



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
Joanna Zimny, Executive Assistant
legislativehearings@ci.stpaul.mn.us
651-266-8585

Tuesday, May 12, 2020

9:00 AM

Via Telephone Due to Covid-19 Health Pandemic

9:00 a.m. Hearings

Remove/Repair Orders

- 1 [RLH RR 19-23](#) Ordering the rehabilitation or razing and removal of the structures at 1179 SEVENTH STREET EAST within fifteen (15) days after the September 11, 2019 City Council public hearing. (Public hearing continued from September 11)

Sponsors: Yang

Layover to LH June 9, 2020 at 9 am for update on current National Historic Register Designation review, appraisal opinion, and projected timeline.

*Lisa Kugler, consultant, appeared via phone
Kenneth Udoibok, pastor, appeared via phone*

Kugler: I sent last night, the letter from LISC, they have made a feasibility grant of \$7,500, this will be to do the preliminary research into the historic tax credits. The letter that came from SHPO is a form letter unfortunately, it doesn't indicate any opinion of SHPO, there needs to be research done to see about the eligibility and if it is specific. Most of this grant will pay for Hess, Roice and Co, to do that preliminary research. It will take them four to six weeks, the archives at the state and historical society are closed, so if the materials they need aren't accessible online we will have to wait until they can access those materials. That's a really key component on the path to getting this building done, the tax credits. The other pieces of the grant will pay for the appraisal opinion of value, needed to get a loan commitment and also pay to do the federal home loan bank application due June 1. That is a major piece of subsidy for the housing. The other paragraph in the letter talks about LISC has been making the PPE loans to small businesses so they haven't processed the loan application because they've been preoccupied with those Covid loans, and realistically everyone wants to wait to see what the real estate market looks like post-crisis. The timeline isn't different than the last time we spoke, we are looking at the end of this year in terms of starting the rehab. We are on track for that. We're not on track to move it along more quickly, I also don't think anyone other than an entity with a great deal of capital could do it more quickly, since banks aren't doing real estate loans right now.

Moermond: you've described some road blocks, I'd like to see if there is anything the City can do to ease those. For example, Hess Roice may need Ramsey County

records, but the City may be able to ask them to work with you to ask internal staff, I'm not sure if that would be helpful if you're encountering things like that. Obviously, the loan processing won't happen for a while.

Kugler: it is not clear yet, because I was uncomfortable telling them to start work until we got official word from LISC. They don't know yet how much is electronic and what is only in paper records. If they need access to non-electronic records, who do I ask? Do I send you an email?

Moermond: we can definitely involve our HPC staff. You just got the green light from LISC and so you can get that ball rolling, they will probably just be getting their ducks in a row in the next several weeks.

Kugler: they have done a tiny bit of work, so yeah, I think that sounds correct. Within a month we'd have a definitive answer, emails said four to six weeks. She said we don't know when archives will open again, we will do what we can in four to six weeks and then are in limbo until the archives are open. I can make that offer to her to see if there's something the HPC can help access.

Moermond: reach out to Kristine Guild and copy me so that she knows we're tracking on this. She was involved earlier.

Kugler: the only other thought I had, I'm not at all certain this is a good idea, the housing money won't come through until the end of the year, early December. If it makes sense to do some of the rehab earlier to get the first floor occupiable, maybe that could happen sooner, generally when you split construction projects they end up costing more, but we could look into that.

Moermond: that's going to be a no, because we have to put this in front of Council as an entire project, with all the financing at one time. We covered this earlier on with the first proposals brought forth by Mr. Kroll and the church, he wanted to do in two phases, and we need it to be all of it all at once to abate the nuisance. So, plan on doing it one time, no separate approvals. I'd rather have it be a few months slower and get it all done, than half gets done and the other half never gets done. We might have some road blocks, we'll identify those within a month it sounds like. In terms of the appraisal opinion of value, what timeline do you think on that?

Kugler: I'm not certain, often it can be done within four weeks, I haven't talked to the company we will use, I'm not sure how busy they are. I personally don't know, I will try and get that done as quickly as I can and have something to report in a month.

Moermond: let's do that, and talk again in a month, and if Hess Roice has a need for an insider to look at documents we might be able to facilitate that, otherwise June 9 we will talk again with updates. The Council is only conducting public hearing by written and recording testimony, so items where we'd want the ability to testify in person won't be until mid-June, so we are fine there. I think when it goes back, we'll probably be looking at July and I'm hoping to be able to say we've been working together, gotten these steps tackled, current projection of scope of work and timeline and continue the matter. I'm sorry Covid delayed my office in reaching out and we'll talk again June 9. I'm glad you got that initial money from LISC.

