


TO: Saint Paul, Minnesota City Council
FROM: Ferdinand F. Peters 
RE: **Zoning File 18-063-577**
Reinstatement of Dearing Mansion Bed and Breakfast CUP
DATE: June 19, 2018

**THIS DOCUMENT IS THE RESPONSE BY SCOTT KRAMER
IN SUPPORT OF REINSTATEMENT OF HIS CONDITIONAL USE PERMIT**

Issues Presented

I. How Does Scott Kramer Use His Home?

- Is Scott using the “*bed and breakfast residence*” as a “*small conference center, private retreat center, or reception house*”?

OR

- Did Scott use his house for a private party as a private citizen in his own home, something he would have been allowed to do without a conditional use permit?

Short Answer

Scott does not operate a small conference center, private retreat center, or reception house at Dearing Mansion. Scott Kramer held a private party in his home, which does not violate his conditional use permit because he was the person who held the party, and because he did not rent his house to a bed and breakfast guest or to anyone else.

II. Is the Law Clear?

- Were the St. Paul ordinances (2016 & 2017) and the conditions of the conditional use permits clear enough to give Scott fair warning that his 2017 private New Year’s Eve party could result in revocation of his Conditional Use Permit for a bed and breakfast?
- That is, do Scott’s conditional use permit or the City ordinance restrict what a person can privately do in his or her own home, and if so, are those limits clear?

Short Answer

No. Scott Kramer has always done his best to be in compliance with the ordinance and with the CUP, which has been difficult because the limits imposed by the bed and breakfast ordinance and by Scott's CUP are unclear.

The ordinance must either prohibit all "social and commercial events," or it prohibits only those "social and commercial events" that are connected with the use of the residence as a bed and breakfast, and Scott's 2017 NYE party was something he did for himself—the house was not rented and no bed and breakfast guests were involved at all.

If the intent of the ordinance and the conditional use permit is to prevent a bed and breakfast operator from renting out to groups to have their own parties—and not to prevent the operator from holding his own parties or events in his own home—they do not make this distinction. Rather, they impose a blanket prohibition that without notice takes away a homeowner's fundamental right to do what he or she pleases to do in his or her own home.

III. Scott's First Amendment Rights

Does the express prohibition against "commercial or social events" violate Scott's First Amendment rights to free speech? Is the prohibition against "events" so broad so as to inadvertently include protected speech and limit Scott's rights of free association?

Short Answer

Yes. If the ordinance were applied as written, it would prevent him from holding social events to benefit political causes and candidates. Strict application would also prevent him from holding even private family events, and private events in support of art or other methods of expression.

Facts

Scott Kramer is, by trade and profession, a home remodeler who specializes in high-quality restorations of historic homes, bringing older, dilapidated homes back to their original glory. But it is truly more than a profession for Scott: It's a way of life, and a passion. He has renovated countless homes, and the Dearing Mansion has been the culmination of his life's work.

In 2005, Scott and his now ex-wife bought the Dearing Mansion at 241 George Street on the west side of Saint Paul, on the bluffs overlooking the City. They spent the next year remodeling, putting in countless hours and tremendous amount of passion.

The Dearing Mansion is a low-key, west-side St. Paul version of any large home you might find on Summit Avenue. The house is surprisingly intimate for 10,000 square feet. It exudes “party” and “fun” and was clearly built for a single family who enjoyed playing socialite and entertaining guests.

Indeed, that is precisely what Scott saw when he first saw it—a house where he and his wife could entertain guests and throw fun parties, and that’s exactly what they did.

Between 2006 and 2013, they threw around 30 large parties and other events. Most notably, each year they threw a New Year’s Eve and Fourth of July parties that became famous in their own right. Most notably, Scott and his wife held a fundraiser for the “Vote No” campaign that stood against marriage discrimination in Minnesota. Scott has continued those traditions and parties, throwing a New Year’s Eve and Fourth of July party each year.

Scott, either by himself or with his ex-wife, had been throwing New Year’s Eve parties for almost ten years before Scott first obtained a conditional use permit for a bed and breakfast at the Dearing Mansion.

After his divorce in 2013, renting rooms in his home offered one of the only options that would allow him to afford to stay in his home of ten years—the home that he had poured his heart and soul into and had painstakingly renovated near to its original condition. Without becoming a bed-and-breakfast, Scott would have had to sell his home. He just could not afford to stay there otherwise.

For years Scott has been active in numerous dance communities in Minneapolis and St. Paul, and after ten years of ambitious New Year’s Eve parties, Scott wanted to try something a little different for 2017. And so Scott began planning party with a murder mystery theme. He arranged for decorators, caterers, and DJs.

Scott didn’t arrange for just any available DJs to play at his party—he asked his friends DJ Dark Energy and DJ Garrison Dakota Grouse, who had played at two previous parties, to play at his party in 2017.

And as always, Scott allowed his friends to invite their friends. Which is how it came to pass that when the DJs asked Scott if they could post Scott’s party on their Facebook pages, Scott said of course—so long as the invitation to the party was limited to their friends, which it was.

Scott blocked off the dates on VRBO and AirBnB—temporarily shutting down his bed and breakfast business—to make sure that he had no renters during that time while he held his annual event for his friends.

At the end of the day, Scott “lost money” on the event, but even that is not entirely accurate, because the event was never intended to make any money—it’s more accurate to say that Scott spent money on the event. There was always some cost to Scott when he had parties at his house, but that is not unusual when you invite your friends over to your house for a party.

So, while the Planning Commission is incorrect in stating that the party was a commercial event, Scott’s NYE was, without question, a “social event”—and it simply cannot be the intent of the ordinance to prevent Scott from having any “social events” in his own home.

Conclusion

The City has recently gone through some transitions with regard to regulating bed and breakfasts and other short term rentals, and it has taken a while to get to the current state of regulation. Given the back-and-forth process by which the City has changed its short-term rental regulations over the past few years, there should be no surprise that in 2016 Scott thought he could rent out his home for events. Even now, after this process, the current state of the bed and breakfast ordinance and the conditional use permit make it uncertain precisely what is allowed at a bed and breakfast and what is not.

Can Scott have events and fundraisers for a charity he supports? Can he have a garage sale? Can his niece get married in the backyard? Does it violate the ordinance and the CUP if Scott orders pizza for 50 friends at a super bowl party and collects money from everyone, but he ends up with more money than he needed?

It creates a situation where Scott will need to ask the City of St. Paul for permission every time he wants to throw a party in his own home. That cannot be consistent with the intent of the ordinance or the CUP.

After Scott’s CUP was amended to allow him to rent all six bedrooms of his home, he completely and absolutely stopped taking reservations to rent his home for events. Scott has remained in full compliance with the ordinance and the CUP because he has completely stopped renting out his house for other people’s events.

Although it has been difficult because of the unclear limits, it is absolutely clear that Scott has always done his best to comply with each and every direction he has ever received from the City with regard to the bed and breakfast.

Scott’s goal has always been to work with the City, and he requests that the City continue to work with him by maintaining his conditional use permit for a bed and breakfast at his home at 241 George Street West.