storage. -This business was heard several yrs ago and what is being appealed here is a new furnace which was installed w/o a permit, water heater installed w/o permit and some work going on at the property in regards to the sale of tires and installation -this building was approved for storage as a facility for the business and not for auto license business. -Tire storage is an issue with tires stored over 6 ft in height as required by Code. <p>Ms. Moermond:</p> <ul style="list-style-type: none"> -asking why they're appealing? <p>Ms. Hope:</p> <ul style="list-style-type: none"> -primarily reason for the appeal was they didn't get notice of the inspection and the re-inspection -It was sent to the landlord to his PO box, then finally to the tenant -She talked to Mitch this morning and that what he told her was they are working through with the issues. Some of them are resolved but Mitch has not been out to inspect because appeal was pending -Then there was an issue with the propane tank and where it's located and the heater and water. It's the landlord's responsibility but he doesn't want to do it so they are working through the issues. -As far as the licensing issue this is new and her client has talked to Jeff Fishbach to apply for a license. -they have been operating for 6 years in the same type of business with no license -That propane tank has been there for 30 yrs. -there were inspections over times but tenants have only been for 6 years. <p>Ms. Moermond:</p> <ul style="list-style-type: none"> -asking what about the tires storage itself, the way it is organized in the building <p>Ms. Hope:</p> <ul style="list-style-type: none"> -the tire storage has been resolved and there were some items here that they can't be no more than 6 ft tall but that was resolved. <p>Ms. Moermond:</p> <ul style="list-style-type: none"> -asking how long he has been an owner of the business -there had been a number of occasions where she had seen this property, one time with Inspector Neis and one time about exterior storage <p>Mr. Helberg:</p> <ul style="list-style-type: none"> -6 yrs -the exterior storage was on the other building. They got a bigger larger building now so they can be in compliance with the Codes <p>Ms. Hope:</p> <ul style="list-style-type: none"> -she stated that it has been the same landlord for the complex of the buildings, different unit and much larger <p>Ms. Moermond:</p> <ul style="list-style-type: none"> -she asked that Mr. Neis explained about the Certificate of Occupancy, why and how they fill out forms. How did they end up with the name Tom Tomaro 						

Mr. Neis:

- the responsible party of the building orders where there are multiple tenants, the order goes to the property owner or identifiable responsible party in regards to who is in charge .
- Then it's their turn to notify the tenants. All letters go to property owner or responsible party. In this case Tom Tamaro is the bldg. owner who wants all correspondences to be sent to him. It's his responsibility to pass down code violation issues to his tenants.
- In regards to this LP tank, he can't speak to this and can't recall to the tank being in use several years ago when he was there.
- there are notes entered in their records by Dave Bergman and some comments addressing the tank was 1000 gallon LP tank used for office heat in tire sales and installed without required permit
- Xcel Energy was called out in called in April 2015 in response to LP leaks detected near the tank. Fittings were found to be leaking on the copper piping in numerous locations near the tank. This tank is in direct contact with the earth in violation of NFPA 58 and has no vehicle protection.
- there are multiple issues with this tank
- In regards to the licensing there was a complaint in 2014 stating people were selling tires out of the garage, warehouse behind Station 280 and those issues were resolved, advertising on craigslist number 644tire and knew this is not something they should be doing. Their complaint was closed because they were in compliance
- this was just in Feb. 2014 and orders were issued, Mitch Imbertson went out on a complaint on March 18, 2014 based on the unlicense business issue. He didn't issued orders on licensing but on several code violations in the warehouse.
- There was also a license complaint. [looking for orders]; Complt was sent over to Kris Schwieler, "people selling tires out of the pull-parn/garage warehouse thing behind the Station 280 Bar & Grill. Hundreds of tires inside; piles of tires inside the garage (higher than 6-feet) Advertising on Craigslist with a number of 651-644-TIRE". She closed the complaint because it was unfounded and didn't witnessed the tires being sold.
- Forwarded to Fire for Mitch Imbertson to follow up but he didn't issue the order on the selling tires.
- not sure why he didn't but did issued on other violations.

Ms. Moermond:

- asking if the tank is a new issue
- questioning if Xcel called the City

Mr. Neis:

- stated he don't know

Ms. Hope:

- she stated the tenant called Xcel. The reason the tank was not an issue then because it was at a different location. There are several buildings in the complex and some have internal heat and this is the only building that has the propane tank but it has been there for 30 years.
- Tenant had done some of the minor stuff in items 3 and 4 of the inspection which requires labels on it with hazardous
- Item 6 relating to the weeds and lawn grass are cleaned up around the tank.

