



## Legislation Text

File #: Ord 13-49, Version: 1

Amending Chapter 189 of the Saint Paul Legislative Code pertaining to timeframes for evaluation filing, creating a duty for an agent of a buyer to report missing TISH evaluations, and updating and eliminating redundant and outdated language.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

### SECTION 1

Chapter 189 of the Saint Paul Legislative Code is hereby amended to read as follows:

#### Chapter 189. Truth-in-Sale of Housing

##### Sec. 189.01. Definitions.

For the purposes of this chapter, the following terms shall have the meanings ascribed to them in this section:

Adverse aAction. As defined by Chapter 310, generally defined as an action that can include: the revocation, cancellation or suspension of a license, denial of the renewal of a license, the imposition of conditions on a license, the imposition of a fine, and any other disciplinary or unfavorable action taken by the ~~board or council~~ Truth-in-Sale of Housing Board with respect to a license or Licensed Evaluator.

Alternatively Accepted City Inspection Report. A valid certificate of code compliance or the orders from a certificate of code compliance inspection as set forth in section 33.06 of this Legislative Code or a current Certificate of Occupancy issued by the Department of Safety and Inspections Fire Prevention Certificate of Occupancy Program.

~~Board, examining board, truth-in-sale of housing board ("board").~~ As used in this chapter, are equivalent terms that refer to the same body.

~~The dDirector.~~ The head of the department of safety and inspections Director of the Department of Safety and Inspections and his or her designee.

~~Disclosure rReport.~~ The written evaluation report prepared and signed by a person licensed as a Saint Paul Licensed Truth-in-Sale of Housing Evaluator, on a form in compliance with the provisions of ~~section 189.05 of~~ this chapter.

Dwelling. A building which is designed to be occupied for residential purposes but containing not more than two (2) individual dwelling units, except that townhouses, condominiums and co-ops, regardless of their number of individual dwelling units, are included within this definition.

Dwelling uUnit. A room or group of rooms located within a residential building and forming a single habitable unit, with facilities which are used or intended to be used for living, sleeping, cooking and eating.

~~Evaluation.~~ An evaluation of a dwelling or dwelling unit, performed by a licensed evaluator, to determine the

~~condition of the structural, electrical and mechanical systems as they relate to chapter 34, minimum housing standards for dwellings and multiple dwellings of the City of Saint Paul and the evaluator guidelines adopted by the truth-in-sale of housing (TISH) examining board~~

~~Evaluator. A person who has received a license from the city to conduct truth-in-sale-of-housing-evaluations.~~

~~Evaluator gGuidelines. The document issued by the tTruth-in-sSale of hHousing (TISH) examining bBoard by which the TISH Truth-in-Sale of Housing Evaluation Revaluation report is completed by the Licensed Evaluator. The TISH eEvaluator gGuidelines utilize both the construction and maintenance standards and codes currently enforced by the city for dDwellings and Dwelling Units as defined in this chapter.~~

~~File. The receipt of the TISH dDisclosure rReport and payment of the required filing fee.~~

~~Immediate fFamily. Those persons legally related to each other in a linear relationship such as grandparents, parents, children, grandchildren and siblings. Immediate Family DDoes not include branching relationships such as aunts, uncles, or cousins.~~

~~Licensed Evaluator. A person who has a valid, current license from the City of St. Paul to conduct Truth-in-Sale of Housing Evaluations.~~

~~Re-evaluation. An amended dDisclosure rReport filed as a result of a re-evaluation of the subject dDwelling or dDwelling uUnit, conducted by the original Licensed Evaluator, within the period of time the dDisclosure rReport is valid. The rRe-evaluation does not extend the expiration date of the original Truth-in-Sale of Housing E evaluation.~~

~~Time of sSale. The acceptance of an offer, written or oral, to sell or otherwise change the ownership of a property, including a contract for deed, by the owner or agent of an owner of that property.~~

~~Truth-in-Sale of Housing Evaluation. An evaluation of a Dwelling or Dwelling Unit, performed by a Licensed Evaluator, to determine the condition of the structural, electrical and mechanical systems as they relate to Chapter 34, minimum housing standards for Dwellings or Dwelling Units of the City of St. Paul and the Evaluator Guidelines adopted by the Truth-in-Sale of Housing Board and documented in the Disclosure Report to determine the condition of the structural, electrical and mechanical systems as they relate to Chapter 34, minimum housing standards for Dwellings or Dwelling Units in the City of St. Paul and the Evaluator Guidelines adopted by the Truth-in-Sale of Housing Board.~~

### **Sec. 189.02. Validity of dDisclosure rReport.**

(a) A dDisclosure rReport is valid for three hundred sixty-five (365) consecutive days from the date of its issuance.

