

Skarda, Therese (CI-StPaul)

From: John R. Rupp <JRRupp@commonwealthproperties.com>
Sent: Sunday, August 12, 2018 11:08 AM
To: Skarda, Therese (CI-StPaul)
Cc: Diatta, YaYa (CI-StPaul); jmiller@pfb-pa.com; Bistodeau, Travis (CI-StPaul); Cervantes, Ricardo (CI-StPaul); Ubl, Stephen (CI-StPaul); Wiese, Angie (CI-StPaul); Torstenson, Allan (CI-StPaul)
Subject: RE: Re-Establishment of a Non-Conforming Use West Dining Room - Commodore Bar and Restuarant

AND

The certificate of occupancy for the "apartment building" was actually a certificate of occupancy for a condominium structure inside of which were 50 residential condominium units, 2 office condominium units, and one commercial unit (the original bar and restaurant).

AND

The West dining room was never intended to become a "restaurant" in and of itself. It was permitted to be constructed and licensed in 1976 as a "dining room" expansion of the original 1920 bar and restaurant adjacent and certified for occupancy for over three decades for that use – not as a "restaurant".

Time to settle this – you no longer have a case against me:

We now know the following about the west dining room – what I have said since I became the owner in 2001
BTW ::

- There was no change of occupancy under the building code – in fact the occupancy was reduced slightly by decreasing the floor area for seating.
- There has been no change of use under the zoning code
- Since it has had a certificate of occupancy for decades for dining room use, it does not need it use to be "reestablished"
- There has been no substantial work done to it -- It was not "raw space" whatever that means when I started to redecorate
- My overall project only involved interior decoration in the west dining room and the addition of bathrooms & handicap access in the original bar and restaurant - No "substantial" work anywhere.
- My occupancy certificate has not been revoked!

I recently learned that another project (the Summit Center for Arts and Innovation) may have its liquor license denied because of this dispute. Let me suggest to you that the city should consider carefully whether it makes sense to further senselessly expose the city to liability for business interference and other claims.

Let's you, John Miller, and I --- and anyone you chose have a conversation about resolving this matter when you return from vacation.

From: John R. Rupp
Sent: Wednesday, August 8, 2018 7:40 PM



To: Skarda, Therese (CI-StPaul) <therese.skarda@ci.stpaul.mn.us>
Cc: Diatta, YaYa (CI-StPaul) <yaya.diatta@ci.stpaul.mn.us>; jmiller@pfb-pa.com; Bistodeau, Travis (CI-StPaul) <travis.bistodeau@ci.stpaul.mn.us>; Cervantes, Ricardo (CI-StPaul) <ricardo.cervantes@ci.stpaul.mn.us>; Ubl, Stephen (CI-StPaul) <stephen.ubl@ci.stpaul.mn.us>; Wiese, Angie (CI-StPaul) <angie.wiese@ci.stpaul.mn.us>; Torstenson, Allan (CI-StPaul) <allan.torstenson@ci.stpaul.mn.us>
Subject: RE: Re-Establishment of a Non-Conforming Use West Dining Room - Commodore Bar and Restuarant

YaYa

Have Therese explain to everyone copied why we can't meet to discuss.

Cordially

John

From: John R. Rupp
Sent: Wednesday, August 8, 2018 7:02 PM
To: Skarda, Therese (CI-StPaul) <therese.skarda@ci.stpaul.mn.us>
Cc: Diatta, YaYa (CI-StPaul) <yaya.diatta@ci.stpaul.mn.us>; jmiller@pfb-pa.com; Bistodeau, Travis (CI-StPaul) <travis.bistodeau@ci.stpaul.mn.us>; Cervantes, Ricardo (CI-StPaul) <ricardo.cervantes@ci.stpaul.mn.us>; Ubl, Stephen (CI-StPaul) <stephen.ubl@ci.stpaul.mn.us>; Wiese, Angie (CI-StPaul) <angie.wiese@ci.stpaul.mn.us>; Torstenson, Allan (CI-StPaul) <allan.torstenson@ci.stpaul.mn.us>
Subject: Re: Re-Establishment of a Non-Conforming Use West Dining Room - Commodore Bar and Restuarant

I am correct. Happy to discuss. Therese - explain to everyone copied why Angie should be ignored.

[Get Outlook for Android](#)

From: Skarda, Therese (CI-StPaul) <therese.skarda@ci.stpaul.mn.us>
Sent: Wednesday, August 8, 2018 6:34:01 PM
To: John R. Rupp
Cc: Diatta, YaYa (CI-StPaul); jmiller@pfb-pa.com; Bistodeau, Travis (CI-StPaul); Cervantes, Ricardo (CI-StPaul); Ubl, Stephen (CI-StPaul); Wiese, Angie (CI-StPaul); Torstenson, Allan (CI-StPaul)
Subject: Re: Re-Establishment of a Non-Conforming Use West Dining Room - Commodore Bar and Restuarant

YaYa. Mr Rupp is incorrect. Please see me if you have any further questions. Thanks. Therese.

