



City of Saint Paul

15 West Kellogg Blvd.
Saint Paul, MN 55102

Minutes - Final Legislative Hearings

Marcia Moermond, Legislative Hearing Officer
Mai Vang, Hearing Coordinator
Jean Birkholz, Hearing Secretary
Mary Erickson, Hearing Secretary
legislativehearings@ci.stpaul.mn.us
651-266-8560

Tuesday, April 9, 2013

9:00 AM

Room 330 City Hall & Court House

9:00 a.m. Hearings

Remove/Repair Orders

- 1 [RLH RR 13-15](#) Ordering the rehabilitation or removal of the structures at 423 JESSAMINE AVENUE EAST within fifteen (15) days after the April 3, 2013 City Council Public Hearing. (Amended to remove only)

Sponsors: Brendmoen

On 4/9/13, Ms. Vang sent Mr. Evers a letter stating Ms. Moermond's recommendation. Mr. Evers responded by saying that the letter is contrary to the email received from Ms. Moermond.

On 4/10/13, Ms. Moermond indicated in an email to Mr. Evers that she will ask the City Council to lay the matter over for a limited number of weeks if the following conditions are met: 1) a code compliance inspection report is ordered; 2) a \$5,000 performance deposit is posted; and 3) evidence of capacity and willingness to finance the rehabilitation.

If those conditions are met and there is a layover in the consideration of the matter, she will ask for a work plan and bids in accordance with the code compliance inspection report. If conditions are not met by mid-day Wednesday, April 17, she will recommend that the Council order the building removed or repaired within 15 days.

4/9/13 Legislative Hearing

Remove or repair the building within 15 days.

RE: 423 Jessamine Ave E (duplex)

Ms. Moermond:

- Mr. Gary Evers, Shapiro Zielke, LLP called last Wed, Apr 3, 2013 before the City Council Public Hearing indicating that he would like to have his client to have the opportunity to look at this a little bit more; they just got the call, then
- Ms. Moermond pointed out to Mr. Zielke that both his office and the bank that he's representing got the notification on the Order to Abate as well as the Public Hearing Notice, so she really wasn't satisfied that he didn't get adequate notice

- next thing he asked was did he need to be at the public hearing last week? She said that she would recommend that it get sent back into Legislative Hearing and she sent back an email with the conditions that the Council normally looks for

- Mr. Evers responded to that yesterday saying that his client is getting bids both for doing the rehab and for doing the demolition; he also said that they stepped-up and got the grass cut, which she is not sure what that's about (perhaps this person lives in Florida and doesn't realize that grass in MN currently, doesn't need to be cut)

- for her to recommend the Layover to the City Council, she will need to have the Code Compliance Inspection done; he would need to post the \$5,000 Performance Deposit; she will need to see the financial capacity to do the work; taxes need to be current; she can recommend some time if he can show her those things in order to develop a work plan

Mr. Magner:

- there's no Performance Deposit
- there's no Code Compliance Inspection application

Ms. Moermond:

- lacking those items, she will recommend that the City Council order the structure removed or repaired within 15 days

Referred to the City Council due back on 4/17/2013

11:00 a.m. Hearings

- 2 [RLH RR 13-12](#) Ordering the razing and removal of the structures at 1220 VIRGINIA STREET within fifteen (15) days after the March 6, 2013 City Council Public Hearing. (Public hearing continued from March 6, April 3, and April 17) (To be laid over to May 15, 2013)

Sponsors: Brendmoen

Forthcoming, 1 month layover

RE: 1220 Virginia St (single family)

Ms. Moermond:

- has looked at this from every direction and doesn't think the city can help the Appellant, Mr. Russo
- Mr. Russo would like a little time to work with his attorney who is trying to clear title for him, which would allow him to rehab the property

Referred to the City Council due back on 4/17/2013

Summary Abatement Orders (NONE)

Orders To Vacate, Condemnations and Revocations (NONE)

Correction Orders

- 3 [RLH CO 13-17](#) Appeal of Richard S. Heller to a Correction Notice at 1223 MARION STREET.