(b) The Disclosure Report report is valid only for the owner who is listed on the dDisclosure rReport.

(c) The Disclosure Report report must be completed and signed by a Licensed Evaluator n-evaluator-licensed under this ordinance as defined in this chapter. The only !Licensed eEvaluator who may sign the Disclosure R report is the Licensed Evaluator who performed the Truth-in-Sale of Housing Evaluation inspection and also wrote the Disclosure R report for the particular address.

(d) The Disclosure Report report is valid for only one sale during its three hundred sixty-five (365) consecutive day lifetime.

(e) An Alternatively Accepted City Inspection Report as defined in this section shall have the same period of validity as a Disclosure Report.

### **Sec. 189.03. Required aActs.**

(a) Any owner or agent of an owner who sells or makes available for sale a dDwelling or Dwelling Unit by implementing any of the following actions, including, but not limited to, advertising the sale of the dDwelling or Dwelling Unit, entering into a listing agreement to sell the dDwelling or Dwelling Unit or posting a sign that the dDwelling or Dwelling Unit is for sale, or any action where the logical result of that action will be the sale or change of ownership of the ~~property~~ Dwelling or Dwelling Unit shall, within three (3) calendar days of any such action, have a Truth-in-Sale of Housing Evaluation an evaluation completed by a an evaluator licensed Licensed Evaluator under this chapter, or obtain a copy of an Alternatively Accepted City Inspection Report.

(b) At all times following the completion of the dDisclosure rReport a dDwelling or dDwelling uUnit that is for sale shall have a valid dDisclosure rReport, or Alternatively Accepted City Inspection Report, conspicuously displayed at the premises.

~~(c) A valid TISH disclosure report shall be completed by a licensed evaluator.~~

~~(d c)~~ The owner or agent of an owner shall make available for viewing a copy of the valid dDisclosure rReport , or an Alternatively Accepted City Inspection Report, to all potential buyers.

~~(e d)~~ A valid dDisclosure rReport, or an Alternatively Accepted City Inspection Report, issued for the dDwelling or Dwelling Unit in question shall be provided to the buyer, by the owner or agent of an owner, before or at the time of sale of the dDwelling or Dwelling Unit.

~~(f e)~~ A valid dDisclosure rReport issued for the dDwelling or Dwelling Unit shall be filed by the Licensed Evaluator with the ~~sSecretary-t~~Treasurer of the Truth-in-Sale of Housing Board examining board, before the time of sale of the dDwelling or Dwelling Unit.

~~(g) A disclosure report shall be prepared and signed only by persons licensed as truth-in-sale of housing evaluators under this chapter.~~

~~(f) If a valid Disclosure Report or an Alternatively Accepted City Inspection Report is not made available for viewing by the owner or agent of an owner, the agent of the buyer shall report the owner and/or agent of the owner to the Truth-in-Sale of Housing Board.~~

### **Sec. 189.04. Exceptions.**

The provisions in section 189.03 do not apply to:

(1) Any newly constructed dDwelling or Dwelling Unit when title is transferred to the first owner.

(2) The sale or conveyance or other transfer of title or control of any dDwelling or Dwelling Unit to a public body.

~~(3) A dwelling with a valid certificate of code compliance or the orders from a certificate of code compliance inspection as set forth in section 33.06 of this Legislative Code, which shall be dated no earlier than three hundred sixty five (365) consecutive days prior to its usage.~~

~~(4)~~(3) The sale or conveyance of any dDwelling or Dwelling Unit by a sheriff, constable, marshal, trustee in

bankruptcy, or other public or court officer in the performance of their official duties. This chapter does apply, however, to the sale of a ~~d~~Dwelling or Dwelling Unit by a personal representative or guardian appointed by a probate court or a sale ordered by a probate court.

