

MINUTES OF THE LEGISLATIVE HEARING
ON LETTERS OF DEFICIENCY, CORRECTION NOTICES
AND CORRECTION ORDERS
Tuesday, March 17, 2009
Room 330 City Hall, 15 Kellogg Blvd. West

The hearing was called to order at 1:35 p.m.

STAFF PRESENT: Leanna Shaff, Department of Safety and Inspections (DSI) – Fire Prevention; Reid Soley, DSI; and Mai Vang, City Council Offices

2. Appeal of Keith Collins to a Certificate of Occupancy Deficiency List for property at 701 Portland Avenue.

Appellant Keith Collins (7420 Coventry Way, Edina, MN 55439) appeared and provided photographs.

Ms. Shaff stated that Inspector A.J. Neis had conducted a Fire Certificate of Occupancy inspection on February 24, 2009 and found that the egress window openable dimensions were 17.5 inches high by 38 inches wide in Units 1, 2, 3 and 4; and 13.5 inches high by 38 inches wide in Units 5, 6 and 7.

Ms. Moermond asked Mr. Collins to describe the types of windows and explain the photographs. Mr. Collins stated that the windows in the four upstairs units were slightly larger and that they had been installed in 1995 by the previous owner. He said every tenant was educated on how to remove the windows, and that the opening size when the window was removed was 37.5 inches high by 37 inches wide. He said he'd owned the property for eight years and had several inspections and the windows had never been an issue.

Ms. Shaff stated that a guest or child might need to use the egress window in an emergency situation and that the code assumed that possibility.

Mr. Collins stated that the openable height could be increased by three inches if a horizontal decorative piece were removed. He reviewed a diagram of the window with Ms. Moermond and Ms. Shaff.

Ms. Moermond recommended granting a four inch variance on the openable height of the egress windows in the upper bedrooms if the windows could be made to open to at least 20 inches and granting 30 days to bring those windows into compliance. She recommended denying the appeal on the windows in the lower bedrooms and granting an extension for 120 days to bring into compliance.

On March 20, Ms. Moermond recommended granting a five inch variance on the openable height of the egress windows in the upper bedrooms.

3. Appeal of Shoua Xiong to a Certificate of Occupancy Deficiency List for property at 773 Seventh Street East.

Appellant Shoua Xiong (376 Fuller Avenue, # 3, St. Pau, MN 55103) appeared.

Ms. Shaff stated that Inspector James Thomas had conducted the Fire Certificate of Occupancy inspection on February 23, 2009 and found that the porch floor was rotted through and that window screens needed maintenance.

Ms. Moermond stated that the appeal indicated that Mr. Xiong was unable to do the work in the time allowed and was asking for at least 60 more days. She asked Mr. Xiong why he needed more time to make the corrections. Mr. Xiong responded that it had been cold when the inspection had been conducted and that he had been waiting to see whether the inspector would allow more time. He said repairing the window screens would require the use of a high ladder and that there was still snow in the yard. He said he had the wood to repair the porch floor but that it was too cold to do the work.

Ms. Moermond stated that the corrections were not temperature sensitive and that the rotted porch floor was dangerous regardless of the season. Mr. Xiong stated that some of the porch floor was frayed out at the edges and that there were no areas where someone could step through. Ms. Shaff stated that that was not what was indicated in the inspector's notes.

Ms. Moermond stated that there were a number of other items that needed to be corrected including over-occupancy. Mr. Xiong stated that that had been a concern of his as well, and that the tenants had agreed to move out and were moving out that day.

Ms. Moermond asked how many bedrooms were in the units. Mr. Xiong stated that there were three bedrooms.

Ms. Moermond asked whether there were 8 to 17 people per unit. Mr. Xiong stated that the inspector had counted two beds per bedroom and two people per bed. He said that the unit had been rented to a woman and her five children, and that he had discovered later that the tenant's boyfriend and several additional family members had moved in. He said that the family had just moved out of a shelter and had been told that they could only stay temporarily. He said that even six people was a lot to be staying in the unit because three of the tenant's children were teenagers, but that they had found another place to live and were moving out.

Ms. Moermond recommended granting an extension to April 1 for compliance on all items.