Kugler: it shows that they have interest.

Moermond: thank you for both of your time, and we'll talk again in a month if not sooner.

Laid Over to the Legislative Hearings due back on 6/9/2020**2 [RLH RR 20-11](#)**

Ordering the rehabilitation or razing and removal of the structures at 174 PAGE STREET WEST within fifteen (15) days after the February 26, 2020 City Council public hearing. (to be referred back to Legislative Hearing on May 26, 2020)

Sponsors: Noecker

Refer back to LH May 26, 2020 at 9 am for review of alternative rehabilitation plans and financing.

Robert Bier, owner, appeared via phone

Jason Cramer, investor, appeared via phone

Brendan Anderson, realtor and project manager, appeared via phone

Supervisor Steve Magner: the last letter was sent April 17, to confirm laying the matter over to today for the following conditions: addendum to the purchase agreement specifying closing date and transfer of title, financial information dedicating funds for the project, affidavit of financial commitment if from a bank, detailed work plan with timeline and sworn construction statement, updated general contractor bids in accordance with the code compliance inspection and the property must continue to be maintained. The public hearing is scheduled for May 13, 2020.

Moermond: we'll have to ask for it to be continued since we can't do in person testimony. I received an email from you Mr. Kramer, and I don't know if you'd like to describe what is in it?

Kramer: if you understand what the nature of the email is, you can do it.

Moermond: you did some fact finding, great, you're capable of doing the work, I'm sure you are although I don't have an actual work plan or construction statement to that effect. In terms of title transfer, you harshly stated the City is asking for this for no reason whatsoever, when chapters 33 and 45 of the City code specifically states that title can't transfer until the nuisance is abated or removed. In terms of you suggesting this be downgraded from category 3 to cat 2, the City issued its declaration many months before you entered the picture. The only way to get this undesignated as a nuisance and/or dangerous structure is to get rid of the nuisance. There's no other way to do that. I'm troubled that you would state "we're asking for this simple exception for the reasons stated above and because Bob could contract Covid19. It also adds extra uncertainty to whether Bob will contract this disease and as a result not perform once repairs are complete." I don't see the logical connection between whether you are given time and whether you contract a disease, I find that statement troubling that you would put that out there, that somehow if that happens it is the fault of this process. Can you explain that logic? That baffles me.

Kramer: so both of the suggestions you sent after our last--

Moermond: can I clarify both of those weren't suggestions, they are required by legislative code.

Kramer: we are talking about two different things here. You have a requirement that title can't transfer. Someone sent two examples of how previous people have gotten around that requirement, one was essentially a lease option, the other was a contractor

agreement. Neither of those protect the investor for the homeowner not performing, so the purpose of title transfer is to get title insurance and assure the risk undertaken by the contractor is protected by that insurance and the fact they have the deed. Neither of those examples accomplish that. The end of the day, the way it is structured, I understand that's what the statute says. In the world of real estate, when they buy a property they give and get something, they give the money to buy and in return get the title. The structure your proposing we give, and we don't get anything, either a mortgage interest, a lease option interest, that's what I'm getting at, I'm not sure if you're understanding it. I've talked to real estate attorneys and our title company, no one is willing to do it without a better secured interest. The mortgage mechanism would require foreclosing if Bob wasn't able to perform, our only recourse is to foreclose the mortgage to protect our interest and that's a six month process and extremely costly. I know where you're coming from, but the way the real estate transaction—

Moermond: I have been doing this for a long time, but thank you for the background.

Magner: I think we understand your point of view, the concern is that you're dealing with a property in a situation that ultimately the property allowed it to fall into this distressed situation. We appreciate your concerns; myself and the Legislative Hearing officer and I have seen well over 50 cases where it has been structured to allow this path forward. It is kind of a loophole in the law. The Council is aware of it and allowed it to happen because there's a tighter rein on it through this action. Mr. Bier chose to go with you, he testified in this room he could have gone with other options, I guess maybe you have to decide if you're going to go with this path and have more risk than you'd like or it is time for you to walk away and let Mr. Bier pick up the pieces and figure it out. Frankly, you're asking us to change the rules and unfortunately this is the government and they don't do that. We understand your concerns, but we've had other people produce a much larger risk on larger properties with much more problems, this is a small house and quite frankly I don't see where the concern is here. But if you don't feel comfortable this may be the time to jump ship.