~~(5) Any dwelling or dwelling unit covered by a current certificate of occupancy issued by the city fire department's department of safety and inspections fire prevention certificate of occupancy program.~~

~~(6)~~ (4) Any ~~d~~Dwelling or Dwelling Unit where the purchaser is already a part owner, heir, or a member of the seller's immediate family, as defined in section 189.01.

~~(7)~~ (5) The sale or transfer of title of any ~~d~~Dwelling or Dwelling Unit for the purpose of demolition, provided such demolition actually occurs within three hundred sixty-five (365) days of the close of the qualifying sale.

~~(6) Properties owned or sold by the Department of Housing and Urban Development.~~

~~(7) The transfer of ownership from an individual owner(s) to a legal entity such as a limited liability company, partnership, corporation or trust, if the individual owner(s) have a legal interest in the legal entity after such transfer.~~

#### **Sec. 189.05. Disclosure ~~r~~Report fForm.**

The Truth-in-Sale of Housing Board ~~examining board~~ shall develop and approve the Disclosure Report form. The disclosure report form, applicable to ~~single and two family dwellings, town homes, co-ops, and condominiums~~ Dwelling and Dwelling Units, shall include sections necessary to note:

- (1) Major structural defects; or
- (2) Immediate hazards to health and safety; or
- (3) Deviations from standards defined in the ~~truth-in-sale-of-housing (TISH)~~ eEvaluator gGuidelines.
- (4) Current status according to city records maintained by the ~~d~~Department of sSafety and inspections of the dDwelling or Dwelling Unit, if it:
  - a. Is designated as an individual Heritage Preservation Site, or located within a city-designated Heritage Preservation District; and/or
  - b. Is a registered vacant building as defined and regulated in Chapter 43 of this code: and/or
  - c. Has open permits at the property address; and/or
  - d. Is a duplex dwelling, whether the use of the building as a duplex is verified legal.
- e. Other notices or information maintained by the City that have been determined by the Truth-in-Sale of Housing examining board to be relevant to the safe occupancy and usage of the residential dwelling.

Nothing in the ~~d~~Disclosure rReport shall indicate, or shall be deemed to indicate, that such ~~d~~Dwellings or Dwelling Units meet all minimum housing and building standards. The approved disclosure report form shall only be used for Truth-in-Sale of Housing Evaluations ~~evaluations of dDwellings and Dwelling Units in the City of St. Paul by Licensed Evaluators as defined in this chapter.~~ city by evaluators licensed under this chapter.

#### **Sec. 189.06. Warranty ~~i~~Limitations.**

The ~~d~~Disclosure ~~r~~Report is not a warranty by the city City of St. Paul or the ~~examining board~~ Truth-in-Sale of Housing Board of the condition of the ~~d~~Dwelling or Dwelling Unit evaluated. The Licensed Evaluator ~~evaluator~~ warrants only that reasonable care and due diligence ~~were~~ was used in inspecting the ~~d~~Dwelling or Dwelling Unit and in completing the ~~d~~Disclosure ~~r~~Report.

**Sec. 189.07. Truth-in-Sale of Housing Board Examining board eEstablished; mMembership.**

(a) The ~~examining board~~ Truth-in-Sale of Housing Board for ~~TISH~~ Licensed Evaluators shall be appointed by the ~~m~~Mayor, with the approval of the ~~e~~City eCouncil, and shall consist of nine (9) members.

(b) The membership shall include the ~~d~~Director, and a representative from each of the following: the building trades, the legal profession, the financial community, the contracting business, the real estate business, the architectural or engineering profession, and two (2) citizen members representing the general public. No more than one board member may be a ~~currently licensed TISH evaluator~~ Licensed Evaluator.

(c) The members of the ~~board~~ Truth-in-Sale of Housing Board shall be named to three-year terms, which shall continue until a successor has been duly appointed and qualified. The ~~m~~Mayor shall, with the approval of the City eCouncil, fill any vacancies for the remainder of the unexpired term.

