

CITY OF MINNEAPOLIS
RENTAL DWELLING LICENSE BOARD OF APPEALS

**In the matter of the Rental
Dwelling License held by
Spiros Zorbalas for the
Premises at 3121 Cedar Avenue,
Minneapolis, Minnesota**

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

This matter came on for hearing before the Rental Dwelling License Board of Appeals on June 14, 2005 in Room 14 of the Minneapolis Public Service Center. Board chair Brian Bushay presided. Other board members present included Paul Thomas Kjornes, Daisy Barton, Steve Schachtman and Wayne Jensen. Board members Clinton T. Blaiser and Fathia Warsame were not present. Assistant City Attorney Joel M. Fussy was present as ex officio counsel to the board. Steven E. Heng, Assistant City Attorney, represented the Department of Inspections. The Licensee, Spiros Zorbalas, was present and was not represented by counsel.

FINDINGS OF FACT

1. Spiros Zorbalas, d/b/a S1322, Inc., holds a rental dwelling license for the building at 3121 Cedar Avenue South, in the City of Minneapolis. The rental license application filed by Mr. Zorbalas lists S1322, Inc. as the owner of the building and lists Mr. Zorbalas personally as the contact agent responsible for the maintenance and management of the property.

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 for the property at 3121 Cedar Avenue South, 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).

3. Notice of the recommendation to revoke the license was mailed to Spiros Zorbalas on April 20, 2005. The notice was mailed to the contact address that Mr. Zorbalas personally supplied on his rental license application (800 Franklin Ave W, Minneapolis, MN 55405) as well as to the Florida address listed for S1322, Inc. Mr. Zorbalas filed an appeal of the proposed revocation on April 27, 2005.

4. On November 6, 2004, Minneapolis Police were dispatched to unit #301 at 3121 Cedar Avenue South. Upon arriving, officers spoke with a resident of the unit who stated that he had been smoking crack cocaine for two consecutive days. Upon a walk through of the unit and a search of the resident, a plate with crack cocaine residue, a pill bottle containing crack cocaine (a schedule II controlled substance as defined by Minn. Stat. § 152.02, Subd. 3(d)) and a glass crack pipe were recovered. Possession of cocaine violates Minn. Stat. § 152.025, Subd. 2(1). The resident was arrested for the narcotics violations.

5. On November 16, 2004, Crime Prevention Specialist Karen Skrivseth of the Minneapolis Police Department’s SAFE unit mailed a First Notice of Conduct on Licensed Premises to Mr. Zorbalas, pursuant to M.C.O. § 244.2020. The notice was mailed by certified mail—a method in compliance with and in excess of what is required by the terms of the ordinance and a method that has been previously requested and favored by the Rental Dwelling License Board of Appeals. This notice informed Mr. Zorbalas that there had been an instance of disorderly use at the premises of 3121 Cedar Avenue South on November 6, 2004, involving possession of crack cocaine. The notice was recorded as a first notice of

disorderly use of the premises, informed Mr. Zorbalas 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 his rental dwelling license. The notice cited M.C.O. § 244.2020(a), informing Mr. Zorbalas that it is a licensee's affirmative responsibility to take appropriate action following disorderly use by persons occupying the premises.

6. Although the first notice was mailed via certified mail to the contact address supplied by Mr. Zorbalas, and although the address was indeed the correct and operating business address for Mr. Zorbalas, the notice was refused by agents or representatives of Mr. Zorbalas upon delivery. Testimony at the hearing in this matter indicated that Mr. Zorbalas had an ongoing business practice of refusing to allow his agents or representatives at his listed and operating contact address to accept such notices or service.

7. On December 11, 2004, Minneapolis Police officers served a narcotics search warrant in unit #102 of 3121 Cedar Avenue South. The search warrant was obtained after a confidential reliable informant, under the direction of Minneapolis Police, successfully made a controlled purchase of "khat" from a resident of the unit. The active ingredient in khat is cathinone—a schedule I controlled substance as defined by Minn. Stat. § 152.02, Subd. 2(6). Upon serving the warrant, officers entered the unit and observed a large amount of khat in various open and obvious locations throughout the unit. Numerous children were present within the unit. Khat was recovered in locations in the kitchen, master bedroom, and children's room. The recovered khat tested positive for cathinone and possession constitutes a violation of Minn. Stat. § 152.025, Subd. 2(1). Officers also seized \$5,719.00 in cash from the unit and arrested the resident of the unit on narcotics and child endangerment charges.

8. On January 4, 2005, Crime Prevention Specialist Karen Skrivseth of the Minneapolis Police Department's SAFE unit mailed a Second Notice of Conduct on Licensed Premises to Mr. Zorbalas, via certified mail and pursuant to M.C.O. § 244.2020.

9. The second notice advised Mr. Zorbalas that a second incident of disorderly use had occurred at the subject property and that he was required to respond to CPS Skrivseth 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.

10. As with the first notice, the second notice was mailed via certified mail to the active contact address supplied by Mr. Zorbalas, and although the address was indeed the correct and operating business address for the licensee, the notice was again refused by agents or representatives of Mr. Zorbalas upon delivery, and was not subsequently retrieved from the post office.

11. At approximately 11:00 a.m. on February 18, 2005, CPS Skrivseth and Officer Judy Perry drove to Mr. Zorbalas' listed and operating contact address at 800 Franklin Avenue West with additional copies of the notices. An agent or representative of Mr. Zorbalas informed the women that she would refuse receipt and delivery of such notices and therefore an additional copy of the second notice was taped to the glass door of the business office. Officer Perry and CPS Skrivseth, at this time, also witnessed a process server from the state of Minnesota attempt to serve papers in the office and he was similarly rebuffed. Mr. Zorbalas later informed CPS Skrivseth that he resided in Florida and Mr. Zorbalas conceded such out-of-state residency at the hearing in this matter.