Kramer: I must have been misinformed, I had heard from an attorney there was some kind of a mechanism that was possible for even a category 3 for the title to be transferred, I guess you're saying that is never happening and has never happened.

Moermond: we have given you the two main examples of how people have accomplished that. If an attorney comes up with an alternative approach, we're happy to look at it. You made the offer knowing it was a Category 3. But we've given you the two main thoughts for pursuing this, I can't create a contract for you.

Kramer: it seems like the third is the mortgage, which was mentioned which was never received. It is not the mechanism, it is that none of the mechanisms allow title insurance, that's their main concern when we've shown them either example. I don't know what that exception would be, I was just told it has happened, where you have allowed that title transfer with whatever circumstances or conditions, and I don't know exactly what that was.

Moermond I'm the only one who does this, and you've seen the two main ways. It cannot involve title transfer prior to abatement of the nuisance condition, that's just how it works under the code.

Magner: normally what we see is individuals coming in here, generally they aren't going to be seeking a conventional mortgage process, they are using their own capital. I think you want to use more of a traditional method and finance it as rehab after the

sale. That just can't happen. I think either you have to look at your resources or Mr. Bier might have to move on.

Moermond: this has probably been alarming conversation for Mr. Bier. I want to pointedly talk about your options right now. You've been talking with them to buy your house and rehab it, if that doesn't happen you are left with your property and not having a rehabber in place. Did you have other people approach about purchasing and doing the rehab? Where do things stand for you?

Bier: there was one other individual who was interested, he rehabbed up the block. You're right, this is kicking me, I am at a loss. I feel like I am getting backed into a corner, and I backed myself most of the way, it is not your fault, I feel like I'm going to lose everything. It is not Council's fault, you're following procedures. I thought I'd found a way out; I didn't expect this company to try to wrangle options that aren't available. I am truly at a loss of what to do right now. I think at this point I may need to try the other investor again, and hear his thoughts, because I had hope and right now I'm losing it.

Moermond: we had anticipated by mid-April pieces would have fallen into place, obviously that hasn't happened, you do have other options and I know that you may have options with the people you're working with too. It would be appropriate to continue your conversation outside the hearing room. If there's others you want to talk with as well, that's good too. I would like to follow up with you all in two weeks' time, 9 am. That would be an opportunity to both find out if your current situation can move forward within the restrictions, or with someone else. If you have someone else you'd like to participate reach out to my staff and we'll get their numbers and include them. At the public hearing tomorrow I'll ask them to send it back to legislative hearing May 26, and give you a chance to work with an alternative partner or alternative proposal. The conditions we have required will continue regardless, if you have people coming forward as well as your current partners, what is expected of a category 3 vacant building, if there are questions reach out to my staff or Mr. Magner's staff.

Referred to the City Council due back on 5/13/2020

3 [RLH RR 19-30](#)

Ordering the rehabilitation or razing and removal of the structures at 1904 PRINCETON AVENUE within fifteen (15) days after the December 18, 2019 City Council public hearing.

Sponsors: Tolbert

Layover to LH May 26, 2020 at 9 am for update on status of cleanout (this is the final layover related to cleanout).

Steve Anderson, attorney, appeared via phone

Moermond: last time we talked we talked about getting a contractor in to do the the cleanup, the Kattars were not willing or able to execute on their own, what is happening?

Anderson: substantively things haven't changed, but right now they are considering an option, and I'm getting a bid on it, they can't get to the house because of some Covid issues, instead of having a throw-out session at the house, I've asked them to consider filling pods and have it happen off site. I know it is not a good remedy for many reasons, but that's where we're at and I hope to have that agreed upon with a down payment before the meeting with the Council on the 22, hopefully by the end of

the week. We have to figure out a way to get them out of the house, I also have a new quote to drop the house, a buy to drop and buy to sell, ballpark for price is about the same. The husband still believes he can sell for half a million if it gets cleaned up, and Mary doesn't want to go through the process of cleaning it up. I'm trying to line up a place where they can store the number of pods they need. I don't know if you've been in there, it isn't particularly dirty or disorganized, instead of throwing it in a dumpster they'll put it in a pod, but the house would be broom clean. I think that might solve some of your issues, though not her mental health issues. If we don't, I guess they will have to drop it and I've explained that to them and they are on the TRO path, which is fine. That's where we are substantively.