**Sec. 189.08. Organization of the ~~board~~ Truth-in-Sale of Housing Board.**

(a) The ~~examining board~~ Truth-in-Sale of Housing Board shall elect a chairperson and a vice-chairperson. The chairperson shall preside over meetings of the ~~board~~ Truth-in-Sale of Housing Board. In the absence of the chairperson the vice-chairperson shall preside.

(b) The ~~d~~Director shall serve as the secretary-treasurer of the Truth-in-Sale of Housing Board ~~board~~. In the absence of the chairperson and vice-chairperson the secretary-treasurer shall preside over meetings of the Truth-in-Sale of Housing Board ~~board~~.

(c) The secretary-treasurer shall have the responsibility of:

- (1) Keeping records of applications and examinations for licensure;
- (2) License issuances and renewals;
- (3) Maintain records of ~~d~~Disclosure ~~r~~Reports as required by subsection 189.14(a)(6);
- (4) Complaints as to the performance of individual Licensed Evaluators ~~truth-in-sale-of-housing-evaluators~~;
- (5) Documentation of all fees and monies received by the Truth-in-Sale of Housing Board ~~board~~; and
- (6) Performing other duties delegated by the Truth-in-Sale of Housing Board ~~board~~ permitted by this chapter or by the Truth-in-Sale of Housing Board ~~board~~ rules and bylaws.

**Sec. 189.09. Meetings of the Truth-in-Sale of Housing Board ~~board~~.**

Regular meetings of the Truth-in-Sale of Housing Board ~~board~~ shall be held on the second Wednesday of January, April, July and October, respectively. Those meetings may be postponed for up to thirty (30) days by the chairperson or the secretary-treasurer. Special meetings shall be held, when necessary, at the request of

the chairperson or the secretary-treasurer. A minimum of five (5) days' notice shall be given to members of the Truth-in-Sale of Housing Board board of all upcoming meetings.

**Sec. 189.10. Duties of the Truth-in-Sale of Housing Board board.**

(a) The following shall be the duties of the Truth-in-Sale of Housing Board board:

(1) Adopt rules and bylaws governing its procedures;

(2) Develop and enforce a code of ethics for Licensed Evaluators truth-in-sale-of-housing-evaluators;

(3) Make available copies of such rules, bylaws and code of ethics to each applicant for licensure;

(4) Develop a test procedure for screening applicants for Licensed Evaluator a-license:

a. Hold an examination for applicants for a license to be a Licensed Evaluator n-evaluator at least once in every two (2) calendar years, beginning in 1999-2000;

b. Submit each applicant for a license Licensed Evaluator to an examination to determine the applicant's competency to perform Truth-in-Sale of Housing Evaluations evaluations required under this chapter; and

c. Hear examination appeals by applicants for a license under this chapter according to rules adopted by the Truth-in-Sale of Housing Board board.

(5) Issue a license in the form of an identification card to each applicant who satisfactorily passes the exam, pays the required fees, and satisfies all other qualifications for licensing required by the Truth-in-Sale of Housing Board board or this chapter;

(6) Establish annual renewal fees and renew each license upon payment of the established fees;

(7) Establish minimum educational and/or training requirements which must be met and maintained by the Licensed Evaluator evaluator;

(8) Take adverse action against a license or licensee Licensed Evaluator as defined in section 189.01;

(9) Establish all fees for the Truth-in-Sale of Housing program including, but not limited to, the non-refundable exam application fee(s), the initial and re-licensing fee(s) for Licensed Evaluators evaluators, and the filing and late fee(s) for Disclosure Reports;

(10) To develop adopt and issue Evaluator Guidelines.

(b) Decision of the Truth-in-Sale of Housing Board examining-board, with respect to these duties, shall be final. Adverse action(s) against a license or Licensed Evaluator licensee, only, are subject to appeal to the City Council. Any Truth-in-Sale of Housing Board board order to a Licensed Evaluator n-evaluator shall include a written statement notifying the Licensed Evaluator licensee of the right to appeal that order to the City Council.

**Sec. 189.11. Appeals.**

(a) *Filing.* An Licensed Evaluator evaluator may obtain a hearing before the City Council to appeal any Truth-in-Sale of Housing Board board order by filing a written request with the City Clerk. The deadline for

filing an appeal shall be within ten (10) calendar days after the date when the order is sent to the Licensed Evaluator evaluator.

