

MINUTES OF THE LEGISLATIVE HEARING ON LETTERS OF DEFICIENCY,
CORRECTION NOTICES, AND CORRECTION ORDERS

Tuesday, March 31, 2009

Room 330 City Hall, 15 Kellogg Blvd. West
Marcia Moermond, Legislative Hearing Officer

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

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

1. Appeal of Thomas Hurley, on behalf of LaBlanche Apartments, to a Certificate of Occupancy Deficiency List for property at 1325 Western Avenue North.
2. Appeal of Thomas Hurley, on behalf of LaBlanche Apartments, to a Certificate of Occupancy Deficiency List for property at 1366 Western Avenue North.

Ms. Shaff reported that Inspector Lisa Martin inspected for the Fire Certificate of Occupancy. The windows are substantially in compliance; however, the issues are the sill heights. The basement unit is 57 inches which is substantially higher than the 48 inch maximum requirements. They will not accept a ladder; they would require permanently affixed steps. The steps should be the width of the egress opening.

Thomas Hurley, appellant, stated the steps are 59 inches right now. He measured all eight buildings. The worst ones are 59. He asked about two steps. Ms. Shaff responded that one step will be too high for the rise. The maximum should be 48. They do not have to be concrete; they can be made of wood or metal.

Mr. Hurley stated this is a 270 unit property. There are eight buildings at this site, and 12 bedrooms have this condition. The rest are close. Ms. Shaff responded that he might as well do the others, too.

Ms. Moermond stated that it probably should not have been written the way it was written. Ms. Shaff concurred and said it was not clear. Mr. Hurley responded he is okay with that. He requested 90 days.

Ms. Moermond recommended denying the appeal and granting an extension of 90 days to come into compliance.

3. Appeal of Brad Vier to a Certificate of Occupancy Deficiency List for property at 64 Avon Street South. (rescheduled from March 17)

Ms. Shaff reported that Inspector A.J. Neis inspected for a Certificate of Occupancy on February 24, 2009. The window in Unit 6 opens to 16 ½ inches in height and 42 inches wide, substantially smaller than the 24 inch opening.

Brad Vier, owner, stated that he replaced the original window after it was kicked in. He was told that if he replaced it with the same size window, it would be fine. He upgraded the glass and it opens more. The top and bottom completely come out.

(Mr. Vier showed Ms. Moermond some pictures).

Mr. Vier stated that it was suggested a crank out, but it is a garden level apartment and Mr. Vier is concerned about that type of window.

Ms. Shaff reported that it would take about 8 movements for it to be opened. There is a commentary in the code that suggests that is unreasonable that people would have the knowledge to operate the window. The code requires that it is a simple movement to open the window and get out. The minimum size is 24 inch high and 20 inch wide opening for people to get out. Mr. Vier responded can he have a big pane that opens up.

Ms. Shaff responded that is an awning window. The hardware restricts that window opening as it is a scissor movement; they also drop easily and there needs to be three feet in every direction. Mr. Vier responded it is a hundred year old building. He asked whether they had to dig out the alley. Ms. Moermond responded that is what they are talking about today.

Ms. Shaff stated that it says that he has 7.85 square feet in the glazed area of glass, which is far more than the 5.7. Mr. Vier responded he thought the window he put in far exceeded what had to be done. Ms. Shaff responded if it cranked out sideways, that would be more than sufficient. Mr. Vier asked how that is secure with a girl living in that unit. Ms. Shaff responded the code does not address that. It will take some research, but there are code compliant ways to secure the window.

Ms. Moermond asked if there is another way to open the window. Mr. Vier responded they pop out. He asked could it just not open up. Ms. Shaff responded it is not acceptable that it goes up with glass over someone's head.

Ms. Moermond stated she will think about this issue and get back to the owner with her decision.

On April 8, 2009, Ms. Moermond reviewed the file and recommended granting a variance for the egress windows in unit 6.

5. Appeal of Miao Chen to a Certificate of Occupancy Deficiency List for property at 1634 Hoyt Avenue East.

Leanna Shaff reported that the window is 33 inches of openable width and 23 inches of openable height. It is an inch shy of the code requirement.

Ms. Moermond recommended granting a one inch variance on the window height.

6. Appeal of Pete Vitalli to a Certificate of Occupancy Deficiency List for property at 674 Smith Avenue.

Ms. Shaff reported this was a Certificate of Occupancy inspection and that the actual address is 674 Smith. The window measurement is 22 inches high by 24 wide.

Pete Vitalli appeared.

Ms. Moermond recommended granting a two inch variance on the window height.

7. Appeal of Terry Fransen to a Certificate of Occupancy Deficiency List for property at 1340 Stillwater Avenue.

Ms. Shaff reported that Inspector Jackie Girling did a Certificate of Occupancy inspection on March 13, 2009. For bedroom 1, the windows are 18 ½ inches openable width and 26 in height, which gives a shortfall of 1 ½ inches in width. In bedroom 2: 22 high by 19 ½ wide.