Mr. Helberg:

- he put the pylons around the tank but it was the wrong type and didn't know which one to use so those need to be redone; had to be 4 inches around and fill with concrete.
- Mitch came out in the fall but the ground was frozen and couldn't do anything and will resume in the spring.
- He has been told now that the tank needs to be moved and put a concrete slab underneath or have Xcel run natural gas down to his portion of the building
- the owner should be responsible for the tank

Ms. Hope:

- she said basically everything has been resolved with the exception of the raised platform
- she needs to talk to the landlord
- Items 9 and 10, the company that installed is Total Mechanical and they are pulling the permits
- as far as the business licensing, she is talking to Jeff Fischbach. Tenant has been told that they are tire wholesaler and don't need a license

Mr. Helberg:

- he stated he filled out paperwork but didn't really fall into that category
- he is not sure what to do

- he stated there is another shop that people can go down and install
- he has allowed it but only for friends and families and was told that was fine
- the people who come there usually gets over 100 tires at a time

Mr. Neis:

- asking if someone would to call up the 644-tire they would have provided customers to come and buy it from there
- stated that Mr. Helberg has allowed it before
- it's a problem if it goes from one friend and family to another friend and family

Ms. Moermond:

- she said they are down to the tank issue, permits being resolved by the contractor
- orders issued to Tom Tomaro
- He was given a deadline of 6 days but looks confusing because the inspection was April 3, letter sent on April 22 and re-inspection April 28.
- seems like a letter should have been sent right away
- looking for a guidance on how long the dept wants and was it a month or week issue

Mr. Neis:

- the letter was a reschedule

Mr. Helberg:

- the letter was April 3 and Tom received the letter April 6 and he didn't get it until April 22.
- Tom may have it in his PO box for weeks
- he has a copy of the lease that it's the responsibility of the owner to provide
- he stated he won't bring natural gas to the building and don't want to pay for the pylons to go around the tank

Ms. Moermond:

- her understanding is that Mr. Tomaro said it would be the tenant's responsibility for the tank

Mr. Neis:

- there was a letter sent on April 3 with a re-inspection on April 21st.
- the letter we have here says reschedule

Ms. Moermond:

- if owner doesn't do by the deadline, the next enforcement is to revoke the C of O or reissue the order or write a citation to him.

Mr. Neis:

- this has been going on for quite some time..letter said it was their final attempt to get everything done. Then he gave additional time, this started back in august 2014, issues for providing protection to the propane tank, label the propane tank, the water heater, issued orders in October to get permit done for the water heater. need to provide permit heating source according to Codes. These are ongoing issues.

Ms. Moermond:

- need some documentation with the landlord
- she stated that if they are a residential or commercial, the landlords can do eviction or the City can revoked the C of O for long non-compliance
- this can't go on indefinitely. She will have to give him a deadline.

Ms. Hope:

- they would like to stay because they have been there for yrs into the business so he is weighing to relocate or invest money for the issues.
- they haven't been in contact with the landlord or his attorney and may come up with costs to split. There is another tenant there, the lumber business. It's a warehouse space and then Maypop has an office w/in the warehouse and the tank provides heat for the office.

Mr. Helberg:

- the lumber has an office on another bldg..
- they noticed a smell in the tank and then called Xcel
- only item at issue is #11, there is no licensing requirement on this

Mr. Neis:

- tank been going on since last year. It wasn't leaking at that time so they let it go this long
- they have cross the S1 now and looking at more like mercantile, not a storage but a business.
- there were ads after ads on craigslist
- this location is showing this is the place for pick-up

Ms. Moermond:

- grant until June 12, 2015 to have everything taken care and on for Public Hearing on June 3.
- if they are not in compliance, then on June 8, inspector can go forward with the next level of enforcement, probably a revocation of the C of O.
- he can talk to Mr. Fishbach
- it's either a license to conduct a business or he ceased conducting a business until he is appropriately licensed and that is when he is fully in compliance

Ms. Hope:

- they may need longer than the June 12 deadline
- he may have to notice the neighbors and may be longer so asking if there is a way to grant the date

Ms. Moermond:

- only if if there is a complaint coming forward who has an issue about the license which would trigger a hearing
- there is a whole process with the licensing
- not incline to let this go on as a business, cannot sell from this location but only store the items here
- need to square up with the licensing issue.