(b) *Setting hearing date.* In the event that an appeal is filed with the eCity eClerk, the eCity eCouncil shall, within two (2) weeks, fix a date for a public hearing. The eCity eClerk shall mail a notice of the date, time, place and subject of the hearing to the person requesting the appeal and to the Truth-in-Sale of Housing Board's secretary-treasurer board.

(c) *Hearing.* At the time of the eCity eCouncil hearing, the eCity eCouncil shall hear from the person requesting the appeal, any board member or their designee, and any other party who wishes to be heard regarding the appeal. After the hearing, the eCity eCouncil may reverse, confirm or modify the Truth-in-Sale of Housing Board's board's order. The eCity eClerk shall mail a copy of the eCity eCouncil's decision of the appeal to the person requesting the appeal and the board chairperson.

#### **Sec. 189.12. Applications for Licensed Evaluator license.**

(a) Each person desiring an Evaluator's License a-license shall file an application with the Truth-in-Sale of Housing Board examining board, at least three (3) days prior to the date of the examination, ~~an application to take the examination~~ and shall pay the nonrefundable sum(s) determined by the Truth-in-Sale of Housing Board board as the examination fee(s).

(b) Each application shall contain the following information: name, address, place of current employment, time and place of schools attended and studies completed, together with a chronological record of the applicant's previous employment, with complete information regarding duties and the type of work performed and such information as the Truth-in-Sale of Housing Board deems appropriate.

(c) The applications are public data under the Minnesota Data Practices Act and available to any person upon request.

#### **Sec. 189.13. License issuance and rRenewal.**

(a) Any candidate who passes the examination to become a Licensed Evaluator ~~truth-in-sale of housing evaluator~~ has three hundred sixty-five (365) consecutive days of eligibility for licensing from the date of passing the examination to obtain a license. The candidate will have to reapply and pass another examination if the candidate fails to complete the licensing procedure within that period.

(b) Relicensing shall occur according to section 189.10.

(c) Exemptions from these requirements may be allowed by the Truth-in-Sale of Housing Board board.

#### **Sec. 189.14. Disclosure rReport, filing.**

(a) For original dDisclosure rReports:

(1) Each Licensed Evaluator ~~truth-in-sale of housing evaluator~~, when preparing a dDisclosure rReport, shall set forth any structural defects, any immediate hazards to health and safety, and/or other deviation(s) from the standards set forth in the eEvaluator gGuidelines. The Licensed Evaluator evaluator, using information maintained by the dDepartment of sSafety and inspections, shall report, if applicable to the dDwelling or Dwelling Unit, the information identified in subsection 189.05(4) a., b., c., ~~or d~~ or e. The dDisclosure rReport shall be typewritten, printed legibly in ink, or in a previously approved computer-generated format. submitted in

the form and format approved by the Truth-in-Sale of Housing Board board.

(2) The Licensed Evaluator evaluator shall submit to the seller the original copy of the dDisclosure rReport. The Licensed Evaluator evaluator shall ~~file a duplicate~~ initiate the filing of the Disclosure Report report by computer data entry with the secretary-treasurer of the examining board within ~~ten (10)~~ seven (7) days after the Truth-in-Sale of Housing Evaluation evaluation or re-evaluation has been made, and complete the filing of their inspection report no more than three (3) days after the date of the computer data entry in accordance with subsection (4) herein below.

(3) The Licensed Evaluator evaluator shall pay the filing fee established by the Truth-in-Sale of Housing Board board required with each dDisclosure rReport filed with the secretary-treasurer.

(4) Any Licensed Evaluator evaluator who fails to file the dDisclosure rReport within ~~ten (10)~~ seven (7) days of the Truth-in-Sale of Housing Evaluation evaluation date shall be assessed any late penalty fee established by the Truth-in-Sale of Housing Board board. Any Licensed Evaluator evaluator who fails to file their dDisclosure rReport within three (3) days of the date of the initial computer entry of the inspection shall be assessed any late penalty fee established by the Truth-in-Sale of Housing Board board. Late penalty fee(s) shall be in addition to the normal filing fee for a dDisclosure rReport.

