



Legislation Text

File #: RES 18-552, **Version:** 1

Memorializing the City Council's March 7, 2018 decision denying the appeal of Kyle Coglitore of a decision of the Board of Zoning Appeals which upheld a decision of the Fire Inspector to revoke the Student Dwelling certification for 2083 Marshall Avenue based upon overcrowding.

WHEREAS, on November 13, 2017, Kyle Coglitore ("Appellant"), owner of that residential property commonly known as 2083 Marshall Avenue, filed an appeal (File No. 17-215020) pursuant to Legislative Code § 67.708 to the Board of Zoning Appeals ["BZA"] following revocation of the said property's "Student Dwelling" status by the Fire Inspector after an inspection found the property over-occupied in violation of the occupancy limits under the "Student Dwelling" ordinance; and

WHEREAS, on January 17, 2018 the BZA, pursuant to Leg. Code 61.601, duly conducted a public hearing on the said appeal where all interested persons were afforded an opportunity to be heard and, upon the close of the public hearing and following discussion of the matter, the BZA, based upon its Staff report and its recommendation, together with all the other files, records and testimony submitted into the record in the matter, moved to deny Appellant's appeal for the reasons and findings set forth in BZA Resolution No. 17-215020, which is incorporated herein by reference, and stated as:

"1. Background of Student Dwelling Ordinance. The appellant purchased this property in June of 2013 as an established student dwelling as defined in Section 67.702 of the zoning code. A student dwelling is a one- or two-family dwelling requiring a Fire Certificate of Occupancy in which at least one (1) unit is occupied by three (3) or four (4) students. For the purposes of this provision, a student is an individual who is enrolled in or has been accepted to an undergraduate degree program at a university, college, community college, technical college, trade school or similar and is enrolled during the upcoming or current session, or was enrolled in the previous term, or is on a scheduled term break or summer break from the institution. The Student Overlay District is bounded by I-94 on the north, Snelling Avenue on the east, St. Clair Avenue on the south, and Mississippi River Boulevard to the west.

2. History of over occupancy. On March 16, 2016, DSI - Fire Inspection received a citizen complaint stating that this property may be over-occupied. The inspector responded to the complaint and found that six (6) to eight (8) students were residing in this single-family dwelling. City records indicate that the property owner admitted to the fire inspector that the residents that were not on the lease were storing their belongings in the garage in order to evade enforcement action from the city.

On September 13, 2017, DSI received another citizen complaint regarding a potential over-occupancy at this property. On September 14, 2017, a fire inspector went to the property and found that it was occupied by nine (9) students. The fire inspector contacted the property owner to inform him of the over occupancy complaint and made arrangements to meet the owner on site on September 15, 2017, to discuss those issues among other property maintenance problems. The inspector found the property to be in compliance as the four (4) students who were living in the house were also listed on the lease. Additionally, the over occupied rooms were vacated. The fire inspector gave a verbal warning to the appellant stating that any more complaints regarding over-occupancy may result in the revocation of his Student Housing Certificate of Occupancy.

3. Applicant's Claim. As stated above, the DSI fire inspector met with the appellant at the property on September 15, 2017. According to the appellant, after the fire inspector left the house, the tenants on the lease told him that the additional residents rented a moving truck to store their belongings and planned on moving

back into the house after the inspector left the property. The property owner became worried that he would lose his Student Housing Certificate of Occupancy, so he had his girlfriend file an anonymous complaint on his property as a good faith effort to demonstrate transparency and being a responsible landlord.

The fire inspector sent a Correction Notice to the appellant on September 18, 2017, stating that his Student Housing Certificate of Occupancy has been revoked due to over occupancy. The appellant claims that since his girlfriend called in the complaint on his behalf, the certificate of occupancy to rent to students should not have been revoked. The applicant submitted a photo illustrating the time of the call to the City complaint line; however, he did not indicate whom his girlfriend had spoken to at the city.

Although the appellant has lost his privilege to rent the property to three (3) or more undergraduate students as defined in Section 67.702 of the zoning code, he still has the ability to rent to four (4) unrelated adults or a family as defined in Sec.65.111 of the zoning code.”

AND, WHEREAS, on January 26, 2018, Appellant, pursuant to Leg. Code § 61.702(a), duly filed with the City Clerk an appeal (File No. 18-025445) from the determination made by the BZA and requested a hearing before the City Council for the purpose of considering the actions taken by the BZA; and

WHEREAS, on March 7, 2018, pursuant to Leg. Code § 61.702(b) an upon notice to affected parties, the City Council duly conducted a public hearing on the said appeal where all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council, having heard the statements made, and having considered the variance application, the report of staff, the record, minutes and the resolution of the BZA, does hereby

RESOLVE, that the Council of the City of Saint Paul does hereby upholds the decision of the BZA in this matter as the Council finds that the Appellant has failed to show that the BZA erred in the facts or findings made by the BZA in denying Appellant’s appeal from the Fire Inspector’s revocation of the Student Dwelling status of the subject property based upon over occupancy of the said dwelling; and,

BE IT FURTHER RESOLVED, based upon the Council’s finding that Appellant has failed to show error on the part of the BZA in upholding the Fire Inspector’s revocation decision, the Council hereby denies Appellant’s appeal and adopts as its own in support of this decision, in addition to the record produced at this hearing, the BZA’s facts and findings as set forth in BZA Resolution No. 17-215020; and

BE IT FINALLY RESOLVED, that the City Clerk shall immediately mail a copy of this resolution to the Appellant Kyle Coglitore, the Zoning Administrator, the Fire Inspector, the Planning Commission and the BZA.