

**CITY OF MINNEAPOLIS
FOR THE DEPARTMENT OF
REGULATORY SERVICES**

ADMINISTRATIVE HEARING OFFICER

**In the matter of the Rental
Dwelling License held by
Scott Such
for the Premises at
442 Pierce St. NE., Minneapolis,
Minnesota**

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

The above entitled matter came on for hearing before Administrative Hearing Officer Edward Backstrom on May 25, 2011, at 1:00 p.m. at Room 310, Minneapolis City Hall, Minneapolis, Minnesota. The City of Minneapolis was represented by Lee C. Wolf, Assistant City Attorney and Janine Atchison, District Manager Department of Housing Inspections. Scott Such owner of the property located at 442 Pierce St. NE. was present.

After considering all of the evidence presented at the hearing and the arguments presented by both parties before, during and after the hearing, the Administrative Hearing Officer makes the following:

FINDINGS OF FACT

Scott Such is the owner of the property located at 442 Pierce St. NE. in the City of Minneapolis. As the owner of the property Scott Such applied for and was awarded a rental dwelling license for the property. The rental license application dated December 10, 2008 lists Scott Such as the owner and James Bowland as the property manager responsible for the maintenance and management of the rental property. The application lists the contact address for

Scott Such as 1220 9th St., Hudson, WI. Scott Such gave the city notice of a change of property manager on March 1, 2010. The new property manager was listed as Arthur Walvante with a contact address of 442 Pierce St. NE., Minneapolis, MN.

This matter was commenced by the City of Minneapolis Housing Inspections Division to revoke the rental dwelling license held by Scott Such for the property located at 442 Pierce St. NE. under Minneapolis Code of Ordinances (M.C.O) § 244.1910 (11)(a). Section 244.1910 (11)(a), Licensing Standard", requires a rental licensee not to be delinquent on any financial obligations owing to the city under any action instituted pursuant to Chapter 2, Administrative Enforcement and Hearing Process.

On July 5, 2007, Minneapolis Housing Inspector Joy completed an inspection at property located at 442 Pierce St. NE. On July 12, 2007 orders were issued to the owner Scott Such and sent to him at 918 9th St., Hudson , WI. These orders required the painting of exterior wood trim and exterior siding of the building located at 442 Pierce St. NE.

As the result of inspections which occurred between July 14, 2009 and September 21, 2010 which showed that the required painting had not been done, administrative citations were issued for \$200.00 on July 20, 2009; for \$400.00 on August 21, 2009; for \$800.00 on November 9, 2009; for \$1600.00 on September 21, 2010. The administrative citations were sent to Scott Such at 918 9th St., Hudson WI. The owner, Scott Such, denied receiving any of the administrative citations issued by the city for violations occurring at 442 Pierce St. NE.

On April 18, 2011, a Final Warning Letter citing the lack of painting violations was sent to Scott Such at 918 9th St., Hudson, WI.

On September 17, 2010 Housing Inspector Sheila Rawski sent an order to 442 Pierce St. NE., addressed to Arthur Walvante, the property manager, informing him that the rental license

has expired on August 31, 2010. On that date an administrative citation was also issued for \$500.00 for renting the property without a rental license. This citation was sent to Arthur Walvante, the property manager. The owner, Scott Such failed to pay the \$500.00 administrative citation and on December 3, 2010. Notice of Director's Determination of Noncompliance was issued to Scott Such and sent to 1220 9th St. Hudson WI, the address supplied by Mr. Such on the Rental License application dated December 10, 2008. The notice stated that the property failed to meet rental licensing standard M.C. O. § 244.1910(11)(a), due to delinquency of financial obligations owing to the city under an action instituted pursuant to Chapter 2, Administrative Enforcement and Hearing Process.

On December 15, 2010 the rental license for 442 Pierce was renewed. As of the hearing date the \$550.00 assessment for the administrative citation remained unpaid and all of the assessments for the administrative citations related to the failure to paint the exterior trim and siding remained unpaid except for the \$400.00 citation which was paid by Brad Such, the taxpayer of record, on September 14, 2009.

On April 11, 2011, a Notice of Revocation, Denial, Non-Renewal or Suspension of Rental License or Provisional License was sent to Scott Such at 1220 9th St., Hudson, WI. The notice cited the failure to pay the assessments and property taxes as required by M.C.O. §244.1910 (11)(a). On April 29, 2011, Scott Such submitted an appeal of the Notice of revocation.

CONCLUSIONS

The city relies on the failure to pay administrative fines as the basis for the revocation of Scott Such's rental license for 442 Pierce St. NE. There are two separate violations which resulted in unpaid assessments, either of which could be the basis for a valid license revocation.

Regarding the violations concerning the failure to paint the external trim and siding, Mr. Such raised the issue as to whether he was properly notified of the administrative citations. Scott Such informed the city of his change of address on December 10, 2008, as required by M.C.O. § 244.1840 (6). The city was informed that his new address was 1220 9th St., Hudson, WI. The city erroneously sent all of the administrative citations for the failure to paint the trim and siding to his old address of 918 9th St., Hudson, WI., instead of the updated address. M.C.O § 244.1930(a) requires the city to send notices and administrative citations to the correct address. Therefore the owner cannot be presumed to have received the administrative citations for the violations stemming from the failure to paint the exterior trim and siding of the property located at 442 Pierce St. NE. Since proper notice has not been established the nonpayment of the assessments for the administrative citations used for the failure to paint the exterior trim and siding of 442 Pierce St. NE cannot be the basis for the revocation of Scott Such's rental license.

The City of Minneapolis Department of Housing Inspections issued a valid order for a violation of M.C.O. § 244.1810 which requires a rental license for any rental properties in the City of Minneapolis. The order to renew the rental license for 442 Pierce ST. NE. held by Scott Such and the administrative citation arising from the failure to renew the rental license were properly sent to Mr. Such's rental management agent, Arthur Walvante, at the correct address of 442 Pierce St. NE.

The Department followed proper procedure in issuing a Notice of Non-Compliance which gave the owner fifteen days to bring the property into compliance with licensing standard M.C.O. § 244.1910(11)(a). The Notice of Director's Determination of Noncompliance was served upon Scott Such at the proper address of 1220 9th St., Hudson, WI. The Notice of

Revocation, Denial, Non-renewal, or Suspension of Rental License or Provisional License was also properly served to the correct address

The owner has failed to bring the property into compliance by paying the \$550 assessment for the properly issued administrative citation.

RECOMMENDATION

That the rental dwelling license held by Scott Such as owner of the property, for 442 Pierce St. NE., in Minneapolis, Minnesota be revoked.

Dated June 9, 2011


EDWARD BACKSTROM
ADMINISTRATIVE HEARING
OFFICER