



Request for City Council Committee Action from the Department of Regulatory Services

Date: August 13th, 2008

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

Referral to: City Council

Subject: Rental Dwelling License Revocation- 1422 Golden Valley Road - Owner Morris
Klock

Recommendation:

The Director of Inspections recommends that the City Council revoke, deny, non-renew the rental dwelling license held by Morris Klock for the premises located at 1422 Golden Valley Road based on Conduct on Licensed Premises pursuant to Minneapolis Code of Ordinance 244.2020.

On July 22nd, 2008 this item was heard by the Rental Dwelling License Board of Appeals. The matter was forwarded for consideration to the Public Safety & Regulatory Services Committee of the Minneapolis City Council for hearing on August 13th, 2008.

Previous Directives None

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

Approved by: _____

Henry Reimer, Director of Inspections

8/5/08
Date

Approved by: _____

Rocco Forte, Assistant City Coordinator

8/5/08
Date

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

Supporting Information: See Findings of Fact

CITY OF MINNEAPOLIS
RENTAL DWELLING LICENSE BOARD OF APPEALS

**In the matter of the Rental
Dwelling License held by
Morris Klock for the Premises at
1422 Golden Valley Road,
Minneapolis, Minnesota**

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

This matter came on for hearing before the Rental Dwelling License Board of Appeals at 2:30 p m on July 22, 2008 in Room 014 of the Minneapolis Public Service Center. Board chair Brian Bushay presided. Other board members present, constituting a quorum, included Daisy Barton, Genevieve Gaboriault, Kerry Hinze and Cecelia Rodriguez-Melendez. Assistant City Attorney Joel Fussy was present as *ex officio* counsel to the board. Lee Wolf, Assistant City Attorney, represented the Division of Inspections. The Licensee, Mr. Morris Klock, appeared at the hearing without legal counsel.

FINDINGS OF FACT

1 Morris Klock holds a rental dwelling license for the building located at 1422 Golden Valley Road, in the City of Minneapolis. The executed rental dwelling license application personally filed by Mr. Klock lists himself as the owner of the building as well as the property manager responsible for the maintenance and management of the rental property. The application lists Mr. Klock's preferred contact address as 2527 Girard Avenue North, Minneapolis, Minnesota 55411. All notices sent pursuant to this action were duly and properly served upon and received by Mr. Klock at this address, as evidenced by signed certified mail return receipts entered into evidence at hearing. Mr. Klock has owned and managed the subject rental property at all times relevant to this matter dating back to at least 1993.

2 This matter was commenced by the Community Crime Prevention/SAFE Unit of the Minneapolis Police Department in conjunction with the Division of Inspections to revoke the rental dwelling license held by Mr. Klock for the property at 1422 Golden Valley Road, 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) to prevent reoccurrences of such conduct. 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 . . . [and] the unlawful possession, transportation, sale or use of a weapon.”

3 On March 17, 2007, Minneapolis police officers responded to a reported shooting at the premises. A resident of apartment #1 had been shot in the hand. Residents of apartment #2 informed the responding officers that someone from apartment #4 had been shooting an assault rifle within the building. Officers discovered numerous discharged casings and metal jacket fragments in the common areas of the building, bullet holes in the stairwell, and an empty box of cartridges and an empty rifle case within apartment #4. Such firing and use of a weapon within the building by residents or their guests violates M.C.O. § 393.150 and thereby qualifies as an incident of disorderly use of the premises of rental property per M.C.O. § 244.2020(a)(6).

4 On March 29, 2007, Crime Prevention Specialist (CPS) Tim Hammett of the Minneapolis Police Department mailed a First Notice of Conduct on Licensed Premises to Mr. Klock, pursuant to M.C.O. § 244.2020. This notice informed Mr. Klock that there had been an instance of disorderly use at the premises of 1422 Golden Valley Road on or about March 17th, involving unlawful discharge of a firearm. The notice was recorded as a first notice of disorderly use of the premises, informed Mr. Klock 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. Klock that it is a licensee’s affirmative responsibility to take appropriate action following disorderly use by persons occupying the premises.

5 The first notice was mailed via certified mail to the contact address supplied by Mr. Klock at 2527 Girard Avenue North, Minneapolis, Minnesota 55411 and a certified mail receipt was returned confirming the delivery and receipt of the notice.

6 On March 5, 2008, Minneapolis police officers were dispatched to the premises to serve an outstanding arrest warrant on Bobby Fairly, who was known to be residing in Apartment #2. Upon arrival, officers encountered Bobby Fairly’s cousin Jesse Fairly at the rear of the premises. Upon conversing with Jesse Fairly officers discovered that he had numerous baggies of marijuana in his possession. Upon entering apartment #2 the officers encountered

Bobby Fairly sleeping in a bed in a bedroom and additionally discovered a larger quantity of marijuana on a table within the apartment. The marijuana was tested by the Minneapolis Health Department Laboratory and confirmed to be marijuana weighing a total of 51.93 grams. Any amount of marijuana in excess of 42.5 grams does not constitute a "small amount" under Minnesota law and therefore possession of such constitutes a potential felony-level offense pursuant to Minn. Stat. § 152.025. Such possession of marijuana by residents of the property or their guests violates Minn. Stat. § 152.025 and thereby qualifies as an incident of disorderly use of the premises of rental property per M.C.O. § 244.2020(a)(3).

