



# City of Saint Paul

15 West Kellogg Blvd.  
Saint Paul, MN 55102

## Minutes - Final Legislative Hearings

*Marcia Moermond, Legislative Hearing Officer*  
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Monday, September 8, 2014

10:00 AM

Room 330 City Hall & Court House

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### 10:00 a.m. Hearings

#### Fire Certificates of Occupancy

- 1 [RLH FCO  
14-136](#) Appeal of Steven Fischbach to a Fire Inspection Correction Notice at  
859 CASE AVENUE.

**Sponsors:** Bostrom

*Grant extensions described in the Correction Notice attached to file.*

*RE: 859 Case Avenue (Single Family)*

*Steven Fischbach and Karin Fischbach, owners, appeared.*

*Mr. Fischbach entered photos*

*Fire Inspector Leanna Shaff:*

- earlier today, she emailed photos taken by Inspector Westenhofer last week
- Fire Certificate of Occupancy Inspection Aug 19, 2014 by Inspector Sean Westenhofer
- started out with a complaint Apr 28, 2014 about water leaking from all 4 walls in the basement and there's a strong errant smell throughout the house; the insulation on basement ceiling is not covered by sheet rock (fire hazard)
- Inspector Tonnancour was the inspector Apr 28, 2014 and he left DSI in early May
- file was transferred to Mr. Westenhofer, who did a Fire C of O inspection Jul 28, 2014 and again Aug 19, 2014
- in Apr, there was excessive standing water in basement
- currently, there are 21 deficiencies on the Aug Orders
- a re-inspection has not been done because of the appeal; however, Insp Westenhofer was out there last week to get some photos; there is still water in the basement; we haven't had a lot of rain recently
- looks as though Appellants are appealing the retaining wall on the west side

*Mr. Fischbach:*

- there weren't aware that the inspector visited the property Aug 19
- they were there last Fri and did notice the water in the basement; they agreed to put in a sump pump
- they continue to improve the property
- in Feb 2014, they had it all signed-off by Mr. Tonnancour
- Apr 29 was the first time they discovered water coming in the basement (snow had melted; flooding around the house); all the water was seeping through the retaining

wall next to them - down the hill, into their property

- decided to first take steps on the exterior to prevent water from coming in in the first place; they hired a contractor to do that work: build up the soil, put plastic down and rock on top; also beautify the area
- Jul 27 the basement was dry
- found water there again last Fri and decided to put in a sump pump
- filed an eviction on Aug 18, 2014
- Aug 19 - received deficiency list, which caused problems for them in court trying to evict a tenant
- why didn't the inspector send results a few days after the Jul 28 inspection?
- #1 toilet -on Apr 29 inspection list; not flushing correctly - running too long; they replaced the toilet but the tenants were still complaining that water wasn't coming up properly in the toilet; plumber said there was no problem with toilet, from a plumber's perspective and he saw no water leaking under the sink #19
- #8 sink in basement has no faucet; plumber told them to take out the sink
- there are very few plumbing issues in the house

Ms. Shaff:

- the delay in inspector sending out deficiency list from Jul 28: Ms. Shaff did not have a reason why that occurred (was an internal dept problem); and there are no notes in the file; she doesn't have an answer
- there is no permit for replacing the toilet and there should be
- also received a recent complaint Aug 22 - insulation in basement is full of mold; air conditioning pushes mold smell throughout the house; sewer issue -no water in the toilet; 3-season porch window is broken; live cockroaches in kitchen and bedroom

Ms. Moermond:

- Master Plumber statement indicates that the 2nd floor toilet was replaced by others but it meets state code to his understanding; it's low flow toilet and has sufficient water quantity to cleanse and re-fill trap

Ms. Shaff:

- without is being done under permit and inspected by a city plumbing inspector..... (it needs a permit)

Mr. Fischbach:

- the tenants broke the window as well
- #11 contractor did work on outside of house (cracks in retaining wall); alley goes downward with the slope; alley is higher than the house; water was accumulating; contractor took out the sidewalk, put dirt down and plastic; replaced 2 concrete slabs and re-caulked all the way around the house; now the water flows to a different area (he pointed things out on a diagram for Ms. Moermond)

