

STATE OF MINNESOTA
IN COURT OF APPEALS

Azzam Sabri,

Relator,

STATEMENT OF THE CASE OF RELATOR

vs.

City of Minneapolis,
Minneapolis City Council,
and Mayor R.T. Rybak,

Appeal Case No. _____

Respondent.

1. Court or agency of case origination and name of judge or hearing officer who presided.

This case originated with the Minneapolis City Council, which passed a resolution to take adverse action against Relator's rental dwelling license. Mayor R.T. Rybak then signed the resolution passed by the City Council.

2. Jurisdictional statement.

Relator was harmed by the decision of the City Council and Mayor of Minneapolis to take action against Relator's license to rent residential units in his house in Minneapolis. The adverse action prevents Relator from continuing to receive income through the use of his property. Relator believes that Respondent did not provide due notice of its action because he never received mail from Respondent notifying Relator of the decision and notice was not posted at the property as is required by applicable Minneapolis ordinance. Under the applicable laws of Minneapolis, Respondent's action may be construed to have become effective when it was published in *Finance and Commerce* on May 22, 2010. Judicial Review by the Court of Appeals is provided by Minn. Stat. §§ 14.63-14.69 and Minn. Stat. Chapter 606.

3. State type of litigation and designate any statutes at issue.

Administrative and constitutional law. Minneapolis City Charter, Ch. 4, Section 16; Minneapolis Code of Ordinances, Chapter 244.

4. Brief description of claims, defenses, issues litigated and result below.

The City of Minneapolis took action to revoke Relator's rental dwelling license at his

property at 1903 Girard Avenue South, Minneapolis, MN. The City, at various time in the proceedings, alleged various violations of the housing code, and alleged that Relator was renting more units at his property than were permitted under the license. A hearing before an ALJ was initially conducted on October 29, 2009. However, Relator was not in attendance because he was receiving treatment for his cancer and not in condition to attend. The hearing was conducted without Relator, and the ALJ recommended revocation. Another hearing was conducted on February 22, 2010 before the same ALJ. Relator requested that the ALJ disqualify himself, but he refused. The ALJ recommended revocation, applying much the same language as the decision following the earlier hearing. The ALJ found that Relator was improperly renting more units than he was licensed to rent despite the fact that no tenants were ever identified as residing in these alleged units.

The ALJ's recommendation was scheduled for a hearing before the Minneapolis City Council Committee on Regulatory, Energy & Environment on May 3, 2010. However, Relator never received notice of this hearing and therefore was not aware of its occurrence, and neither had the opportunity to provide written submissions nor attend and present oral argument. The Committee adopted the ALJ's recommendation, which was then passed by the City Council on May 14, 2010. Not notice of the decision was mailed to relator. The action was published in *Finance and Commerce* on May 22, 2010.

5. Issues proposed to be raised on appeal.

1. Whether the City's adverse action against Relator's license was arbitrary and capricious and not supported by substantial evidence, where the adverse action was based on alleged over-occupancy where no tenants were ever observed or identified, and based on de minimis violations of the maintenance code?
2. Whether Relator was denied due process where an ALJ hearing was conducted in his absence due to his medical infirmities, and the subsequent hearing was conducted by the same ALJ who denied Relator's request to recuse himself?
3. Whether Relator was denied due process where he the City failed to provide him with notice of City Council hearing on the revocation?

Note - Undersigned counsel was not involved in the previous proceedings, and reserves the right to raise additional arguments upon receipt and review of the record and transcripts.

6. Related appeals.

None.

7. Contents of Record.

Is a transcript required? Yes

A transcript of applicable ALJ and City Council hearings should be prepared.

8. Is oral argument requested? Yes

9. Identify the type of brief to be filed.

Formal brief under Rule 128.02.

10. Names, addresses, zip codes and telephone numbers of attorney for appellant and respondent.

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Dated:

7/10/2010

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