Magner: I think you caused some pause by saying TRO, are you saying that if the City Council moves forward with a resolution to remove it, they are going to put a temporary restraining order on the City?

Anderson: they believe they will take that path, I've explained to them I won't do that.

Magner: so it is on the record and you can communicate back to them, if the Council was to move forward with a resolution to remove the property, that being a quasi judicial decision they would have to go to appeals court.

Anderson: sorry, when I said TRO, it wasn't quite as accurate as I meant it to be. Yes, the appeals process.

Magner: and I wanted to make sure it was clear so it can be communicated back to them. They are part of the decision here, but I want to make sure they know what their next steps are.

Anderson: I have told them in the past I wouldn't do that, they seem to be prepared to do that. On the other hand, I've been trying to get that house cleaned out to get inspected to get a better idea of the cost. So it is cost versus. action, and balancing that. They are still very upset, Mary is very upset, but the inevitably is starting to hit them, the remedy I put forward isn't impossible, if I can get that done, is it satisfactory? The house would be cleaned out, you don't have to know where the items went.

Magner: the City doesn't have a concern where the items go, we want the property cleaned out, broom clean, so the code compliance inspection can be done, and if your client can make a decision as to where they want to go from there is the key step in getting this off of square one. We're not just months down the line, I'm sure you've read the original information on this, it has been vacant for a long time. That's the problem we're facing, this is not a two-week-old problem. It has been since July 12, 2007.

Anderson: to be honest I should know their position real soon, it is going to cost about as much to do that as other things, they will have to spend some money no matter what they do. I think they realize that. I don't mean to be flippanant about their position, they're actually quite ready now to make some decisions. They do have some very serious issues with Covid, things have shut down and she's in a lockdown position they are both high risk category. I do want that on the record, some is a natural reaction to staying home.

Moermond: 1904 Princeton is probably not a site for Covid, since it has been closed up.

Anderson: I think we can get someone to go in and look at it, but they are reluctant to leave the house, so we have to figure out how to swap a key.

Moermond: so you have some decisions in the next week or two, is that right?

Anderson: yes, I'm arranging today for the people to get the key and then I'm making provisions for someone to give me a process for costs for cleaning and pods. I just don't have a bid for where it is going to go, but it will be a large amount, at least three pods. But there are longer range storage options.

Moermond: I originally planned to send this to Council next week, what we're going to do instead is layover to legislative hearing May 26, and will expect an update. I need this basic benchmark is met. I need to move forward as soon as council is doing public hearings in person or live. We haven't had any movement on this, it is not cleaned out and there hasn't been an inspection, we need that report. That's what we're focusing on at this point, so we all have a clear idea of what needs to be done to bring this back into a habitable position.

Laid Over to the Legislative Hearings due back on 5/26/2020

4 RLH RR 20-22

Ordering the rehabilitation or razing and removal of the structures at 678 SNELLING AVENUE NORTH within fifteen (15) days after the May 27, 2020, City Council Public Hearing.

Sponsors: Jalali

Refer the matter back to LH June 9, 2020 at 9 am to discuss proposal/plan of action based upon inspection report.

*David Malanga, director of property management, appeared via phone
Jacob Steen, local counsel with Larkin Hoffman, appeared via phone*

Moermond: I assume they gave you background, do you have any questions?

Steen: no.

Moermond: we had two conditions to get some more time, the performance deposit posted, which was posted. The second short term thing was an application for a code compliance inspection, I have been informed that it was made but there was an error with DSI, and that they gave a long turnaround time, and I'm going to fix that.

Magner: I received an email yesterday from one of our customer service specialist staff that they did receive the payment for \$658 for the team code compliance inspection along with the performance deposit, but apparently the \$658 was voided in the system because they could not put it in the right category it needed to go into. So, it is my understanding they're working with David to obtain those fees, as indicated Ms. Moermond was going to contact the fire safety manager to have the time frame shortened to expedite the inspection.

Moermond: yes, it shouldn't take any longer than two weeks. The property has been maintained since we last spoke?

Magner: yes.

Moermond: at this point, my question will be back to you gentleman. We have the

inspection on its way, let's say we have that three to four weeks max in writing in your hands, that will be what you want to use with a contractor to confirm any sort of a scope of work or sworn construction statement to see how much it will cost to fix. I don't know what kind of build outs you'd want to do in the commercial spaces, so I expect that's something you're examining or maybe selling it once you have the inspection report. This is a commercial vacant building in St. Paul and there are no impediments to the sale of a nuisance building, the order would continue on the new owner, but it is an option. Right now, on the strength of you resolving the two things asked, do you have any questions or timeline concerns?