Ms. Shaff:

- thinks that when they put in that additional concrete, the downspout from the gutter system was cemented into the sidewalk

Mr. Fischbach:

- #11 also states that we were responsible for 865 Case's water problems but their contractor had communicated with those residents and they had water problems before we did any work; entered a statement from the contractor indicating that we did nothing to direct water onto the neighbor's property
- would like to have a city official to come and tell us what to do with our landscape (Ms. Shaff: that's not, typically, something that city service provides)
- #13 parking lot - says we need asphalt or concrete; we have Class 5 and it looks nice

*Ms. Moermond:*

*- parking lots/driveways need to be the same as the alley that it abutts, in this case, that's blacktop*

*Mr. Fischbach:*

*- his wife was present for the inspection but Mr. Westenhofer didn't show her which outlet doesn't work*

*- hadn't heard about a wall falling down (on list)*

*- it was surprising to see all these things and it really affected their court case; they will be lucky to get tenants out by the end of this month*

*Ms. Fischbach:*

*- the inspector told her that he did not understand her while he was out at the inspection but he didn't tell her that at the time*

*- he didn't tell her which outlets needed to be repaired or say anything about a wall falling down*

*- that really affected their court case; now, they may not be able to get the tenants evicted*

*- entered emails from tenants who had a high credit score when they moved in*

*Ms. Moermond:*

*- RECESSED at 10:30 am in order for Inspector Shaff to review their paperwork*

*Reconvened at 11:09 am*

*Inspector Shaff:*

*- from reviewing the paperwork, this seems to be a huge dispute between the landlord and tenant*

*- these E-mails go back and forth for some time about who does what; what needs to be fixed; not allowing access for making repairs, etc.*

*Mr. Fischbach:*

*- the tenant has been harassing us; they have been to their house*

*- the tenants don't want to work with them and they want to finish the work*

*- they have been landlords for 15 years and haven't had a problem such as this*

*- everyday, there is something*

*- they have court this afternoon at 1:30 pm (Lisa Hollingsworth, SMRLS)*

*- they are creating these issues so that we can't do anything*

*- tenants just want free rent; \$1400*

*- his wife brought up a lot of photos to be scanned*

*- even the plumber said, "You take care of this house very nicely."*

*- is asking for a different inspector*

*Ms. Shaff:*

*- looks like they have court this afternoon at 1:30 pm (Lisa Hollingsworth, SMRLS)*

*Ms. Moermond:*

*- there was, genuinely, a mistake made; the letter with the Orders was 3 weeks later than the inspection*

*- Inspector Shaff agrees with that; she's saying that it's a problem; that did not only inconvenience you but also cause other troubles, as well*

*- the inspector made a mistake with the letter but otherwise, you've had a good experience with this inspector*

*- hearing that they would like more feedback from the inspector; Ms. Shaff is the supervisor for Inspector Westenhofer; she can work with him on this; she has faith*

that they will work it out and there's not going to be a problem in that respect  
- this was a city-caused problem; in order to make that up a little bit, she would like to get a decision today - to get something in writing for you to have at 1:30 for court; it's only fair that the referee have the most recent info on this  
- she will have this paperwork together at 1:15 pm in Room 310  
- she will go through each Order and write up expectations with concrete deadlines on the repairs; she would also like to distinguish those that she views as habitability concerns

**Referred to the City Council due back on 10/1/2014**

**2**     [RLH FCO  
14-133](#)

Appeal of William J. McKinney to an Inspection Appointment at 1601 NILES AVENUE.

**Sponsors:**     Tolbert

*Grant the appeal for owner to be out of the Fire Certificate of Occupancy Program.*

*RE: 1601 Niles (Single Family)*

*Appealed by E-Mail*

*Ms. Moermond:*

*- a disabled daughter is living at this address so, it is considered an extended part of the household  
- will recommend that Council remove this building from the Certificate of Occupancy Program*

**Referred to the City Council due back on 10/1/2014**

### **Vacant Building Registrations**

**3**     [RLH VBR 14-64](#)

Appeal of Pranee Kempainen to a Vacant Building Registration Renewal Notice at 1141 RICE STREET.