7. On April 23, 2008, Crime Prevention Specialist Tim Hammett of the Minneapolis Police Department mailed a Second Notice of Conduct on Licensed Premises to Mr. Klock, via certified mail and pursuant to M.C.O. § 244.2020. A certified mail receipt was returned confirming delivery of the notice occurred on April 28, 2008.

8. The second notice advised Mr. Klock that a second incident of disorderly use had occurred at the subject property and that he was **required** to respond 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. The notice specifically informed Mr. Klock that failure to submit an acceptable management plan within ten days would constitute independent grounds for the imposition of adverse license action, inclusive of revocation. Because the second notice was delivered on April 28th, Mr. Klock was required to submit a written management plan on or before May 8, 2008.

9. Mr. Klock failed to submit any management plan within the required timeframe. Mr. Klock submitted portions of a purported management plan on dated May 18th and 19th and a purported complete plan on May 22nd, some fourteen days after it was due. The "management plan" submitted by Mr. Klock was grossly deficient, unrealistic and wholly unenforceable. The plan called for Mr. Klock to ban any male visitors to the property and for Mr. Klock to perform full body cavity searches on visitors, amongst other unrealistic and deficient provisions. This unacceptable management plan was rejected by CPS Hammett as being unenforceable and evinces intent on Mr. Klock's behalf to avoid engaging in the proactive management required of him by law.

10. Mr. Klock claimed that he did not submit a management plan during the required ten-day timeframe because he was a defendant in a wholly separate misdemeanor criminal case being prosecuted against him by the City of Minneapolis in which CPS Hammett's name had

appeared in some documentation. Mr. Klock, however, conceded in his testimony that he was under no applicable order of court preventing him from contacting CPS Hammett, the Minneapolis Police Department or the Division of Inspections. The evidence presented at hearing does not establish that Mr. Klock was in any manner legally precluded from submitting the required rental property management plan within the mandated timeframe. Furthermore, when Mr. Klock finally did submit a written management plan its contents were grossly deficient and unenforceable.

11. On June 3, 2008 a Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License was sent to Mr. Klock. The notice advised Mr. Klock that the Inspections Division would recommend to the City Council that his rental dwelling license for 1422 Golden Valley Road be revoked. The notice further advised Mr. Klock of his right to appeal the revocation recommendation to the Rental Dwelling License Board of Appeals and of his right to be represented by an attorney should he so desire. The recommendation was made pursuant to M.C.O. § 244.2020(d) and (e), which require that a license holder submit an acceptable and compliant written management plan within ten days of receipt of a second notice of conduct on licensed premises. The notice was served via certified mail and a receipt was returned confirming the delivery.

12. On June 18, 2008 Mr. Klock filed a proper appeal of the revocation recommendation. The Licensee, in his appeal and in his testimony at hearing, claimed that he worked diligently in an attempt to keep his rental property well maintained. He submitted statements from some of his tenants and nearby neighbors that indicated that the building was physically maintained in an acceptable condition and that he was concerned with the well-being of his tenants and community. However, the City produced numerous impact statements from community members indicating that the property is a long-standing source of criminal and nuisance activity. Evidence establishes that at least eight separate incidents of disorderly behavior at the premises led to issuance of previous notices under M.C.O. § 244.2020 dating back to 1997. Mr. Klock further claimed that the offending parties in the 2007 and 2008 incidents of disorderly use were not residents or guests. However, no evidence was submitted to establish that the offending parties were not residents or guests or that they had somehow broken into the apartment units or were otherwise unknown strangers and trespassers. In fact, the evidence establishes that the parties were related to the tenants or residing or staying within the

apartments Also, the disorderly activity took place within individual affected apartment units as well as within the common areas

CONCLUSIONS

1 The incidents of disorderly use that occurred on and about March 17, 2007 and March 5, 2008 are qualifying instances of disorderly use within the meaning of M C O § 244 2020(a). The Licensee, Morris Klock, failed to submit a timely or acceptable written management plan in relation to these incidents, as required by M C O § 244 2020(d) and (e)

2 The Licensee failed to take timely, appropriate action in response to notices from Community Crime Prevention/SAFE concerning disorderly incidents on the premises of 1422 Golden Valley Road by failing to submit an approved management plan after service of a Second Notice of Conduct on Licensed Premises Therefore, revocation of the referenced rental dwelling license is appropriate under M.C O § 244 2020(e) because (1) the Licensee failed to submit any written management plan within ten days of receipt of the second notice and (2) the only management plan which was eventually and untimely submitted by the Licensee failed to satisfy the requirements for such a plan

3 The Community Crime Prevention/SAFE Unit and the Inspections Division followed the appropriate procedural steps and provided the necessary notices as required under the Minneapolis Code of Ordinances.

4 The subject rental property has been the source of repeated criminal, disorderly and nuisance activity The criminal and disorderly activity at this property has had a substantial and ongoing negative impact on the surrounding community

RECOMMENDATION

That the rental dwelling license held by Morris Klock for the premises at 1422 Golden Valley Road, in Minneapolis, Minnesota be revoked


Brian Bushay
Chair,
Rental Dwelling License Board of Appeals