Ms. Moermond recommended granting a one and one-half inch variance for the windows in bedroom 1. She asked for a description on bedroom 2 windows.

Terry Fransen, owner, asked if that is the southwest window as he was not there during the inspection. He said that there are three rooms upstairs and he was not sure if that is the right window. The room upstairs is really small and is under 10 by 10. Ms. Shaff responded that the minimum bedroom size is 70 square feet. If they are really small, they do not count them.

Mr. Fransen said that he will look and measure it.

Ms. Shaff asked who was with Inspector Girling. Mr. Fransen responded the tenant was there.

Ms. Moermond stated this is very close. As for granting a variance in this situation, the window does not have any width to compensate for the shortage in height.

Ms. Shaff asked if the windows are vinyl or wood. Mr. Fransen responded they were there when he purchased the house and was not sure.

Ms. Moermond stated she would like to see photographs of this window and would especially like to see what is going on at the top of the window.

Mr. Fransen stated that he received no money for March although his tenant is there. When this started, he did not think this was going to be an issue as he believed he already had a certificate

of occupancy. When he started digging for it, he didn't have anything on this one. He got nothing for March, and didn't get anything for April. Ms. Moermond responded that they will figure this out internally and will talk to Section 8. Ms. Shaff added that the owner should also talk to Inspector Girling.

Ms. Moermond recommended laying this matter over to April 14.

On April 8, 2009, Ms. Moermond reviewed the documents submitted by Mr. Fransen and recommended granting a variance for the egress windows for bedroom 2.

8. Appeal of Matt Mazanec, on behalf of Case Avenue Partners LLC, to a Certificate of Occupancy Deficiency List for property at 1426 Case Avenue.
9. Appeal of Matt Mazanec, on behalf of Case Avenue Partners LLC, to a Certificate of Occupancy Deficiency List for property at 1436 Case Avenue.

1426 Case – Ms. Shaff reported that Inspector Ricketson did a certificate of occupancy inspection and indicated that the sleeping room windows in Units 1, 2, and 3 are 47 inches wide by 16 ½ inches high.

Ms. Moermond stated that it also says 12 inches high in some places and 47 inches wide. Ms. Shaff responded that is a surprise to her as that information is not in the inspector's notes.

Matt Mazanec, owner, appeared and stated that the windows have tabs and it has to be pushed in so that it can be opened additionally. They also tilt out. PHA had approved him to put instructions on the windows to approve them. Ms. Moermond responded they are not okay anymore. Those windows have to be replaced or they cannot be used for sleeping room egress.

Mr. Mazanec is assuming the upper units would be okay for a variance because they are not garden level.

Ms. Moermond denied a variance on these windows, as she has never done a variance on less than 19 inches in openable height.

Mr. Mazanec stated that these issues came about for a Section 8 re-inspection. They are due for rent abatement today. If he can have some type of deferred request to have these placed in, Section 8 will be alright with deferred maintenance for windows. Ms. Moermond responded she will give him 90 days to replace the windows.

1436 Case – Ms. Shaff reported that they would support a variance in all units for 19 ½ inches wide by 33 high.

Ms. Moermond recommended granting a variance on the egress windows for 1436 Case Avenue. She recommended denying the appeal and granting an extension of 90 days to come into compliance on the egress windows for 1426 Case Avenue.

10. Appeal of Bebe Jacque to a Certificate of Occupancy Deficiency List for property at 928 Grand Avenue.

Ms. Shaff reported that Inspector A.J. Neis went to the property on an electrical hazard. The appellant is appealing Item 4: All appliances and power strips with a grounded connection must be plugged directly in to a grounded outlet.

Tim Coenen, appellant, stated that there are grounded outlets. There are one or two outlets per apartment for the whole building. Someone put a three prong adapter into a two prong outlet. He is asking for a little time to get code compliant or asked for full upgrade. For a total upgrade, it would be \$90,000, which the owner wants to do. Ms. Shaff responded that the code does not allow the prongs.

Mr. Coenen stated that all the adapters are fine. People over the years put in a two prong outlet. He would like 30 to 60 days to become code compliant. The bids to become code compliant are \$5,000 to \$15,000. The owner does not want to throw away this money if she plans to do the full upgrade. There are GFCI's in the bathroom; some are in the kitchen. That was done about 15 years ago. Also, they do not want to pay the permit for 21 apartments to have an electrician go in all of them. Half of the cost is permit cost. Then, they would like the inspectors to check the electrical.

Ms. Moermond asked how much time they would like. Mr. Coenen responded 30 to 60 days to come into code compliance. They would rather spend the money on the full upgrade for three to six months range.

Ms. Moermond stated that this is basic and it was not brought up before.

(Mr. Coenen gave Ms. Moermond a list of all the units that need GFCI units.)

Mr. Moermond stated they do not have GFCI's in the kitchen. Mr. Coenen added that every kitchen needs one at least and some need two. Ms. Shaff added that they cannot require that in the kitchen unless there is remodeling or something breaks.

Ms. Moermond recommended denying the appeal and granting an extension for four and one-half months to come into compliance.