Steen: based on the six to eight weeks, we'd intended to ask for that, but sounds like that will be shortened. So maybe four to six weeks. We're in negotiations with Hillcrest Development and will use that report to continue our discussions with them. We don't intend to rehab.

Moermond: I have this set to go to Council May 27, I think to take into account you getting the inspection report and have the conversation with perspective purchaser, to ask the Council to send it back to legislative hearing June 23, and I will look for a specific proposal from you, either the purchaser can be present, or what you want to do, but a plan of action in place informed by the inspection report. Does that sound like enough time?

Steen: yes, that should work.

Moermond: I will work with the manager of fire inspections to get the code compliance done and expedited.

Steen: am I to assume they will coordinate with David on that timing?

Moermond: yes, whoever is on the application form. Typically, a lock box needs to be on the property so they can go in at different times to help make things go more quickly. It should be on the form you filled out.

Malanga: with regards to access to the property, how can we obtain some sort of insurance for them entering? We obviously aren't there to supervise and there is a liability concern. How can we be protected in that fashion, especially if they are accessing roof or on a ladder, things like that?

Magner: liability wise how that works, we've never been asked this question, the liability always falls back to the City because the employee was there under the guidance of the City, so they assume the liability of that. I've never heard of that situation; it would be a question for the Building Official.

Moermond: I have not heard of building inspectors climbing on roofs, they look at the ceiling on the top floor typically for obvious signs of leaking. The roof inspection, the only ones I'm aware of use the fire department to make sure fires are out. I've never seen a building inspector on a roof.

Magner: yes, they wouldn't be accessing the roof unless there is a dedicated stairway. They don't have any tools with them. If they see a problem with the roof, they would ask for a structural engineer's report to assess.

Malanga: got it, very good, thank you.

Referred to the City Council due back on 5/27/2020

Other-Making Finding**10:00 a.m. Hearings**

- 5 [RLH RR 19-32](#) Making finding on the appealed substantial abatement ordered for 718 ORANGE AVENUE EAST in Council File RLH RR 19-5.

Sponsors: Busuri

The nuisance is abated, and the matter resolved.

No one appeared

Supervisor Steve Magner: the nuisance is abated, and the matter resolved.

Referred to the City Council due back on 5/20/2020

11:00 a.m. Hearings**Summary Abatement Orders**

- 6 [RLH SAO 20-5](#) Appeal of Michael T Westermeyer to a Summary Abatement Order at 2163 BERKELEY AVENUE.

Sponsors: Tolbert

Appeal withdrawn by owner, nuisance is abated.

No one appeared

Moermond: appeal was withdrawn by the owner and took care of the nuisance condition. It should be withdrawn and archived.

Withdrawn

Orders To Vacate, Condemnations and Revocations (Fire)

- 7 **RLH VO 20-16** Appeal of Lorn Ross McDowell to a Correction Notice-Reinspection Complaint (which includes condemnation) at 588 FOREST STREET.

Sponsors: Prince

Deny the appeal, property must remain vacated.

*Lorn Ross McDowell, former occupant, appeared via phone
Steve Burns, brother of owner, appeared via phone*

Moermond; are you living at the property?

McDowell: I vacated for the moment. I stopped by to check on it and it looks like a homeless person has moved in.

Moermond: who lived there?

McDowell: my family. There were two adults and three children, one on the way.

Moermond: and you know the order is stayed until we make a decision. Did you call the police about the homeless person?

McDowell: no, it was a tent in the yard, and they left right away.

Staff report by Supervisor Leanna Shaff: April 20, we received a referral complaint that the building didn't have a Fire C of O and was not owner occupied. On April 24, Inspector James Thomas wrote orders against the property that basically require Fire Certificate of Occupancy, they say illegal occupancy. He did not gain access. He ordered it vacated. It seems the property owner passed last year, the owner of record with Ramsey County is the deceased property owner, Amee Burns. It is not owner occupied; it is required to have a Fire C o O. Ownership is defined as the owner of record at the primary residence.

Moermond: so it used to be owner occupied? Did you live there with Ms. Burns?