**Sponsors:**     Brendmoen

*Deny the appeal but allow owner(s) to pull permits. VB fee will go into assessment and owner may appeal it at that time.*

*RE: 1141 Rice Street (restaurant/bar-B-Commercial)*

*Pangia Vang, property manager, appeared on behalf of Pranee Kempaninen.*

*Ms. Vang:*

*- purchased property in 2010 sometime  
- work was going to be done to renovate the building but that project was paused because they currently own a restaurant on University Ave from which they had to re-locate; an opportunity opened up right next door, the former Berger King; they needed to finish this project first*

*Inspector Matt Dornfeld:*

*- this was a former bar/restaurant - now, has new ownership  
- the building has been maintained  
- permits will be pulled  
- there's a team inspection on file  
- building was gutted; they have extensive work to do*

- Vacant Building anniversary date is Sep 3

Ms. Vang:

- they pulled some permits in 2010
- they are working on the plan and getting financing now
- it will be done for sure within a year
- they have an architect, who is doing a revision
- their goal is 6 months

Ms. Moermond:

- asked Mr. Dornfeld to allow them to pull permits, even though it's on it's way to assessment
- you will get a letter in the mail telling you about the assessment; at that time, you can appeal it; send in the yellow post card to appeal and come down to discuss it
- if you are finished at that time, she will recommend cutting the VB fee in half
- now, you can pull permits without paying the VB fee

**Referred to the City Council due back on 10/1/2014**

- 4      [RLH VBR 14-65](#)      Appeal of Bill Bernier to a letter dated August 27, 2014 requiring the owner to complete a vacant building registration form and registration fee for 1940 REANEY AVENUE.

**Sponsors:**      Lantry

*Grant until October 1, 2014 for owner to address the issues or the building must be vacated.*

*RE: 1940 Reaney Avenue (Single Family)*

*Bill Bernier, owner and Leanna O'Gara, tenant, appeared.*

*Mr. Bernier:*

- entered letters

*Matt Dornfeld, Vacant Buildings:*

- opened as Category 2 Vacant Building by Inspector Dave Nelmark on Jan 24, 2014
- he documented that the building was vacant and secure; it had open permits at the time
- roof was covered with snow; peeling paint on siding; hairline cracks in foundation; gas meter valve was open; debris in yard and on deck; storage shed was open
- Inspector Nelmark went back and documented that all exterior violations were in compliance Feb 20, 2014
- May 16, 2014 - per Mr. Magner, this file was changed to a Category 1 VB due to open permits and progress being made
- Aug 21, 2014 - it reverted back to a Cat 2 VB per Inspector Singerhouse and Mr. Magner

*Fire Inspector Leanna Shaff:*

- Revocation of the Fire Certificate of Occupancy in 2013
- owner illegally transformed this single family home into a duplex
- it went to hearings and recommended that the appeal be denied and some extensions were given to the tenants for time to move out
- was referred to the Vacant Building Program for multiple code violations as a Category 2
- this house is still supposed to be a single family dwelling but it is still a duplex; the interior stairs are still gone

- Mr. Bernier had rented it to sisters, from what she understands, and their families; is still being used as a duplex
- it had no code compliance inspection and none of the repairs to revert it back to a single family have been done nor permits pulled

Mr. Bernier:

- spent time and money on this house: new kitchen floor
- it's not a duplex; was never intended to be a duplex

Ms. Moermond:

- the City Council has already decided that issue; she will not revisit it

Mr. Bernier:

- it's a single family home in which Leanna O'Gara is happy
- the neighbors are finally happy with the situation
- bought house from Tom Donahue, who raised 2 sons there; he had tarps on the roof when Mr. Bernier bought it with a piece of plywood that kept the rain off his body when he slept
- he added R-19 to the attic and did all kinds of things there to fix it up - to make it completely functional and livable
- he needs to know the definition of a legal duplex because the city keeps using that word

Ms. Moermond:

- we're not going to revisit this; CC decided this last year and is not up for discussion
- if you wanted to appeal that decision, you would need to have done that to Appeals' Court

Mr. Bernier:

- Dave Nelson is coming to inspect at 11 am today to inspect what he thought had been inspected by him in Mar 2013, when Mr. Bernier had been living there

Ms. O'Gara:

- there's nothing wrong with the property; it's been a blessing; there's a whole other side to this situation; she hates to put her kids through too many changes;
- 2 responsible adults and 1 special needs adult and five children are living there; (4 up and 4 down); her adult daughter, 23, with her daughter
- her adult daughter is the PCA for her adult special needs son and works outside the home
- her children are in 1st grade, 4th grade and 7th grade
- the house has worked out really great; her special needs son has a little more independence
- everything in the house works; she doesn't have a complaint
- Mr. Bernier has worked to make sure everything works and is OK
- her family has been through a lot of changes; she is in the process of divorce and Mr. Bernier didn't have to help them but he is trying to help people on the other end of stuff; everything is working well; she doesn't know where she would be if Mr. Bernier hadn't allow them to live there

Fire Inspector Leanna Shaff:

- 2 separate electrical permits; a general bldg permit in 2013 for a remodel - still open (Mr. Bernier: Mr. Nelson already inspected it but doesn't know if he recorded it; he will be there today at 11 am); last time that permit inspected Jul 19, 2013
- gas permit rejected Oct 14, 2013; then, finalized Oct 16, 2013
- the interior stairwell was removed

*Mr. Bernier:*

- he noted a list of improvements he has made to the property
- house is in far better shape than when he bought it
- it's functional, livable, practical - an affordable living space

*Ms. Moermond:*

- you have re-occupied this property with complete disregard for the Council's decision last year, saying this was an illegal duplex
- the interior staircase has not been replaced or the other things that would be required in order to deconvert this from a duplex to a single family house
- you belong in Appeals Court if you disagree with the Council's decision
- without a Certificate of Occupancy, the house cannot be rented
- she will be OK with the current Orders but all corrections need to have been made under permit
- without a permit sign-off, the repairs are not done
- he does not have a building permit for doing a deconversion from a duplex to a single family dwelling
- unless all the work is done under permit as required by the city, this house must be vacated by Oct 1, 2014
- under state law, Mr. Bernier is responsible for finding the tenants a different place to live; the tenant has rights on that

*Ms. O'Gara:*

- my family has been through a lot of changes
- she has lost all her savings

*Ms. Moermond:*

- can contact The House Calls Program, Southern Minnesota Regional Legal Services

**Referred to the City Council due back on 9/17/2014**

**5**      [RLH VBR 14-63](#)      Appeal of Brent Schlapkohl to a Vacant Building Registration Notice at 900 SAINT PAUL AVENUE.

**Sponsors:**      Tolbert

9-9-14: Owner showed up today, Sept 9, for hearing. I rescheduled to 9-16-14 at 2:30 p.m.

Change from Category 2 to 1 for owner to work off the Fire C of O list and let it remain a registered vacant building. Owner did not appeared.

RE: 900 Saint Paul Avenue (Single Family)

No one appeared.

Inspector Matt Dornfeld, Vacant Buildings:

- surprised that own is not here today; may be confused by the re-scheduling
- owner sent check for \$1440 and requested that it not be cashed until this hearing was heard
- they are not here; not sure what to do with that check for the VB fee

*Ms. Moermond:*

- sees that the time and day of the Hearing was switched from tomorrow at 2:30 pm to today at 10:00 am
- asked Mr. Dornfeld to put the check into a safe

- would prefer that this be LAID OVER to next Tue afternoon so that she can confirm with the Appellant that things are done

*Inspector A.J. Neis:*

- they may potentially be flying in from Texas for the hearing tomorrow unless their realtor plans to represent them

*Mr. Dornfeld:*

- had not heard from them and so he assumed they would be here today  
- will have Ms. Sandberg hold on to the check