Sponsors: Brendmoen

Get water restored or scheduled for meter replacement. If nothing is resolved by Monday, April 15, the inspector will do a 24 hour vacate of the building.

RE: 1223 Marion St (single family)

Ms. Moermond:

- this was a walk-in appeal yesterday afternoon*
- the inspector granted an extension through Apr 15, 2013 for the owner to get the water turned back on again; it appears that he was reluctant to get his water meter changed and there was some other problem with it*

Mr. Magner:

- doesn't think that the owner fully understood what he needed to do*
- Mr. Magner met with the gentleman last week and there might be a disability there where he might have not understood communications in the form of letters that he received from Water*
- staff has received a phone call from the water utility; they have assured staff that they are in contact with the Applicant/owner at 1223 Marion St; and that he is coming in today to establish an appointment to replace the water meter*
- according to what staff has been told, he is current on his payments*
- all parties are clear that if water is not restored by April 15, 2013, the city will move ahead with a 24-hour vacate*

Ms. Moermond:

- will lay this matter over for 1 week just in case things don't get fixed in time*
- will send him a letter and a phone call*
- if everything is done by Tue, Apr 16, 2013, she will indicate that the Appeal has been Withdrawn*

Laid Over to the Legislative Hearings due back on 4/16/2013

1:30 p.m. Hearings

Fire Certificates of Occupancy

- 4** [RLH FCO 13-66](#) Appeal of Gidget Bailey, Tin Cups, to a Re-inspection Fire Certificate of Occupancy with Deficiencies at 1220 RICE STREET.

Sponsors: Brendmoen

Architect to submit floor plan by Friday, April 12, 2013.

RE: 1220 Rice St (Restaurant/Bar-B-Commercial) Tin Cups

Gidget Bailey, Tin Cups, appeared.

Gregory Collins, attorney, on behalf of Mark Horn, owner, appeared.

James Shloemer, Cass Wilson Architects, retained by Mr. Horn, appeared.

Fire Inspector Leanna Shaff:

- this was in hearings just a few weeks ago*
- the inspector decided that they needed to provide additional means of egress due to an inadequate number of exits in the basement based on the square footage of the occupant load*
- Inspector Neis checked with licensing to see if there was a previous license*

agreement; Inspectors Neis, Supervisor Weise and Inspector Skow-Fiske all have looked but cannot find any agreement anywhere on file (Ms. Moermond had been sent an email to that effect)

- basements are of particular concern because of fire safety hazards

Ms. Shaff:

- 1220 Rice St's occupancy status is a Restaurant/Bar-B-Commercial

- there was a concern that the amount of square footage of the basement would required 2 exits

- code says that the occupancy of 49 people or fewer requires only 1 exit; for 50 people plus, you would need 2 exits

- the current configuration allows for 60 occupants, which triggers a need for a 2nd exit

- supposedly, there was an agreement on file that says that more than 49 occupants are allowed (appeal)

Mr. Collins:

- this is second hand information but we understand that when his clients took ownership of this building, the person who was running this business had an occupancy level of 73 for the basement; at some point, he went out of business and the place went dark for approximately 2 years; when it was re-opened, an occupancy permit was given at that time for 49 occupants in the basement

- we do not know how it went from 73 down to 49; presumably, from what Ms. Shaff is saying, it may have been because they had signed off on that 2nd exit back then and for some reason, didn't sign off on it now

- when it was re-opened, it was inspected and as a result of that inspection (in 2010), there's an occupancy signed by the department that says, "downstairs - 49 persons"

- Ms. Bailey is fine with 49 downstairs; his client is interested in knowing how it is that they lost 24 spaces during that "dark" period