McDowell: Amee was part of the church, she was dying and made arrangements with her pastor and her brother, and didn't have a proper will set up and I was asked to stay there so homeless people didn't move in, so it didn't get destroyed and trash. We kept the utilities paid, water running, make sure it was livable, I did that for about a year and knew the foreclosure was coming up. The family was still trying to deal with the estate issues, when the foreclosure came up they gave us papers saying as occupant we didn't have to vacate until October 28, so as far as I knew we were able to stay there until then and keep it kept up if the family got access to it.

Moermond: so there's a brother involved, does he represent the estate?

McDowell: I was told he represents the estate, there is other family. I don't know the family side of things, I just know why I was asked to be there.

Moermond: do you know the brother's name?

McDowell: Steve Burns, as far as I know he's been talking with people with the City, so you should have his information.

Moermond: do you have contact information for him?

McDowell: Actually, I did just get it after the condemnation. I noticed the lady who spoke only mentioned one of the four things listed on the condemnation order, why was that the only thing noted?

Moermond: I can see all four items, I think she was just highlighting.

McDowell: ok, because the other three all require an inspection and there was no inspection done, which is why I was confused.

Moermond: those are things normally required, we can come back to that.

McDowell: I just wanted to make a point, I'm willing to do any work that needs to be done. His number is 949-230-XXXX.

Moermond: here's the situation, there are two things in play. When the bank forecloses on a property, they give a certain length of time to bring the mortgage current before it needs to be vacated, that's the period you're in right now. The estate of Amee Burns would need to bring that current. That is basically saying the state cannot evict the occupant until that time period has concluded. That is different than this process of what is required of a rental property in the City of St. Paul. By rental I mean non-owner occupied. So when she passed, she no longer lives there, that means the property has to be inspected and get a Fire C of O for any future occupants. If we can get a legally responsible party, then we can talk about some sort of conditions to get it occupied, but we would need Mr. Burns to step up and get any potential repairs executed. We would need to see documents he's the representative of the estate, and filing to get the Fire C of O. do you think he'd be willing to do that?

McDowell: I know he tried for the last few to get ahold of the property, so I don't know what channel he is working through. I was there to maintain and that's what I've been doing. I also find it interesting I was evicted during a no-eviction order from the governor. I know it is called a condemnation, but that's weird to me, that's all.

Moermond: I'm trying to work with you. What this legally is right now you are a squatter in this property as far as the City is concerned, you are not the owner, nor are you there with the owner's permission. I am trying to figure out a way to tackle that situation, but right now you are legally no different than the person putting the tent in the yard. I'd like to find a way for you and your family to be housed, but we need him at the table to participate in the conversation.

McDowell: I understand. I'm not trying to be uncooperative.

Moermond: I would like to conclude our call for a few minutes and see if we can get ahold of Mr. Burns. We will call you back regardless.

[Steve Burns on the phone]

Moermond: the City requires there's a certificate of occupancy on a property like this, I want to work with you all to keep him in the property with his family if that's where you want, so we wanted to get you involved in the conversation.

Burns: I'm fine, I'm just waiting for a hearing this month to become officiator of the property, I'm already temporary. I'm not sure what I'm going to do with the property yet.

Moermond: well we have Mr. McDowell's family who moved out, I don't have any paperwork indicating you're the legal representative. I'm in the process of reviewing an appeal by Mr. McDowell who wants to continue living there, but code says he can't do that unless it has a Fire C of O.

Burns: right, no one can live there at this time due to the inspection.

Moermond: are you going to be the personal representative? And are you going to be pursuing the certificate of occupancy?

Burns: I've already spoke to the code enforcement officers.

Moermond: I don't think you have; it was Leanna Shaff's inspector who was out there who ordered it vacated April 27. Are you aware of that?

Burns: yes.

Moermond: so what do you want to do at this juncture? If you're willing to step up and be a landlord I can work with you to allow continued occupancy at least through the redemption time period, but if you aren't willing to do that then we do have to vacate the property because it is the same as having a squatter in the property.

Burns: it will be some time to pay the fire inspection fees and to get someone to walk and approve it. I haven't made any arrangements; I will be after the 19th when the hearing is, and I'll be moving forward at that time.

Moermond: are you ok if I bring Mr. McDowell on the line with us?

Burns: no, it wouldn't do me any good at this time.

Moermond: I think that tells me what I need to know at this juncture. Do we have an address to you to send a letter? An email address would work too.

Burns: yes, it is XXXX Corsica place, Costa Mesa, CA 92626

Moermond: at this juncture I imagine DSI will be referring this property to the vacant building program and you'll be hearing from him.