Mr. Xiong asked whether he could have at least another month. Ms. Moermond stated that based on the deficiency list, it did not appear that Mr. Xiong was actively managing the property.

Mr. Xiong stated that he worked every other weekend and that he had to work the next weekend. Ms. Moermond stated that the orders had been written on February 23 and that Mr. Xiong had had time to address the items on the list.

4. Appeal of R.T. Harper to a Certificate of Occupancy Deficiency List for property at 1533 Virginia Street.

Appellant R.T. Harper (1149 Laurel, St. Paul, MN 55103), and tenant Chanel Scarvel appeared.

Ms. Shaff stated that Inspector Lisa Martin had been to the property on more than one occasion and that the openable dimensions of the egress window in the main floor bedroom were 16 inches high by 33 inches wide, and that there had been no access granted to the second floor.

Ms. Scarvel stated that she received rent assistance from Section 8 and that Section 8 had not paid rent for the current month and might not pay for the next month. She said that the dimensions of the bedroom window were 16 by 20 inches and she understood that the requirement was 24 by 20 inches. She said that on previous inspections, she'd been told that the door to the unused second floor could be kept locked. She said both she and her son had climbed in the window when they'd been locked out of the apartment and that the PHA inspector had told her that the window might be approved since it was old. She said that replacing the window would involve heating the ground and would cost several thousand dollars.

Ms. Shaff stated that Section 8 enforced city codes and would not accept a provisional Certificate of Occupancy. All areas of the property would need to be made accessible to the Fire inspector. She said the window openable height fell far short of the requirement and that the code also took into account the need for a firefighter in full gear to access the room.

Ms. Scarvel stated that the window had not been cited in previous inspections. Ms. Shaff stated that single-family homes and duplexes had been inspected only since March 2007.

Mr. Harper stated that money was short and asked for additional time to get the money together.

Ms. Shaff asked whether the windows were double hung and whether they were wood or vinyl. Mr. Harper stated that they were double hung, vinyl windows. Ms. Scarvel stated that having the window replaced would represent an inconvenience for her, and asked for an extension.

Ms. Moermond asked whether the items involving the illegal lock and carbon monoxide detector had been addressed. Ms. Scarvel stated that the lock could be removed to provide access to the upstairs but that the carbon monoxide detector had not been installed.

Ms. Moermond recommended an extension until the end of the day on March 20 for the removal of the illegal lock and for installation of a carbon monoxide detector. She said that access to all areas should be provided at the scheduled March 27 re-inspection and recommended denying the appeal and granting an extension for three months to bring the egress window and exterior items into compliance.

5. Appeal of John Kane to a Certificate of Occupancy Deficiency List for property at 69 Manitoba Avenue.

Appellant John Kane appeared and provided photos. He said that he was looking for an extension of time to satisfy the Section 8 requirement.

Ms. Moermond referred to the inspector's report which stated that the openable dimensions of the egress windows in both bedrooms measured 32 inches high by 16 inches wide.

Ms. Moermond recommended denying the appeal and granting an extension for three months to bring both windows into compliance.

6. Appeal of Dan Larson to a Certificate of Occupancy Deficiency List for property at 239 Front Avenue.

Appellant Dan Larson (4310 W. 100th Street, Savage, MN 55378) appeared.

Ms. Shaff stated that Inspector Lisa Martin had inspected the property on March 3, 2009 and found that the openable dimensions of the two side egress windows were 21 inches high by 24 inches wide, and 21 inches high by 23 inches wide, and that the sill height of the front window was 60 inches and the dimensions were 22 inches high by 51 inches wide.

Ms. Moermond asked Mr. Larson whether he was willing to build a step or ladder to address the sill height. Mr. Larson stated that he was.

Ms. Shaff said that it could not be a ladder. She then reviewed the requirements for a stair unit.

Mr. Larson stated that Section 8 had approved the rooms the previous year because there were two escape routes, both through doors. Ms. Moermond responded that this was not relevant to the current appeal and that the issues being considered were egress window size and sill height.

Ms. Moermond recommended granting a three inch variance on the openable height of the side egress windows and a two inch variance on the openable height of the front egress window. She granted two months for all remaining items on the deficiency list, including installing steps below the front window to address sill height.

