



Request for City Council Committee Action from the Department of

Date August 9, 2006

To Public Safety & Regulatory Services Committee, the Honorable Don Samuels,
Chairperson

Referral to City Council

**Subject Rental Dwelling License Revocation for 729 8th Avenue SE
Hyder Jaweed, Asgher Jaweed and Teri L. Kanis dba Minneapolis
Apartments Housing Associates I LLC**

Recommendation: On July 11, 2006 this item was heard by the Rental License Board of Appeals. Pursuant to Section 244.1960 (f) of the Minneapolis Code of Ordinances. The Rental License Board of Appeals is requesting approval from the City Council for the revocation of the Rental Dwelling Licenses held by Hyder Jaweed, Asgher Jaweed and Teri L. Kanis dba Minneapolis Apartments Housing Associates I LLC at 729 8th Avenue SE. Hyder Jaweed, Asgher Jaweed and Teri L. Kanis dba Minneapolis Apartments Housing Associates I LLC failed to comply with the requirements of Minneapolis Code of Ordinances 244.2020 Conduct on Licensed Premises.

The Director of Inspections recommends that the City Council approve the Rental Licensing Board of Appeals findings and revoke the rental dwelling license held by Hyder Jaweed, Asgher Jaweed and Teri L. Kanis dba Minneapolis Apartments Housing Associates I LLC for the premises at 729 8th Avenue SE, (See enclosed findings of Fact)

Previous Directives None

Prepared or Submitted by Janine Atchison, District Supervisor 673-3715

Approved by: JoAnn Velde 8/9/06
JoAnn Velde, Deputy Director Housing Inspections Services

Approved by: Henry Reimer 8/9/06
Henry Reimer, Director of Inspections

Approved by: Rocco Forte
Rocco Forte, Assistant City Coordinator

Permanent Review Committee (PRC) Approval _____ Not Applicable XX

Note: To determine if applicable see <http://insite/finance/purchasing/permanent-review-committee-overview.asp>

Policy Review Group (PRG) Approval _____ Date of Approval _____ Not Applicable XX

Note: The Policy Review Group is a committee co-chaired by the City Clerk and the City Coordinator that must review all requests related to establishing or changing enterprise policies.

Presenters in Committee (name, title)

Financial Impact (Check those that apply)

XX No financial impact (If checked, go directly to Background/Supporting Information).

___ Action requires an appropriation increase to the ___ Capital Budget or ___ Operating Budget.

___ Action provides increased revenue for appropriation increase.

___ Action requires use of contingency or reserves.

___ Business Plan: ___ Action is within the plan. ___ Action requires a change to plan.

___ Other financial impact (Explain):

___ Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact (use any categories that apply) Not Applicable

Neighborhood Notification

City Goals

Comprehensive Plan

Zoning Code

Other

Background/Supporting Information Attached

See: Findings of Fact

CITY OF MINNEAPOLIS

RENTAL DWELLING LICENSE BOARD OF APPEALS

**In the matter of the Rental
Dwelling License held by
Minneapolis Apartments Housing
Associates I LLC for the
Premises at 729 8th Avenue SE,
Minneapolis, Minnesota**

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

This matter came on for hearing before the Rental Dwelling License Board of Appeals at 1:30 p.m. on July 11, 2006 in Room 220 of the Minneapolis City Hall located at 350 South 5th Street. Board Chair Brian Bushay presided. Other board members present included Paul Thomas Kjornes, Daisy Barton, Steve Schachtman and Wayne Jensen. Board Member Schachtman recused himself from participation in the hearing and took no part in consideration of the matter. Assistant City Attorney Erik E. Nilsson was present as *ex officio* counsel to the board. Lee Wolf, Assistant City Attorney, represented the Department of Inspections. Terri Kanis, the formally-designated property manager and Asgher Jaweed, principal representative of the license holder, owner and taxpayer of the property – Minneapolis Apartments Housing Association I LLC & Minneapolis Service Corporation LLC – appeared at the hearing represented by John Peterson, Esq. of Winthrop & Weinstine, PA.

FINDINGS OF FACT

1. Minneapolis Apartments Housing Association I LLC holds a rental dwelling license for the building at 729 8th Avenue SE, in the City of Minneapolis. Asgher Jaweed, as evidenced by the corporation and licensing records admitted at hearing as well as his own testimony, is a principal, along with his brother Hyder Jaweed, of Minneapolis Apartments

Housing Association I LLC. Minneapolis Apartments Housing Association I LLC holds a current rental license for the subject property, acquired the property in November of 2005, and is listed in property records as the applicable taxpayer of the property. Minneapolis Service Corporation LLC is the listed owner of the property. By terms of the appeal notification submitted in this matter the license holder concedes that both firms are the operating owners of the subject property and that the Jaweeds are the principals of each firm. The rental license for the property on file with the City of Minneapolis contains the notarized signature of Terri Kanis accepting responsibility as the property manager responsible for the maintenance and management of the rental property as required under M.C.O. § 244.1840(3):

Every applicant, whether an individual, partnership, or corporation, shall identify in the application, by name, residence or business street address, telephone number, and date of birth, a natural person who is actively involved in, and responsible for, the maintenance and management of the premises. Said natural person shall, if other than the owner, affix his or her notarized signature to the application, thereby accepting joint and several responsibility with the owner (including any potential criminal, civil, or administrative liability) for the maintenance and management of the premises.