- he reviewed an email from Phil Owens that talks about various things; he repeatedly referred to the fact that there's been over-occupancy happening at the premises on a repeated basis; and that the owners have acknowledged that they have over-occupancy - he'd be very interested in knowing what the factual basis is for that assertion; Ms. Bailey has denied that it's ever been over-occupied; he is unaware of any citation or letter or anything that has indicated that they have over-occupied these premises; they dispute that it's every been over-occupied

- the email goes on about this back entrance and how the doors swing the wrong way and how there's 2 different locked doors, etc; they were recently at the premises to go through that and actually, the door that swings in both directions (kitchen door); there's an iron gate referenced that they seem to indicate was locked but it has never been locked since Ms. Bailey has run the business there; and there are no other doors with regard to this

Mr. Shloemer:

- there's a door at the top of the stairs but it also swings the correct direction

- he was under the impression that, essentially, they were told that with modifications, they could have more than 49 occupants in the basement or if they made no modifications, they were allowed only 49 occupants; and they opted for the "no modification" route, which reduced their occupancy to 49

Mr. Collins:

- they are not in agreement with a lot of the things contained in Mr. Urmann's report (he assumes that Mr. Urmann is relying upon the inspection that was made by the inspector that was out there); they would be happy to re-inspect with that inspector and iron out some of the factual details

- does not understand why having more square footage for the required occupancy is

a problem

- Ms. Bailey has to do something to reduce the space for a 49 person occupancy or work on putting in a 2nd exit
- not sure he understands the problem with having 49 people in a space that, presumably, can handle up to 60 and used to be able to handle up to 70

Ms. Shaff:

- she's reading that the 2nd proposed exit goes through the kitchen and storage areas, which Ms. Bailey can't do; the exit must go directly outside, not through another space (Mr. Shloemer: he understands from a code standpoint, that these are separated occupancies and he's confused with this particular space because there are no separations of occupancy type in the basement)
- once she gets into an exit way, that space is sacred and she should be safe until she makes it outside (kitchens and storage areas are not safe)
- the building official makes decisions about modifications to space; workable plans need to be presented
- it is incumbent upon the person making the modifications or building a building, etc., to provide code compliant plans to the building department; she cannot design; for code has said it needs 2 exits for years and it's up to you to propose an option
- the code does give alternative methods of compliance

Ms. Bailey:

- she took over the business Jun 1, 2011 and the building was re-opened in May 2010; so, why wasn't this taken care of at that time; the same Fire Inspector, Skow-Fiske was the inspector then and now

Ms. Moermond:

- that should have happened, and we should have these measurements right away - when you first get the Fire Certificate of Occupancy; it's frustrating
- the signage for 49 person occupancy has always been there but no one checks that; the square footage is a stable measure
- she is willing to look at all options to increase safety / decrease square footage; whatever is usable, is possible and as safe as possible for all
- she also knows that cost is a factor

Mr. Collins:

- if we agree that the space is authorized for only 49 and we are held accountable for that and we do whatever you want us to do - for some kind of agreement, why do we have to reduce the square footage? Why is that little extra room a problem from a safety standpoint

Mr. Shloemer:

- his ideas were about how to make that rear exit a more compliant exit; doesn't think they could make that rear exit compliant to the letter of the current code
- there are limitations to the existing space
- there are always ways to make it much more compliant: 1) remove gate; 2) signage; 3) replacing door with panic hardware

Ms. Moermond:

- clarification: we've been using the term "agreement" in retrospect; what we will have, prospectively is a "variance" on the record, no agreement

Ms. Shaff:

- codes are minimum compliance standards; it's 15 sq ft per person when sitting at tables and chairs, it's 7 sq ft per person when sitting in chairs; it's 5 sq ft per person when they're standing

- more hazardous spaces, kitchens, storage areas, or blocked exits increase the number of minutes it takes to exit a building
- we want to minimize hazards and get people out the fastest way possible; so, 2 exits that go directly outside, not through anything

Ms. Moermond:

- it would be useful for her to see a floor plan for each level
- next, she will schedule a time for Steve Ubl, Angie Weise and Kris Skow-Fiske to go take a look and come up with some decisions; Mr. Collins and Mr. Shloemer, too; a variance will be crafted
- will lay this over for to May 7, 2013 LH
- will expect the floor plans by the end of this week

Laid Over to the Legislative Hearings due back on 5/7/2013

5 [RLH FCO 13-81](#)

Appeal of Joseph Kummer to a Fire Certificate of Occupancy Correction Notice - Complaint Inspection at 1021 SIMS AVENUE EAST.