Inspector Neis explained about the on-site sales

Ms. Moermond:

- she wants the licensing City Attorney to come up with the determination of how this would be best defined (ie. truck vs semi-truck, etc)
- if it's a semi, it's a pick up and drop off
- if he is hauling from the warehouse to here in a pick-up truck, it's not mercantile but storage for the business
- she can get to them with the definition but she need to have an end date
- as to the tank, it's leaking she is not going to give more time.
- do a 2-week layover to May 19, they will have a chance to talk to the licensing and get bids, can email or can come in
- will get better sense from the CAO about the licensing piece of it

1 Legislative Hearings 05/19/2015 Referred City Council 06/03/2015

Action Text: Referred to the City Council due back on 6/3/2015

Notes: Tara Schweiger, Maypop Sales and Services, appeared.

Ms. Moermond:

- based on the conversation that Mai Vang and she had yesterday, Ms. Schweiger didn't know whether or not she needed to be here; Ms. Moermond told Ms. Vang that she was receiving information even late afternoon yesterday from DSI; and she hasn't finished reviewing what they've told you
- DSI was forwarding information to her as late as yesterday afternoon

Ms. Schweiger:

- she thought we were waiting to get a determination from the City Attorney on what license was required
- Ms. Vang had told her that she didn't really have to come today but could, if we wanted to

Ms. Moermond:

- she knows that Ms. Schweiger has contacted DSI about licensing issues and she wants to make sure that we are all in the same place before she takes any action
- you need a license, we just don't know which yet
- the tires are being picked up there and dropped off there in a way that looks like it needs a license; a professional activity, not a friends & family undertaking
- she wants to have DSI (licensing) review all the information and talk with their attorney about it; and until they do, she can't come to a conclusion; her goal is to have it done by the end of this week

Ms. Schweiger:

- we don't have a problem applying for a license; they were told not to pay for the license until they know which license they are applying for
- we may need an extension of time

Ms. Moermond:

- checking out the minutes from last LH; in summary, it says that I want to talk with the CA and come up with a determination about how this situation be best defined: semi; pick-off; drop-off; if hauling from warehouse to here in a pick-up truck, it's not mercantile.....etc..
 - re: the tank: it's leaking - will not give more time; 2-week layover to May 19 - we will have a chance to talk with licensing and get bids; you can either email or come in in meantime, she will get a better sense from CA about licensing.. ...
 - she is stuck here, in terms of the tank; not seeing a drop dead deadline on the tank (they are moving the tank)
 - will get a hold of you by the end of the week
- Recommendation is forthcoming.

2 City Council 06/03/2015 Adopted Pass

Action Text: Adopted (compliance deadline of June 12 to either apply for licenses or discontinue activities)
Notes: MM - business operating within a warehouse which is considered a storage use by fire CO which is different from zoning and ???. Business activity has been in place for ??, Fires concerns are that activities taking place are more than just storage. Business submitted a business plan and it was determined that recycling use is compliant with underlying zoning. Sale is also taking place and maybe repair, and licensing is required. rec is that licenses be obtained by June 12 or activities stopped.

??, attorney representing, respect decisions with the City and have been working with inspectors to get this straightened out to continue business and comply with laws. Have been a tenant and operating business for 6 years, not an automotive garage, as a tire wholesaler sometimes install tires for friends and family but are not an automotive garage. Could not comply with requirements for an automotive garage requirements without relocating. Occasionally sell individual tires but not a retail outlet. Willing to pay the fee but don't want to open the door for expensive alterations.

CPS - straightforward. Need to either get the needed licenses or stop the activity. Ms. ? just got a letter last week stating which licenses were required but no information on ... Not clear ..tires are not car parts... MM read from business plan CAO statement. Ms. ? first I've heard of CAO comments. We are not a retail op.

CPS close 6-0

CPS - does it make sense that they just heard from the attorney tonight? MM - attached to the Council record for a week. CPS - move rec

CBr - was sprinkling related to retail MM - no, has to do with auto repair, associated with installing tires

CPS repeat motion

Yea: 6 Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Finney, and City Council President Stark

Nay: 0

Absent: 1 Councilmember Thune

2 Mayor's Office 06/08/2015 Signed

Action Text: Signed

Text of Legislative File RLH FCO 15-65

Appeal of Tara Schweiger, Maypop Sales and Services, to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 2554 COMO AVENUE, BUILDING C.

WHEREAS, in the matter of the Appeal of Tara Schweiger, Maypop Sales and Services, to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 2554 Como Avenue, Building C, the Legislative Hearing Officer has reviewed the appeal and considered the testimony of City staff

and the appellant; and

WHEREAS, the Legislative Hearing Officer's recommendation is to 1) require an Auto Repair Garage license and a Second Hand Dealer - Motor Vehicle Parts license for the business operations listed in the attached plan; and 2) application for these licenses shall be made by June 12, 2015; Now, Therefore, Be It

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

Several things, LP tank, outside storage, water heater, tire storage