7. Appeal of Robert Krey to a Certificate of Occupancy Deficiency List for property at 1030 Atlantic Street.

Appellant Robert Krey appeared.

Ms. Shaff stated that Inspector James Thomas inspected the property and found that the openable height of the egress windows was 20 inches in Units 101, 103, 104, 109, 111 and 113; and 21 inches in Units 102, 110, 112 and 114. She said that the inspector's report gave a sill height of 52 inches in units all Units but 109, and 54 inches in Unit 109.

Mr. Krey stated that he'd already built the steps to address the sill height.

Ms. Moermond asked about the width of the egress windows. Mr. Krey stated that it was 27 inches, and provided a photograph. Ms. Moermond reviewed the photographs with Mr. Krey and stated that the openable width appeared to be about 25 inches.

Ms. Moermond recommended granting a four inch variance on the openable height of the egress windows in Units 101, 103, 104, 109, 111 and 113; and a three inch variance on the openable height of the egress windows in units 102, 110, 112 and 114.

Ms. Shaff asked whether the steps had been built and permanently affixed to the walls below the egress windows. Mr. Krey responded that this was correct.

8. Appeal of Koua Lee to a Denial of Issuance of Permits for a Category 3 Registered Vacant Building at 687 Wells Street.

Appellant Koua Lee (990 Arcade Street) appeared.

Mr. Soley stated that Mr. Lee had come to DSI in mid-February, 2009 to obtain a building permit for the recently purchased property but that the property was a Category 3 Vacant Building and the permit could not be issued. He stated that he had sent a denial letter to Mr. Lee on February 24. Mr. Soley stated that he offered Mr. Lee the opportunity to appeal DSI's decision, per Steve Magner from DSI – Vacant Buildings.

Mr. Lee stated that he had gone to city offices on November 10, 2008 to check with DSI before making an offer on the property because he had seen the vacant building placards on the building. He said he was told at that time that the property was Category 3 but could be rehabbed if a licensed contractor did the work.

Ms. Moermond asked how it had been determined that the property was a Category 3. Mr. Soley responded that the building had been changed from a Category 2 to a Category 3 on March 4, 2008.

Ms. Moermond asked whether it had been determined to be a nuisance property based on a deficiency inspection. Mr. Soley said that he believed that was the case. Ms. Moermond responded that she needed that information.

Mr. Lee stated that there was no code compliance inspection. Mr. Soley confirmed that.

Mrs. Lee stated that they'd been responsible enough to check with DSI before purchasing the property and had been told that it was a Category 3 but was still fixable. She said they would bring the property up to code; however, they were out \$30,000 if they were unable to and had been advised that their only recourse was legal action against the seller.

Mr. Soley stated that records showed an inspection appointment letter dated March 4, 2008 for an inspection on March 18, 2008.

Ms. Moermond asked whether there was an order to abate a nuisance building. Mr. Soley said that he didn't see one.

Mrs. Lee said that this would be their second building rehabilitation and that they were living in the first one. She said that they had quotes for the plumbing and electrical work and had paid deposits to the contractors. She said they would prefer not to have to take legal action.

Ms. Moermond asked Ms. Vang to look for the records relating to the Category 3 Vacant Building status. Ms. Vang left the hearing and then returned. She said there were no additional records for the property.

Mr. Soley stated that there was no building deficiency inventory (BDI) or order to abate, and the reason for the March 4, 2008 Category 3 designation was not clear.

Ms. Moermond stated that because there had been no official nuisance determination, the building was a Category 2 and not a Category 3. She asked that work and financial plans be submitted to Mr. Soley and that a code compliance inspection be scheduled.

9. Appeal of Paul Stefanyshyn to a Certificate of Occupancy Revocation for property at 720 Armstrong Avenue.

Appellant Paul Stefanyshyn, tenant Anthony Garofola (both 720 Armstrong Street, St. Paul, MN 55102) and Adel Stefanyshyn (98 Garfield, St. Paul, MN 55102) appeared.