Sponsors: Bostrom

Grant the appeal. (Owner will still need to re-grade and seed the area; grant until May 15, 2013 for compliance.)

RE: 1021 Sims Ave E (duplex)

Joseph Kummer, Guardian Property Mgmt, appeared.

Fire Inspector Leanna Shaff:

- photos in Amanda
- complaint inspection conducted Mar 26, 2013 by Inspector Tonnancour
- re: vehicles parked in the back yard
- Inspector Tonnancour Ordered that either all the parking spaces be paved with asphalt, concrete or a durable, dustless surfacing, etc., by Apr 25, 2013
- Appellant would like more time and turn it into grass

Ms. Moermond:

- would like to see a diagram of what's going on with that parcel; and if it's being turned into grass, she wants to know how the garage will be accessed

Mr. Kummer:

- asked if there were a diagram of what the inspector was talking about (they looked at the photo)
- his plan is to repair the grass
- the other 4 feet are on someone else's property; they can't park there, anyway
- the property line is consistent with the fence; the tenants had been parking on another's land; they tenants are now parking on the street or in their garage, which faces the alley

Ms. Moermond:

- wonders whether the HRA is even aware since it's an empty parcel
- it needs a touch of re-grading; will send an email to Cindy Carlson-Heins, HRA, saying that Mr. Kummer has it under control

Ms. Moermond:

- will recommend granting this appeal
- Appellant will do the re-grading and seeding by May 15, 2013

Referred to the City Council due back on 5/1/2013

Vacant Building Registrations

- 6 [RLH VBR 13-16](#) Appeal of Richard G. Wolfgramm to a Vacant Building Registration Notice at 46 DELOS STREET WEST.

Sponsors: Thune

Waive the Vacant Building fee for 90 days and change to Vacant Building Category 1 to allow owner to make repairs in accordance with the Fire Certificate of Occupancy deficiency list.

RE: 46 Delos St W (Townhome-Outer)

Richard G. Wolfgramm, owner, appeared.

Fire Inspector Leanna Shaff:

- *Appeal of Vacant Building fee (result of Revocation of Certificate of Occupancy on Feb 8, 2013)*
- *Fire C of O inspection conducted by Inspector Sean Westenhofer*
- *letter for that appointment was sent Aug 21, 2012 for initial inspection Aug 29, 2012 time; the owner did not show*
- *inspector finally gained access Dec 21, 2012*
- *after a series of repairs not being made; the owner saying he was getting it ready to sell, etc., (was unoccupied), it was sent to the VB Program on Mar 6, 2013*
- *property was vacant with multiple code violations*

Matt Dornfeld, Vacant Buildings:

- *Inspector Mike Kalas opened a Category 2 VB file per Supervisor Shaff's testimony*
- *he noted that the house could possibly be occupied; there were footprints in the snow; mail slot empty; no answer at the door but lights on inside; appeared to be new garbage in the rear and some recycling materials*
- *he placarded the dwelling and opened a Cat 2 VB file*
- *on or around Mar 27, Saint Paul Police Depart was called to the property by the owner to have an illegal trespasser (possible tenant) removed from the dwelling*
- *Mr. Dornfeld has confirmed that the dwelling is vacant and secured; the property area is maintained*
- *Mr. Dornfeld spoke with Mr. Wolfgramm on the phone and advised him to appeal*