(5) In addition to the above penalty, the failure to submit the original copy of the dDisclosure rReport to the seller, pay the required filing fees, or the failure to file any dDisclosure rReport within 30 days of the date of the Truth-in-Sale of Housing Evaluation evaluation shall be sufficient cause for the Truth-in-Sale of Housing Board examining board to take adverse action against the license or Licensed Evaluator licensee.

(6) The Truth-in-Sale of Housing Board examining board shall keep each dDisclosure rReport submitted by a Licensed Evaluator an evaluator on file in accordance with the records retention schedule as required by Minn. Stat. § 138.17.

(b) For rRe-evaluation reports:

(1) Licensed Evaluators shall meet all requirements as for original Disclosure Reports reports except there shall be no filing fee required unless a fee is specifically ordered by or through the Truth-in-Sale of Housing Board board.

#### **Sec. 189.15. Duties of Licensed Evaluators evaluators.**

(a) Each Licensed Evaluator evaluator is required to:

(1) Comply with the code of ethics;

(2) Complete the dDisclosure rReport in accordance with the standards in the eEvaluator gGuidelines;

(3) Conduct all Truth-in-Sale of Housing Evaluations evaluations within the program guidelines;

(4) Meet any required continuing education requirements established by the Truth-in-Sale of Housing Board examining board; and

(5) Meet all other requirements established by the Truth-in-Sale of Housing Board examining board and/or this chapter.

(b) Failure to comply with any one or more of these duties shall be sufficient cause for the Truth-in-Sale of Housing Board board to take adverse action against the license or Licensed Evaluator licensee.



(c) It shall be sufficient grounds for the Truth-in-Sale of Housing Board ~~board~~ to take adverse action against a Licensed Evaluator ~~TISH licensee~~ or applicant who has violated, or performed any act that is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to Truth-in-Sale of Housing reporting, regardless of whether criminal charges have or have not been brought in connection therewith.

**Sec. 189.16. City employees not to be ecertified.**

(a) No employee of the City of St. Paul ~~city~~ is eligible to receive a license.

(b) Should any person who has a license to perform evaluations in the City of St. Paul ~~city~~ become an employee of the City of St. Paul ~~city~~, that person shall immediately discontinue conducting Truth-in-Sale of Housing Evaluations ~~evaluations~~ in the City of St. Paul ~~city~~ and shall return the license to the ~~d~~Director.

**Sec. 189.17. Fees.**

(a) ~~Truth-in-sale-of-housing-evaluators~~ Licensed Evaluators may charge a reasonable fee for their services.

(b) The Truth-in-Sale of Housing Board ~~board~~ sets fees as authorized in 189.10 for:

(1) Initial license fee and license renewal;

(2) Evaluator application, examination, and testing;

(3) Disclosure ~~r~~Report filing and late fees;

(4) Other fees determined necessary by the Truth-in-Sale of Housing Board ~~board~~ to support the program activity(ies) authorized under this chapter.

**Sec. 189.18. Insurance.**

(a) No license shall be issued or renewed without satisfactory proof of insurance insuring the applicant/Licensed evaluator.~~evaluator~~.

(b) The City of St. Paul ~~city~~ shall be included as a named insured on the required insurance and any additional cost for including the City of St. Paul ~~city~~ shall be at the expense of the applicant/Licensed Evaluator ~~evaluator~~.

(c) The applicant's/Licensed Evaluator's ~~evaluator's~~ insurance shall remain in force continuously thereafter and no license shall be deemed to be in effect during any period of time when such insurance and proof thereof are not also in effect.

(d) Each applicant/Licensed Evaluator ~~evaluator~~ shall have an individually named insurance policy.

(e) The insurance policy shall provide coverage of not less than ~~two hundred fifty thousand dollars (\$250,000.00) per claim nor five hundred thousand dollars (\$500,000.00) per year aggregate~~, or the minimum limits currently required by the ~~e~~City ~~r~~Risk ~~m~~Manager, against any and all liability imposed by law resulting from the performance of the duties as a Licensed Evaluator. ~~licensed truth-in-sale-of-housing-evaluator~~.

**Sec. 189.19. Failure to eComply.**

The failure of any owner or agent of an owner or agent of a buyer to comply with the provisions of this chapter shall be a misdemeanor.

SECTION 2

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.