[hangs up]

[calls Mr. McDowell back]

Moermond: I just spoke with Mr. Steve Burns about the property, and I explained to him that we would be willing to work with him to allow for continued occupancy but he would have to show us he was a legal representative of the estate and apply for a Fire C of O. He has a court hearing on the 19th about the representation, and he won't take any action until after that hearing. So, I'm left in a position of having to say the property cannot be occupied unless we have a legal responsible party. He isn't right now, the legal responsible party is deceased. So, my suggestion would be to reach out to him and try to make arrangements for after May 19, but at this time I'm going to have to recommend your appeal is denied. I'm very sorry about that. I have no legally responsible party and I can't grant your appeal in that circumstance.

McDowell: so I'd go to Council if I want to continue this? And there will be a transcript?

Moermond: yes, we can do that and include that in the letter.

Referred to the City Council due back on 5/27/2020

11:45 a.m. Hearings

Vacant Building Registrations

- | | | |
|---|--------------------------|---|
| 8 | RLH VBR
20-31 | Appeal of Chris Greene, RD Management LLC, to a Vacant Building Registration Fee Warning Letter at 1400 UNIVERSITY AVENUE WEST. |
|---|--------------------------|---|

Sponsors: Thao

Deny the appeal of the vacant building registration, but make property a Category 1

VB.

Christian Greene, RD management LLC, appeared via phone

Staff report by Supervisor Leanna Shaff: back on July 30, 2018 Inspector Joe Brown noted on a Fire C of O file Herberger's was closing end of August. On November 19, 2018 Inspector Diane Gavin revoked the Fire C of O as uncertified, because it was unoccupied. On February 20, 2019 it was still revoked, unoccupied. Since then we have found the appellant filed an appeal, inspector James Perucca was out last week to find out what was happening. He writes that the building sprinkler system, alarm and extinguishers are in need of annual service but the building is broom clean.

Matt Dornfeld: made a category 2 vacant building April 16, 2019, it was referred over to us by the SPPD due to basic homeless person activity. This is a little shopping center with a vacant Walmart, the Herberger's vacant, and is a bulls eye for vandalism. They requested it be a VB due to the number of calls, for the most part it is being maintained well, we get an occasional loose littler complaint which is normal with the foot traffic, and there will be homeless person issues as long as it remains vacant, especially now that Walmart is vacant as well. The building is being maintained they are doing a good job.

Moermond: when I got your appeal, what I wanted to figure out, it sounds like you have a potential tenant?

Greene: we always do, it just always doesn't work out. We've only owned this for a few months, we own RK Midway, the large shopping center where the soccer stadium is. We wound up purchasing this when it became available. I guess these things occurred last year, we have our share of nuisances across the street as well, we weren't involved but now that we've purchased, it was being taken care of a third party company hired by Herberger's. For the first month or two we left them in place, now we've dismissed them, and we have the same person taking care of it as the midway center. He'll deal with the interior, the people who manage the shopping center will continue the exterior. I wanted the building up and running, in the past we had the bank building on Snelling and University and we did push back on making that a vacant building, and we wound up tearing it down, up until then it was in continuous use, much of which was the City itself using it for meetings and dog trainings. I wanted this building not vacant and ready to be used, a short-term retail use, a community event like trainings for police. We had the guy out for the sprinkler, we're adding them back under contract, they'll be all up to date. I'd like it to be a building---I understand the code---we can occupy it, we can put our local person's office in there, he could use it and self-occupy it to satisfy code.

Moermond: bottom line is I'm hearing you want to not do a team inspection or be slowed down when an occupancy opportunity presents itself. And that's the reason I asked Mr. Perucca to do the walk through and get his opinion to get it reoccupied. I don't think there's a question that it's a nuisance to the neighborhood as a vacant building, but it doesn't need to be completely rehabbed on the interior to be reoccupied. I expect you will want to do some build outs for whoever your tenant is, it is obviously a former retail use. It will also need a Fire C of O. Those two things aren't surprises, you'd be doing them prior to putting a tenant in regardless. I won't put anything else additional on top of that, we'll treat this as a category 1 vacant building so it can be reoccupied as soon as you get certifications or permits. I'm not interested in someone putting an office in 10,000 square feet just so you can say it isn't a vacant building. Let's look at what it is actually being used for, I don't see a reason to get in

your way to work with future tenants. That leaves us with a question of the vacant building fee, I haven't heard an objection to the fee itself, you are obviously a large corporation, do you want to address?