Sent from my iPhone

On Aug 8, 2018, at 5:50 PM, John R. Rupp <JRRupp@commonwealthproperties.com> wrote:

Good Afternoon YaYa

Please see below.

As you know the West Dining Room was approved for dining room use in 1976 and no other zoning use since. It has had a liquor license since it was built. Angie Wiese has now agreed with me that this room has had a certificate of occupancy since the "1980's" that was never revoked.

Consequently this room has no zoning or other issues, it does not need to reestablishment its non-conforming use, it can continue to be occupied for dining room use as it has been since the "1980's".

If you would like to discuss - please let me know.



John Rupp

From: John R. Rupp
Sent: Wednesday, August 8, 2018 4:40 PM
To: Wiese, Angie (CI-StPaul)
Cc: Skarda, Therese (CI-StPaul <therese.skarda@ci.stpaul.mn.us>; jmiller@pfb-pa.com; Bistodeau, Travis (CI-StPaul <Travis.Bistodeau@ci.stpaul.mn.us>; Cervantes, Ricardo (CI-StPaul <ricardo.cervantes@ci.stpaul.mn.us>; Ubl, Stephen (CI-StPaul <stephen.ubl@ci.stpaul.mn.us>
Subject:

Angie

Please see below my responses to your recent email

From: **Sent:** Thursday, August 2, 2018 10:00 AM
To: John R. Rupp <JRRupp@commonwealthproperties.com>
Cc:

Mr. Rupp –

In response to your emails dated July 8, 2018:

Per your request, I went through the files and pulled our records related to the Fire Certificate of Occupancy. Our records only go back to the 1980s. Our Fire Certificates of Occupancies do not display dates so I dated the files in order to assist you with the timeline. I believe the following information answers your questions:

It appears that there have been 2 Fire Certificates of Occupancy on this building since its inception. One Fire Certificate of Occupancy has been for the amusement/recreation center and another for the apartment building. There is no record of a Fire Certificate of Occupancy for a restaurant. It also does not appear that either of the 2 fire Certificates of Occupancy were ever revoked.

If there was a certificate of occupancy for the entire “amusement/recreation building” then that certificate proves that in the “1980’s” this building had two legally established bar restaurant areas – the so called West Dining Room and the Members Bar area in the squash club lounge. Both of these areas in the building had met the three conditions for an established bar and restaurant – they were zoned for this use (zoning agrees that in 1976 the building was built adding the west dining room for restaurant use to building that already had an approved bar area, there was a liquor license covering the entire building including the squash courts themselves btw, and there was certificate of occupancy indicating that the members bar and west dining room could be occupied.



As to the original restaurant - it also has had a certificate of occupancy since 1920 BTW.

Your records confirm that since the "1980's" the Commodore Bar and Restaurant including the West Dining Room in the "amusement/recreation center" was an established restaurant!

In 2007 the city's electronic file begins to show an assembly occupancy load in the fire certificate of occupancy file however the file does not document what area the occupant load is for. I asked the inspectors who were listed on the files if they recalled anything about the space. Leanna Shaff has no recollection of anything related to 79 Western. AJ Neis does not recall inspecting what we are referring to as the future west dining room except to investigate a roof leak complaint in 2014. He said that at that time all contents were covered by heavy plastic and the space was not in use due to the continual water damage. (ANGIE – does AJ recall that the space was finished? Does he recall that it was in a raw state? Any other recollections about its condition?)

The roof did leak at some point and I put on a new one.

The West Dining Room could not possibly have been "in a raw state" whatever that means; if it was licensed and had a certificate of occupancy for dining room use.

The City has not blocked your request for an inspection.

Of course it has. You admit that both certificates have not been revoked, but your department refuses to renew them.

Jim Perucca performed a Fire Certificate of Occupancy inspection in 2015. Our records show that Jim Perucca did not issue a Fire Certificate of Occupancy or a Temporary Fire Certificate of Occupancy for either the main dining area or the future west dining room.

You admitted in this note that I had one already!!

He created the attached letter with a deficiency list on October 26, 2015 for you. Inspector Perucca identified 4 items that will need to be addressed before the spaces can be approved for occupancy.

They had all been addressed before he wrote the letter

These items included obtaining zoning approval,

There was no zoning issue because it had an occupancy certificate since the "1980s" when it was built for dining room use

addressing door locking mechanisms,

Inspector Perucca inspected the doors in my presence and approved them before he wrote the letter!!

obtaining a certificate of occupancy for the future west dining room



This email confirms that the West Dining Room was NOT a “future west dining room” it was a legal dining room that had had minor decorative improvements made to it.

and providing approved fire extinguishers.