2. This matter was commenced by the SAFE unit of the Minneapolis Police Department and the Department of Inspections to revoke the rental dwelling license held by Minneapolis Apartments Housing Association I LLC for the property at 729 8th Avenue SE, 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 the unlawful sale or possession of controlled substances.”

3. Notice of the recommendation to revoke the license was mailed to Minneapolis Apartments Housing Association LLC, Minneapolis Service LLC and Terri Kanis at their supplied mailing addresses on May 23, 2006.

4. On January 27, 2006, Minneapolis Police officers and the Metro Gang Strike Force executed a narcotics search warrant in Unit #10 at 729 8th Avenue SE. The search warrant was obtained based on a successful controlled purchase from the apartment of a quantity of a substance that tested positive as crack cocaine on January 17, 2006. Cocaine is a schedule II controlled substance as defined by Minn. Stat. § 152.02, Subd. 3(d)). Possession of cocaine violates Minn. Stat. § 152.025, Subd. 2(1) and the sale of cocaine violates Minn. Stat. § 152.024, Subd. 1(1). When the officers made entry to Unit #10 they encountered the tenant, Raynard Belfry, and numerous other individuals. During the subsequent search of the premises various crack pipes, metal pushers and burnt spoons were seized. Four tablets of a prescription medicine were located without a prescription or bottle. Several of the individuals in the unit admitted to smoking crack cocaine. During the execution of the warrant, three additional parties walked into the apartment and Mr. Belfry asked how long the officers had been watching him before admitting that he regularly smokes crack cocaine. Mr. Belfry and three other occupants of the unit were cited on misdemeanor disorderly house charges under Minn. Stat. § 385.170.

5. On February 7, 2006, Crime Prevention Specialist Carol Osterhuis of the Minneapolis Police Department mailed a First Notice of Conduct on Licensed Premises to the listed owner and license holder of the building, pursuant to M.C.O. § 244.2020. This notice informed the rental license holder that there had been an instance of disorderly use at the premises of 729 8th Avenue SE, Unit #10 culminating on January 27th, involving possession

of narcotics. The notice was recorded as a first notice of disorderly use of the premises, informed the license holder that steps should be taken to prevent further violations, and noted that further disorderly use could result in the denial, revocation, non-renewal or suspension of the rental dwelling license. The notice cited M.C.O. § 244.2020(a), informing the license holder that it is a licensee's affirmative responsibility to take appropriate action following disorderly use by persons occupying the premises.

6. The first notice was mailed via certified mail to Minneapolis Service Corporation LLC as well as to the owner address that Hyder Jaweed supplied on his rental license application. Certified mail receipts were returned confirming the delivery and receipt of the notices.

7. On March 27, 2006 Minneapolis Police officers and the Metro Gang Strike Force served a narcotics search warrant in Unit #1 at 729 8th Avenue SE. The search warrant was obtained after a confidential reliable informant provided extensive information regarding narcotics storage and trafficking at the premises. Additionally, police officers received numerous complaints regarding the alleged pervasive narcotics dealing upon the premises and conducted surveillance which corroborated the information prior to obtaining a search warrant from the district court. Upon serving the warrant in the unit, officers entered the premises and encountered two occupants. Terrence Ervin was discovered in the kitchen with a quantity of a substance that tested positive as cocaine in his front pocket. A juvenile male was encountered in the living room and a quantity of a substance that tested positive as cocaine was seized next to him on a sofa. \$95.00 in currency was seized from his person and an additional \$95.00 was seized from the love seat. Both parties admitted to knowing the tenant of the unit, Angela Lee. Upon further questioning Mr. Ervin conceded that he utilized the apartment to sell crack

cocaine. Both occupants were arrested on narcotics charges pursuant to Minn. Stat. Ch. 152. Cocaine is a schedule II controlled substance as defined by Minn. Stat. § 152.02, Subd. 3(d). Sale of cocaine violates Minn. Stat. § 152.024, Subd. 1(1).

