

**CITY OF MINNEAPOLIS
RENTAL DWELLING LICENSE BOARD OF APPEALS**

**In the matter of the Rental
 Dwelling License held by
 Laura Luna & Juan Jara for the
 Premises at 3549 16th Ave. S.,
 Minneapolis, Minnesota.**

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

This matter came on for hearing before the Rental Dwelling License Board of Appeals at 3:00 p.m. on December 11, 2007 in Room 014 of the Minneapolis Public Service Center. Board Chair Brian Bushay presided. Other board members present, constituting a quorum, included Clinton Blaiser, Daisy Barton, and Wayne Jensen. Assistant City Attorney Joel Fussy was present as *ex officio* counsel to the board. Lee Wolf, Assistant City Attorney, represented the Inspections Division. The co-owner of the licensed premises, Laura Luna, was present and was not represented by legal counsel. Ms. Luna was provided the services of a Spanish language translator who was duly sworn. Ms. Luna's husband and co-owner of the subject property, Juan Jara, was not present at the hearing.

FINDINGS OF FACT

1. Laura Luna holds a rental dwelling license (No. 504397) for the property located at 3549 16th Avenue South in the City of Minneapolis, Minnesota. Ms. Luna, at all times relevant to this action, has co-owned the property with her husband Juan Jara as established through Ms. Luna's testimony at hearing and the introduction of relevant Hennepin County property records. Therefore, Mr. Jara possesses an actionable interest in the subject rental dwelling license although it is issued solely in his wife's name. The rental dwelling license

issued to Ms. Luna indicates on its face that the property is a duplex and that the license therefore authorizes a maximum of two rental dwelling units at the subject property.

2. This matter was commenced by the Inspections Division seeking revocation of the rental dwelling license held by Ms. Luna and Mr. Jara for the referenced property under M.C.O. § 244.1910, *Licensing standards*. The Inspections Division seeks revocation based on the following minimum licensing standard:

244.1910. Licensing standards. The following minimum standards and conditions shall be met in order to hold a rental dwelling license under this article. Failure to comply with any of these standards and conditions shall be adequate grounds for the denial, refusal to renew, revocation, or suspension of a rental dwelling license or provisional license.

...

(3) No rental dwelling or rental dwelling unit shall be over occupied or illegally occupied in violation of the zoning code or the housing maintenance code.

...

3. On April 19, 2005 Minneapolis License Inspector Vonnie Linnell conducted a inspection of the subject property. Inspector Linnell has in excess of twenty-five years of experience with the Inspections Division. Her inspection of the subject property found that the duplex was over-occupied and illegally occupied in that the basement was being utilized as a third dwelling unit and that this basement space was not legally habitable. The inspector observed a sink, stove, refrigerator, bathroom, furniture and numerous other indicia of illegal occupancy of the basement. Ms. Luna, in her testimony at hearing conceded that the basement was illegally occupied during this period. Among other things, the basement space is deficient in ceiling height and means of egress. The inspector also noted potentially dangerous wiring and electrical work. Furthermore, the subject property did not have a current rental license at the time of inspection. Based on this unlawful occupancy, Inspector Linnell issued a Notice of Director's Determination of Noncompliance citing over occupancy and illegal occupancy and issued a series of orders to Juan Jara, who was then-listed as the owner of the property in

Hennepin County records. Ms. Luna testified that she and her husband worked with the inspectors at this time and Inspector Linnell's August 25, 2005 reinspection indicated that the unlawful occupancy issues had been abated. All applicable notices and orders were sent to Mr. Jara's correct mailing address of 3244-46 20th Avenue South in Minneapolis, Minnesota.

4. On August 8, 2007 Minneapolis License Inspector Markeeta Keyes conducted a subsequent rental license inspection of the subject property based on an anonymous complaint. Her inspection of the subject property found that it was again being illegally occupied as three separate dwelling units, inclusive of the basement once again being utilized as a dwelling unit although it remained an inhabitable and dangerous dwelling space. Inspector Keyes observed nearly identical indicia of illegal occupancy of the basement as Inspector Linnell had previously observed in 2005. Inspector Keyes took digital photographs clearly indicating the presence of the illegal basement occupancy. Ms. Luna testified at hearing that she did not contest that the illegal basement occupancy had reoccurred and in fact conceded that everything the inspectors had testified to was true. She further conceded that she and her husband had been receiving rent from three separate units at the property. Based on this repeat incident of illegal basement occupancy and over occupancy, Inspector Keyes issued a Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License on August 15, 2007.

5. The revocation recommendation was made pursuant to M.C.O. §§ 244.1910(3) & 244.1930. The revocation notice was served by certified mail upon both Ms. Luna and Mr. Jara and certified mail receipts were returned indicating that the notices were received. On September 7, 2007 Ms. Luna filed a due and proper appeal of the revocation recommendation.

6. The evidence adduced at the hearing in this matter indicates that the subject property was both over-occupied and illegally occupied in April 2005 and August 2007, in violation of the rental licensing standard specified in M.C.O. § 244.1910(3). The license holder

conceded that the evidence and testimony presented at hearing by the Inspections Division was true and further admitted that the two separate incidents of unlawful occupancy had occurred.

CONCLUSIONS

1. The Inspections Division followed the appropriate procedural steps and provided the necessary notices as required under the Minneapolis Code of Ordinances with regard to its recommendation to revoke the rental dwelling license currently held by Laura Luna and Juan Jara for the duplex located at 3549 16th Avenue South in the City of Minneapolis.

2. The illegal occupancy violations which form the basis of this action have the potential to severely and adversely affect public health and safety as well as neighborhood livability. Adequate protection of public health, safety and welfare therefore requires the establishment and enforcement of minimum rental housing and zoning standards. *See* M.C.O. §§ 244.30 & 520.30.

3. The referenced rental dwelling license held by Laura Luna and Juan Jara is subject to revocation under M.C.O. § 244.1910(3), which establishes minimum standards for retention of a rental dwelling license prohibiting any form of illegal or over occupancy and M.C.O. § 244.1940, which allows for the commencement of revocation proceedings upon a second established illegal or over occupancy violation.

RECOMMENDATION

That the rental dwelling license held by Laura Luna and Juan Jara for the premises at 3549 16th Avenue South in Minneapolis, Minnesota be revoked.

Brian Bushay
Chair,
Rental Dwelling License Board of Appeals