Greene: it is not necessarily an issue of the fee, it would cost more to get it reinstated than just pay the fee. I think having it as a vacant building limits its use potential. I want to have every opportunity for it to be occupied, whether it be short or long term. I don't see why we can't do that if everything is up to code. Also, I do sort of object to the idea that—I get tenants to come in and take spaces as is all the time. If they want to do build outs or cosmetic work, I don't know if it is necessary to file plans or permits.

Moermond: I just wanted it on the record that there could be buildouts, I wasn't presuming there would be, I just wanted it clear that might be necessary before reoccupation. In terms of Fire C of O and leasing the space, the question I'm looking at is what is required before it can be reoccupied and out of the vacant building program. I'm not adding on any extra requirements than what already existed.

Greene: if say tomorrow, I continued in the vacant building program, and someone showed up tomorrow and wanted to lease it to sell shoes wholesale for six months, occupying it as is. Then they can't do that. How am I getting it occupied if it is registered and vacant?

Moermond: right now you need a Fire C of O, you don't have one, you need one no matter what, and you have to have a use.

Shaff: one of my questions is it sound like Mr. Greene in fluid in what the building would be used for, typically that's not something a building of that size would have, office space to retail on a day to day basis. A fire C of O, that's part of what we're looking at, what is it certified to be used as. We can have multiple uses in the building.

Greene: my point is if it is registered vacant I can't do anything with it. What you're requiring me to do as far as the alarms and sprinkler, I have to do that no matter what, whether it is vacant or not. I have to do those things no matter what. Considering I'm going to be doing that, why wouldn't I keep it open for use, as long as I'm doing things properly? Why wouldn't I want a fire certificate to allow it to be occupied quickly?

Shaff: once changes happen, typically those have to be done under permit. Maybe he doesn't understand under a Category 1 he can pull the permit.

Greene: but what if I'm not building anything? As long as what's inside is to code?

Shaff: if it is retail probably not.

Greene: why can't I get it recertified as retail store, and I'll put everything to code, and if I'm looking to lease to someone outside for other than retail, then of course we have to do what we have to do as far as permits?

Moermond: I know the vacant building program is not looking at having a C of O. I'm struggling Mr. Greene, we have a vacant building that's been in the program for a full year, and I've gone as far as I can in saying the City isn't getting in your way of leasing.

Greene: all the requirements of getting a Fire C of O and what I would have to do regardless are the same. You're saying I have to have everything up to code, I don't

see how that makes sense.

Moermond: I don't know where you're getting it from. Those are observations from a commercial inspector, they weren't orders, they don't have to be taken care of until—

Shaff: sprinklers and alarms do need to be taken care of, occupied or unoccupied. There's lots of work that needs to be done.

Moermond: I don't see this getting out of the vacant building program until you have someone in there. I don't know what that end use will be, the question is occupancy of the structure. Nothing has happened to change the reason it went into the vacant building program. I've tried to remove any obstacles that might get in your way of getting it reoccupied. The Council could look at it differently, it will move forward as a public hearing, you can submit your comments to them and reverse my recommendation. As it stands right now I'm going to say this should be a Category 1 vacant building, no team inspection requirement, just normal reoccupancy requirements and the vacant building fee is in place.

Greene: so basically, the only reason I can't be out of the program is because I don't have a tenant.

Moermond: you've been in the program, it wasn't appealed then, and the same conditions that allowed it to be in the program then still exist.

Greene: if I have the sprinkler and fire alarm up to date and everything is up to code but I don't have a tenant, then I can't be classified as an occupied building.

Moermond: correct.

Greene: if I had a tenant which is someone with a lease or license agreement, then if I had that and it was up to code then it would no longer be unoccupied?

Moermond: if someone is in the building and occupying, warm bodies operating a business. A lease doesn't mean you're automatically out. I want to make that distinction clear.

Greene: is Walmart in the vacant building program?

Dornfeld: yes.

Greene: does the entire building need to be leased or used?

Dornfeld: I would follow the Fire C of O on that one, if they had approved occupancy to be there, and it was actually occupied that would be good enough for my department.

Shaff: it is open and how do you separate out the spaces?

Moermond: and that would be tackled with the Fire C of O inspection?

Shaff: correct.

Greene: what about a temporary tenant like a Halloween store?

Moermond: you want to know if that will get you out of the vacant building program, and

all I'm going to say is that I'm recommending denying your appeal. If you have additional question and hypotheticals, I'd ask James Perucca who did the walk through.

Referred to the City Council due back on 5/27/2020