In my presence Inspector Perucca confirmed that I had provided the approved fire extinguishers before he wrote the letter.

A Fire Certificate of Occupancy was not issued for either space

Nonsense. You have agreed I had both in this email and neither had been revoked.

and the inspection process has been stayed because of your licensing action with the city.

Agreed – the city refuse to allow inspections while demanding that I get them!!

No further Fire Certificate of Occupancy inspections will be conducted as long as this litigation is in process.

Ask the City Attorney why she is trying to revoke my liquor license in part because of no inspection that she is blocking. Promises to be an interesting conversation.

This is our standard procedure for any type of appeal of a correction order or other litigation.

Please send proof that this absolutely absurd “standard procedure” actually exists.

<image001.jpg> **Angie Wiese, PE, CBO**

Fire Safety Manager

Department of Safety & Inspections

375 Jackson St. Suite 220

Saint Paul, MN 55101

P: 651-266-8953

F: 651-266-8951

angie.wiese@ci.stpaul.mn.us

Fire is Everyone's Fight

DSI's Mission: To preserve and improve the quality of life in Saint Paul by protecting and promoting public health and safety for all.

From: John R. Rupp [mailto:JRRupp@commonwealthproperties.com]

Sent: Sunday, July 8, 2018 4:50 PM

To: Wiese, Angie (CI-StPaul) <angie.wiese@ci.stpaul.mn.us>

Cc: Skarda, Therese (CI-StPaul) <therese.skarda@ci.stpaul.mn.us>; jmiller@pfb-pa.com

Subject: Good Morning

Good Afternoon Angie



I hope you can help me.

As you may have heard I am mired in a dispute regrading my Commodore Bar and Restaurant project.

Part of that dispute involves whether or not a section of my restaurant has an occupancy certificate.

Another part of the dispute involves whether I currently have a fire certificate of occupancy on any part of my restaurant. I have requested an inspection and the city has blocked that request for unknown reasons.

The DSI office has been unable to find the history of the fire occupancy certificates for the Commodore Squash Building in general, and the history of the occupancy certificate for the section of that building that I own in particular. I was referred to you for help.

Background will help:

- The building was built in 1976
- It was built to hold squash courts on the lower floor and a section for restaurant expansion on the second floor abutting the dining room that had been built in 1920.
- No other use other than restaurant use has ever been legally established for this dining room area of the building and therefor no other use could have been legally allowed.
- I have been using this dining room since 2001 as part of my restaurant consistent with the 1976 intended use, and have understood that my restaurant fire occupancy certificate covered my entire restaurant including this room since then.
- I have received no notice that I did not have an occupancy certificate until 2015. That notice never explained why I didn't have a fire occupancy certificate BTW.
- I do recall that periodically during the last 17 years I have met inspectors for fire inspections and looked at the room in question, but do not remember the inspectors names nor specific years.
- My liquor license has covered this room since 1984.

So the questions are:

Is my understanding correct – that I have had legal occupancy of the room since 2001, and if not why not?



When did this section of the building first receive an occupancy certificate? 1976?

Was that occupancy certificate ever cancelled, and if so when, and for what reason?

What else do you know about occupancy certificate for the building and restaurant section within it?

Thank you for your help

John



John M. Miller

From: Wiese, Angie (CI-StPaul) <angie.wiese@ci.stpaul.mn.us>
Sent: Thursday, August 2, 2018 10:00 AM
To: John R. Rupp
Cc: Skarda, Therese (CI-StPaul); John M. Miller; Bistodeau, Travis (CI-StPaul); Cervantes, Ricardo (CI-StPaul); Ubl, Stephen (CI-StPaul)
Subject: RE: Good Morning
Attachments: 2015 79 Western Restaurant Inspection.pdf

Mr. Rupp –

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The City has not blocked your request for an inspection. Jim Perucca performed a Fire Certificate of Occupancy inspection in 2015. Our records show that Jim Perucca did not issue a Fire Certificate of Occupancy or a Temporary Fire Certificate of Occupancy for either the main dining area or the future west dining room. He created the attached letter with a deficiency list on October 26, 2015 for you. Inspector Perucca identified 4 items that will need to be addressed before the spaces can be approved for occupancy. These items included obtaining zoning approval, addressing door locking mechanisms, obtaining a certificate of occupancy for the future west dining room and providing approved fire extinguishers. A Fire Certificate of Occupancy was not issued for either space and the inspection process has been stayed because of your licensing action with the city. No further Fire Certificate of Occupancy inspections will be conducted as long as this litigation is in process. This is our standard procedure for any type of appeal of a correction order or other litigation.

Angie Wiese, PE, CBO
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