12. At approximately 6:00 p.m. on February 18, 2005, Minneapolis Police officers served a narcotics search warrant in unit #105 of the premises at 3121 Cedar Avenue South.

The search warrant was obtained after a confidential reliable informant provided information regarding a resident distributing khat from the premises. Surveillance of the building revealed a large amount of traffic consisting of individuals spending only a short time at the premises. Upon serving the warrant, officers seized a baggie of khat from the possession of a guest of the unit. The guest claimed that he had just purchased the khat from the female resident of the unit, as confirmed by the female resident's husband. The recovered khat tested positive for cathinone and possession constitutes a violation of Minn. Stat. § 152.025, Subd. 2(1). Both the guest and the resident were arrested on narcotics charges.

13. On March 1, 2005, Mr. Zorbalas submitted a one-page document entitled "MANAGEMENT PLAN" to CPS Skrivseth. The document consisted primarily of statements concerning his perceived lack of notice of the prior incident letters and was devoid of any substantive plan detailing actions proposed to be taken by the licensee to prevent further disorderly use of the premises.

14. On April 20, 2005, a Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License was sent to Mr. Zorbalas. The notice advised Mr. Zorbalas that both the Inspections Division and the SAFE unit would recommend to the City Council that the rental dwelling license for 3121 Cedar Avenue South be revoked. The recommendation was made pursuant to M.C.O. §§ 244.2020(e) & 244.2020(f).

15. For the first time at hearing in this matter on June 14, 2005, Mr. Zorbalas submitted copies of purported notices to vacate given to the residents of the three units involved in the disorderly use incidents. The notices were provided to units #102 and #105 only after the incidents constituting disorderly use of the premises and the notice to vacate delivered to unit #301, although purportedly issued prior to the incident in question, granted

the tenants another four months occupancy (October 26, 2004 through February 28, 2005) and no evidence was submitted that an eviction action was diligently pursued. Additionally, the notices were at no time provided to SAFE staff until the date of hearing.

16. The three incidents of disorderly use that occurred on and about November 6, 2004, December 11, 2004 and February 18, 2005 are instances of disorderly use within the meaning of M.C.O. § 244.2020(a). Mr. Zorbalas, at hearing in this matter, stipulated to the admission of the evidence packet introduced by the Inspections Division and conceded that the three instances as enumerated in the respective police reports and documentation qualify as disorderly use incidents.

CONCLUSIONS

1. Three incidents of conduct determined to be disorderly use and defined as disorderly in M.C.O. § 244.2020(a) by tenants and/or guests of 3121 Cedar Avenue South occurred on the premises of 3121 Cedar Avenue South.

2. The licensee, Spiros Zorbalas, failed to take timely, appropriate action in response to notices from SAFE concerning disorderly incidents on the premises of 3121 Cedar Avenue South.

3. The SAFE unit and the Inspections Division followed the appropriate steps and provided the necessary notices. A rental dwelling licensee has an affirmative duty to have a current, complete, and accurate rental dwelling application on file with the City listing an agent authorized to accept service and actively responsible for the maintenance and management of the premises. See M.C.O. §§244.1840(2), 244.1840(3) and 244.1910(15). Mr. Zorbalas, as the self-appointed contact person for the premises violated this affirmative

duty to be available and responsive to license notices by being a primary resident of the state of Florida while, at the same time, instituting an extremely dubious business practice of not allowing his local staff at his listed and current contact address to accept such notices. See M.C.O. §244.1840(1) (requiring that “in cases where the owner of a [licensed rental] dwelling resides outside of the sixteen-county metropolitan area ... the owner’s agent/contact person shall reside within the sixteen-county metropolitan area).

4. M.C.O. § 244.2010 provides in pertinent part:

If a notice sent to the address in the last application is returned, and the owner or owner’s agent cannot be found, then notice shall be sent to the person designated in the last license application ... as responsible for the maintenance and management of the premises, or any other known caretaker or manager, and a notice shall also be posted on the building.

Posting of the building was not required under this provision because the certified mail notices were wholly proper and correctly addressed to the actual operating contact address specifically provided by Mr. Zorbalas. Additionally, the notices were not “returned”—they were outright refused by Mr. Zorbalas’ staff on his own orders. Finally, this was not a situation, as contemplated in the ordinance provision, in which the owner could not be “found”—in fact, the owner had been accurately located as the notices were delivered to the actual operating and staffed business office Mr. Zorbalas listed as the proper and preferred recipient of such regulatory notices.

5. The management plan submitted by Mr. Zorbalas is deficient in that it does not proactively address and detail plans and procedures to prevent further disorderly use of the premises. Mr. Zorbalas’ sparse management plan and his admitted business practice of instructing his staff to refuse delivery of regulatory notices is indicative of a reactive management philosophy as opposed to the proactive managerial duty which is imposed upon

rental license holders in the City of Minneapolis under Chapter 244, Article XVI of the Minneapolis Code of Ordinances.

6. The subject property has been the source of repeated criminal, disorderly and nuisance activity. The activities at this property have had a negative impact on the surrounding community.

7. The rental dwelling license for Spiros Zorbalas, d/b/a S1322, Inc., for 3121 Cedar Avenue is subject to revocation or suspension under M.C.O. §§ 244.2020(e) and 244.2020(f). Revocation of this license is appropriate.

RECOMMENDATION

That the rental dwelling license held by Spiros Zorbalas, d/b/a S1322, Inc., for the premises at 3121 Cedar Avenue South, in Minneapolis, Minnesota be revoked.

Brian Bushay
Chair,
Rental Dwelling License Board of Appeals