8. On March 28, 2006, Crime Prevention Specialist Carol Oosterhuis of the Minneapolis Police Department mailed a Second Notice of Conduct on Licensed Premises to the owner and rental license holder as well as to Terri Kanis, the appointed property manager, via certified mail and pursuant to M.C.O. § 244.2020. Although the notices were correctly addressed to Minneapolis Service Corporation LLC and to the address personally supplied by Ms. Kanis on the notarized and executed rental license application, the notices were returned unclaimed. CPS Oosterhuis additionally telephoned Ms. Kanis and arranged a meeting which occurred on March 28, 2006 with Ms. Kanis and the owners at which time they were personally informed of the incidents, the notices and the requirement to submit an approved management plan.

9. The second notice advised the license holder and property manager that a second incident of disorderly use had occurred at the subject property and that they were **required** to respond to the Minneapolis Police Department within ten (10) days with a written management plan detailing all actions taken to respond to disorderly use and to prevent further disorderly use of the premises. M.C.O. § 244.2020(d) & (e) provides:

If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) distinct and separate residential units, of an incident for which a notice in subsection (c) was given, the responsible SAFE team shall notify the licensee by mail of the violation. The licensee shall submit a written management plan to the SAFE team within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding twelve (12) months. The written management plan shall also detail all

actions taken and proposed to be taken by the licensee to prevent further disorderly use of the premises. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform the licensee that **failure to submit a written management plan may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license...**

(e) When required by paragraph (d), the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed if the licensee fails to submit a written management plan that satisfies the requirements set forth in paragraph (d).

10. No representative of the licensee submitted a written management plan in response to the Second Notice of Conduct on Licensed Premises.

11. Additional police narcotics-related incidents occurred on the rental premises on April 6, 2006 (narcotics search warrant executed in Units #2 and #10, cocaine recovered) and May 8, 2006 (narcotics search warrant executed in Unit #2, cocaine recovered).

12. On May 23, 2006 a Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License was sent to the license holder of the premises via the owners of the building and the rental property manager. The notice advised that both the Inspections Division and the Minneapolis Police Department would recommend to the City Council that his rental dwelling license for 729 8th Avenue SE be revoked. The recommendation was made pursuant to M.C.O. § 244.2020(d), based on the conduct on licensed premises incidents and the failure of the licensee to submit a written management plan. The notice was served via certified mail and a receipt was returned confirming the delivery and receipt of the notice by Terri Kanis and Minneapolis Apartments Housing Associates I LLC.

13. On June 7, 2006 the licensee filed a proper appeal of the revocation recommendation via a written submission from Minneapolis Apartments Housing Associates I LLC and Minneapolis Service LLC signed by Hyder Jaweed. The Licensee, in its appeal

and in testimony adduced at the hearing in this matter, conceded that the disorderly uses of the premises had occurred but claimed that they pursued eviction and voluntary termination of tenancies. The evidence indicated that these actions were not undertaken until after the underlying incidents had occurred and after the 10-day timeframe had expired in which the licensee was required to submit a written management plan.

14. The incidents of disorderly use that occurred on and about January 17 & 27, 2006, and March 27, 2006 are instances of disorderly use within the meaning of M.C.O. § 244.2020(a). Furthermore, the licensee failed to submit a timely written management plan in relation to these incidents, as required by M.C.O. § 244.2020(e).

CONCLUSIONS

1. Two incidents 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 729 8th Avenue SE for which proper notices of disorderly use were issued.

2. The licensee failed to take timely, appropriate action in response to notices from the Minneapolis Police Department concerning disorderly incidents on the premises of 729 8th Avenue SE.

3. 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.

4. The licensee failed to comply with the requirement of M.C.O. § 244.2020(d) & (e) which requires submission of a written management plan within ten days of issuance of a second notice of disorderly use. This failure provides an independent basis for adverse

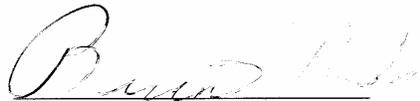
license action, specifically inclusive of revocation, against the rental dwelling license held by the licensee at 729 8th Avenue SE.

5. The subject property has been the source of repeated criminal, disorderly and nuisance activity. The activities at this property have had a substantial negative impact on the surrounding community, as evidenced by the testimony and documentation admitted from neighboring residents and community members and the occurrence of numerous additional police responses to narcotics activity at the premises.

7. The rental dwelling license held by Minneapolis Apartments Housing Association I LLC for 729 8th Avenue SE is subject to revocation or suspension under M.C.O. §§ 244.2020(e). Revocation of the referenced rental dwelling license is the appropriate adverse license sanction.

RECOMMENDATION

That the rental dwelling license held by Minneapolis Apartments Housing Association I LLC for the premises at 729 8th Avenue SE, in Minneapolis, Minnesota be revoked.



Brian Bushay
Chair,
Rental Dwelling License Board of Appeals