

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

ADMINISTRATIVE HEARING OFFICER

**In the matter of the Property
Located at 2926 12th Avenue S.
Minneapolis, Minnesota, Owned
By Tommy Dao**

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

The above entitled matter came on for hearing before Administrative Hearing Officer Fabian Hoffner on May 6, 2010, at 1:30 p.m. at Room 310, Minneapolis City Hall, Minneapolis, Minnesota. The City of Minneapolis was represented by Lee C. Wolf, Assistant City Attorney, Janine Atchison, District Manager Department of Housing Inspections and Don Greeley, Crime Prevention Specialist (CPS). Tommy Dao, owner of the property located at 2926 12th Avenue S. did not appear and the matter was heard as a default.

FINDINGS OF FACT

Tommy Dao owns the property located at 2926 12th Avenue S. in the City of Minneapolis. The property is a tri-plex that Mr. Dao purchased in 2008. Mr. Dao has not applied for nor been awarded a rental dwelling license for the building located at 2926 12th Avenue S. Applicable property records show Tommy Dao as the property owner with a listed address of 11835 Davenport Street N. Blaine, MN 55449.

This matter was commenced by the SAFE unit of the Minneapolis Police Department and the Department of Inspections to deny the rental dwelling license for the property at 2926 12th Avenue S. under Minneapolis Code of Ordinances (M.C.O.) § 244.2020. Section 244.2020, “Conduct on Licensed Premises”, requires a rental licensee to take appropriate

action following conduct on the premises defined as disorderly under Section 244.2020(a). Specifically included within the ambit of disorderly use is “conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of [provisions] which prohibit gambling; prostitution; the unlawful sale or possession of controlled substances; the unlawful sale of alcoholic beverages; noisy assemblies; the unlawful possession, transportation, sale, or use of a weapon and disorderly conduct.”

On September 15, 2009, Minneapolis Police officers from the Third Precinct Community Response Team conducted a narcotics search warrant at 2926 12th Avenue S. While executing the search warrant officers detained an individual in the upper apartment who, upon being detained, stated that he had drugs in his pocket. Officers searched the individual and found several baggies containing material that field tested positive for cocaine.

On September 18, 2009, CPS Greeley sent, by certified mail, a First Notice of Conduct on Licensed Premises to the owner of the property Tommy Dao at his listed address of 11835 Davenport Street N., Blaine, MN. On September 24, 2009, the owner, Tommy Dao, signed for the Conduct Notice. The First Notice of Conduct on Licensed Premises letter indicated that the owner, pursuant to M.C.O. § 244.2020, was required to submit a written management plan to the crime prevention specialist within 10 days of receipt of the Notice. Ten days passed and CPS Greeley did not receive a written management plan from the owner.

On December 14, 2009, Minneapolis Police officers from the Third Precinct Community Response Team conducted a narcotics search warrant at 2926 12th Avenue S. The search warrant was drawn up based upon an undercover purchase of an amount of narcotics that field tested positive for cocaine. During the execution of the search warrant, officers recovered narcotics which field tested positive for cocaine.

On December 16, 2009, CPS Greeley sent, by certified mail, a Second Notice of Conduct on Licensed Premises letter to the owner of 2926 12th Avenue S., Tommy Dao. The Notice stated that there had been a second incident of narcotics found at the property and that the owner needed to submit a written management plan within 10 days of receipt of the Notice, and that the owner was required to attend a rental property owners workshop. On December 18, 2009, the Second Notice was signed for and the return receipt was returned to CPS Greeley. As of February 10, 2010, CPS Greeley had not received a management plan from Mr. Dao.

On February 16, 2010, a Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License was sent to Tommy Dao, owner of the property located at 2926 12th Avenue S., Minneapolis, MN. The notice advised that both the Inspections Division and the Minneapolis Police Department would recommend to the City Council that the rental dwelling license for 2926 12th Avenue S. be revoked. The recommendation was made pursuant to M.C.O. § 244.2020, based on the two incidents of conduct on licensed premises occurring and the owner's failure to submit an acceptable management plan. The notice was served via certified mail and receipts were returned confirming the delivery and receipt of the notice by Tommy Dao. On March 2, 2010, Tommy Dao filed a proper appeal of the revocation recommendation.

CONCLUSIONS

One incident of conduct, determined to constitute a disorderly use and defined as disorderly in M.C.O. § 244.2020(a) by tenants and/or guests, occurred on the premises of 2926 12th Avenue S. on September 15, 2009, for which proper notices of disorderly use were issued.

The owners and licensee failed to take timely, appropriate action in response to notices from the Minneapolis Police Department concerning the disorderly incident on the premises of 22926 12th Avenue S.

The Minneapolis Police Department and the Inspections Division followed the appropriate procedural steps and provided the necessary notices as required under the Minneapolis Code of Ordinances.

The owners and licensee failed to comply with the requirement of M.C.O. § 244.2020(c) which requires submission of a written management plan within ten days of issuance of a notice of disorderly use involving narcotics. This failure provides a basis for adverse license action, specifically inclusive of revocation, against the rental dwelling license held by the licensee and any interest in the rental license held by the owner, at 2926 12th Avenue S.

A second incident of conduct, determined to constitute a disorderly use and defined as disorderly in M.C.O. § 244.2020(a) by tenants and/or guests, occurred on the premises of 2926 12th Avenue S. on December 14, 2009, for which proper notices of disorderly use were issued.

The owner failed to comply with the requirement of M.C.O. § 244.2020(d) which requires submission of a written management plan within ten days of issuance of a notice of disorderly use involving narcotics. This failure provides a basis for adverse license action, specifically inclusive of revocation, against the rental dwelling license held by the licensee and any interest in the rental license held by the owner, at 2926 12th Avenue S.

RECOMMENDATION

That Tommy Dao be denied a rental license for the property located at 2926 12th Avenue S., Minneapolis, MN.

Dated May 12, 2010

A handwritten signature in black ink, appearing to read 'F. Hoffner', written over a horizontal line.

FABIAN HOFFNER
ADMINISTRATIVE HEARING
OFFICER