*Mr. Neis:*

- complaint came in Jul 2014 about an illegal rooming and boarding house that was rented out to 17-19 individuals for a summer camp  
- the house was up for sale  
- understood that the owners, Schlapkohls were approached by Rabbi Wilhelm for his summer program, in which he grossly over-occupied the house  
- after speaking with the owners, they knew children were going to be living there but they had no idea that there would be so many  
- based on the dangerous condition that these children were put in, the house was Condemned and Ordered Vacated by Aug 14, 2014  
- no one is currently living at the house; it's up for sale  
- house is in pretty good condition  
- he is comfortable considering moving it from a Category 2 to a Category 1 VB

*Ms. Moermond:*

- she is comfortable with it being a Cat 1 VB; she is not hearing that there are any significant building code violations here  
- however, it has been empty long enough justifying it being being a Cat 2  
- this Condemnation was not building related; it was Condemned because of the over-occupancy and it's treatment as a boarding house

*Mai Vang:*

- Aug 26 email from owners stated that their real estate agent will be attending the hearing

**Referred to the City Council due back on 9/17/2014 (Legislative Hearing Sept 16)**

## Staff Reports

- 6**     [SR 14-76](#)     Reviewing Appeal of Gee Lee to a Fire Inspection Correction Notice at 1088 CONWAY STREET adopted by Council on May 21, 2014 (RLH FCO 14-63) .

**Sponsors:**     Lantry

*Ms. Moermond:*

- this was a case where there are bedroom height issues that were covered; then, a new additional issue came up: the height of the stairwell that would access those bedrooms (wasn't written up in the first set of Orders because those were not sleeping rooms at the time)  
- City Council did allow for those rooms to be used for sleeping rooms; now this stairwell needs to be addressed

*Fire Inspector Leanna Shaff:*



- the house had a fire in 2005, prior to the current owner's ownership; contractor Quantum Water or Fire Water Restoration
- last inspection done was Jun 15, 2006; owner was told that he would need to make some changes
- it was a Registered Vacant Building prior to the fire
- Ms. Moermond's comments were: recommend the building official makes sure that Quantum is contacted because it's their responsibility to make sure that the permit got finalized
- some of the permits were never finalized - so, not inspected
- Mr. Gee Lee purchased the property
- Mr. Lee's argument has been that, "It was that way when I bought it, and it was OK with the city then."
- when Inspector Niemeyer inspected it, he drew a diagram, measured, etc.
- according to all the records, these bedrooms should not be there at all; unfortunately, Mr. Lee came in during the middle of the process and he thinks they can be used as sleeping rooms
- if this had gone through the permit-inspection process fully, those sleeping rooms, due to the stairs, the ceiling height, the slope of the ceiling, etc., without literally raising the roof, would not have been allowed to be sleeping rooms
- the letter to owner after LH read: it's confirmed that on May 6, 2014 Property Code Hearing, Ms. Moermond recommended that the City Council grant square footage variances for both upstairs bedroom with the condition that only 1 person sleeps in each room, using a bed no larger than a twin bed
- the City Council Public Hearing was May 21: they adopted Ms. Moermond's recommendation
- at this point, the inspector notes: 6-9-14-spoke with Jim Seeger and scheduled an inspection for Jun 26 at 2 pm
- because the stairway landing / ceiling height at issue with the building (her guess)

Ms. Moermond:

- because there is no written Order on the height of the ceiling in the stairway, she can't go back and make a decision on what hasn't yet been written up in an Order
- will have an inspector write it up in an Order, then, we can handle it; otherwise, it's a simple determination of staff and she won't go back and do it
- if the stairwell doesn't have the head clearance that it's supposed to have, it can't be used as access to the 2 sleeping areas that the Council already allowed; if there is clearance, he can use the rooms for sleeping

Ms. Shaff:

- the building inspector has made those measurements; she would be comfortable using his measurements

Ms. Moermond:

- that would be appropriate
- those rooms cannot be used for sleeping until that issue is addressed
- Mr. Lee can either fix the stairwell or not use those rooms for sleeping
- Inspector will get measurements for the stairway leading to the attic bedrooms and issue order to owner

**Received and Filed**