Mr. Wolfgramm:

- *he provided Ms. Moermond with some materials*
- *he had also sent in some photos (they were scanned into the record)*
- *this property has been completely trashed by the occupant (he had never been a tenant but, because of Mr. Wolfgramm's medical issues at the VB Hospital, he was allowed to stay on long after their initial agreement*
- *much of the work needing to be done is cosmetic, which he had asked Mr. Cardenes to take care of in exchange for allowing him to live there*
- *in 7 years, he never paid rent, and only one month did he pay for his own Xcel Energy*
- *he had hoped that Mr. Cardenes would be able to bring the home up to a place where they could sell it; however, the place was completely trashed*
- *Mr. Cardenes said he'd be out by Jan 1, 2013; then, by Feb 1; then, Mar 1; then, Apr 1; then, he became very abusive and recalcitrant; he refused to leave*
- *Mr. Wolfgramm was in the process of changing the locks in order to force Mr. Cardenes to leave when he noticed Officer Rious cruising the neighborhood*
- *Officer Rious came to Mr. Wolfgramm's aid - he talked with Victor Cardenes, who*

finally left (he has changed his phone number)
- through an intermediary, they have learned that Mr. Cardenes has no interest in any of his personal possessions
- he needs to have occupancy immediately so that he can go in and change the locks; Officer Rious is going by everyday
- Officer Rious told him that even if he is spotted at the front door changing locks, he would arrest him
- requested that the VB fee be either reduced or eliminated; he needs that money to begin the process of renovation
- he has already purchase new appliances and cabinets for the kitchen and is ready to go
- he had been hospitalized for many, many years; now, finally, he can walk

Mr. Dornfeld:

- he has spoken with Mr. Wolfgramm and has granted him an opportunity to enter the premises to change locks, do basic cleaning and remove things
- what would be illegal is to start the rehabilitation process
- he has also spoken with Officer Sydney J. Rious, who is more than aware of the situation

Mr. Wolfgramm:

- he can do all the rehab - it takes him longer than most people but he can do everything except climb scaffolding (and no more jogging)
- he just needs permission to gain access
- he is afraid that Xcel is going to shut off the power and heat
- he needs all restrictions lifted
- he needs to get the insurance adjuster into the building, too

Ms. Moermond:

- looks like there is a lot of carpentry to do; also a little electrical
- a charming place from the outside

Mr. Wolfgramm:

- the building was renovated in the 80s when his wife bought this townhome; at that time, they chose to rent it out; now, the time might be right for selling
- he will need 3-4 months to finish the renovation and put it on the market; it won't be occupied during that time

Ms. Moermond:

- the code for this type of situation is strict; because there's a fairly large list of violations, it's empty and the C of O has been Revoked, it puts you into the VB Program as a Category 2 and Category 2 properties can only be re-occupied once all of the deficiencies have been addressed, including what the 4 trades's inspectors find (Code Compliance Inspection Report); there is also an annual VB fee
- in this situation, you cannot pull a permit until the Code Compliance Inspection is complete and the VB fee is paid
- she would like to keep this in abeyance and give Mr. Wolfgramm a chance to get control of this situation first
- she could recommend the VB fee be waived for 3 months (which will allow building permits to be pulled) and if it takes a little longer, he could get a little more time
- she is not seeing any huge red flags outside of the carpentry work
- if the Appellant can get through this deficiency list to the satisfaction of the Fire inspectors and get the C of O re-instated, a full Code Compliance Inspection will not be necessary
- she needs to keep the Appellant on a tight leash
- he can pull permits once the VB fee is waived (make this a Cat 1 VB equivalent for

90 days)

- get a sign-off in 90 days

- Appellant can be in the building from 8 am to 8 pm to do any repair, cleaning, etc.;
just don't live there

- there's a note on the list about the unsafe stairway, porch, decks and railings (these
may require a permit)

Referred to the City Council due back on 5/1/2013