Ms. Shaff read the history for the property. She said that on October 9, 2008 her department had received a complaint that there was a renter living at the property with no Certificate of Occupancy. Inspector Neis had followed up on October 22, 2008 and it had appeared from the building exterior that it was a single-family home. The inspector was not able to gain entry and called the old owner to get contact information for the new owner. The new owner, Mr. Stefanyshyn, stated that the property was a duplex with renters upstairs, and that he was living downstairs part-time. Inspector Neis verified Mr. Stefanyshyn's address and sent a notice requesting an inspection to determine use. On November 3, 2008 a Certificate of Occupancy inspection was completed of the lower unit. The building was being remodeled and appeared to have once been an approved duplex that had been converted to a single-family and was back in use as a duplex. There were two gas meters installed but one had been removed and capped. The owner was advised not to occupy the first floor and to contact zoning.

Ms. Moermond asked whether it was a nonconforming use at that time. Ms. Shaff said that it appeared to be. Ms. Shaff stated that on December 3, 2008 the property was approved for use as a duplex. An inspection was completed at that time and orders were issued with a re-inspection date of January 7, 2009. Mr. Stefanyshyn requested an extension and on January 25, Inspector Neis encountered the upper unit tenant who told him that he was moving out; that no work had been done on the lower unit and the building was vacant. On January 30, 2009 Mr. Stefanyshyn called to cancel the inspection because the work was not done and the building was vacant. Inspector Neis informed Mr. Stefanyshyn that he could not allow more time and would be forwarding the file to vacant buildings.

Ms. Moermond asked whether it was the vacant building status that was being appealed. Mr. Stefanyshyn said that it was. He said that he had called to confirm the January 30 appointment and had been told by Inspector Neis that an inspection wasn't required to declare the property a vacant building. He said that he wanted a follow up inspection on the deficiencies and told Inspector Neis

that they had an inspection appointment and that he expected to see him there. He said he hadn't initially been aware of the Certificate of Occupancy requirement, had had some bad tenants and a string of bad luck, and was asking for compassion. He said he had rescheduled the December appointment because of a death in the family. He said he had been working on the house and had told Inspector Neis that he was doing the best he could under the circumstances and had been told that his best wasn't good enough.

Mr. Garofalo stated that his brother, Mr. Stefanyshyn, had been allowing him to stay at the house rent free since his father had died, and that he was disabled and had nowhere else to go. He said that a lot of work had been done on the house.

Mr. Stefanyshyn stated that all of the items on the deficiency list had been addressed. He said that Ed Smith had put vacant building stickers on the property but had called later and said that the stickers could be taken down pending the appeal. Mr. Stefanyshyn stated that the letter he'd received from Inspector Neis had not included information on appealing, and that the City Clerk had told him that that was an oversight.

Mrs. Stefanyshyn asked why the city was imposing hardship on people who were trying to make a living. She said that her son was unemployed, that she was retired and had medical problems, and was not in a position to help him. She said she counted on him to help her.

Ms. Moermond stated that the intent was not hardship but safety. She confirmed that the letter from the inspector included new orders but did not include the required information about appealing. Ms. Shaff stated that she'd given Mr. Stefanyshyn that information verbally on more than one occasion.

Ms. Moermond asked whether the work was all done. Mr. Stefanyshyn stated that it was all done. Ms. Moermond confirmed that there were no active permits. Mr. Stefanyshyn stated that no permits had been required. Ms. Moermond asked whether the property was a Category 2 Vacant Building. Ms. Shaff stated that it was.

Ms. Moermond asked whether Mr. Stefanyshyn's main concern was regarding the vacant building status. Mr. Stefanyshyn stated that he had heard that registered vacant buildings were subject to more stringent requirements for regaining the Certificate of Occupancy.

Ms. Moermond stated that the property was referred to vacant buildings because it was unoccupied and had deficiencies. She recommended granting 90 days for compliance on all items and that the vacant building fee be waived during that time.

Mr. Soley asked whether a code compliance inspection was required. Ms. Shaff stated that the Fire Certificate of Occupancy was adequate.

Ms. Moermond asked whether the work could be completed in 90 days. Mr. Stefanyshyn said that it could. He asked whether the upper unit could be occupied in the meantime. Ms. Moermond stated that the upstairs could be occupied as soon as the guardrail and lock (Items 10 and 11) had been corrected and re-inspected.