

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

**In the matter of the Rental  
Dwelling License held by  
Kelly Lamphear-Dash for the  
Premises at 3130 Pillsbury Avenue South,  
Minneapolis, Minnesota**

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

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This matter came on for hearing before the Rental Dwelling License Board of Appeals at 1:30 p.m. on November 13, 2007 in Room 14 of the Minneapolis Public Service Center. Board chair Brian Bushay presided. Other board members present, constituting a quorum, included Clinton T. Blaiser, Daisy Barton, Steve Schachtman and Wayne Jensen. Assistant City Attorney Joel M. Fussy was present as *ex officio* counsel to the board. Lee Wolf, Assistant City Attorney, represented the Inspections Division. The Licensee, Ms. Kelly Lamphear-Dash, appeared at the hearing without legal counsel.

**FINDINGS OF FACT**

1. Kelly Lamphear-Dash holds a rental dwelling license for the multi-unit residential building located at 3130 Pillsbury Avenue South, in the City of Minneapolis. The rental license application personally filed by Ms. Lamphear-Dash on October 12, 2004 lists herself as the owner of the building as well as the property manager responsible for the maintenance and management of the rental property. Ownership of the property was subsequently transferred into the name of a limited liability company (LLC) doing business as “3130 Pillsbury LLC.” Ms. Lamphear-Dash is Chief Operating Officer of this company and correspondence was submitted at hearing indicating that she continued to hold herself out as

“Manager/Owner” of the rental property. Furthermore, pursuant to Section 244.1840(3) of the Minneapolis Code of Ordinances:

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.

Ms. Lamphear-Dash is this identified natural person responsible for the maintenance and management of the subject property pursuant to the rental application on file with the City of Minneapolis.

2. Pursuant to Hennepin County District Court File No. 27-CV-06-21457 (a private lawsuit involving Franklin National Bank against Ms. Lamphear-Dash, her husband and their LLC to which the City of Minneapolis is and was not a party) Franklin National Bank was (1) awarded judgment on multiple loan notes, (2) granted a decree of foreclosure against the property and (3) permitted to have JBL Companies, Inc. appointed receiver of the building. This initial judgment was entered on February 27, 2007. On May 1, 2007 a subsequent order was issued in the case due to “the lack of cooperation from Defendants” with the appointed receiver. The court found that Ms. Lamphear-Dash was still exercising dominion and managerial control over the building—inclusive of collecting the rents—through this period of time. Although JBL Companies remains the court-appointed receiver of the subject property, and although the property remained in foreclosure at the time of hearing in this matter, Ms. Lamphear-Dash and her LLC remain the owner and a responsible interest-holding party under the rental licensing process of the City of Minneapolis.

3. This matter was commenced by the Community Crime Prevention/SAFE Unit of the Minneapolis Police Department in conjunction with the Inspections Division to revoke the interest in the rental dwelling license held by Ms. Lamphear-Dash for the property at 3130 Pillsbury 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). 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."

4. On July 21, 2006 Minneapolis police officers executed a narcotics search warrant on the subject rental property. Specifically, the warrant was obtained after police successfully obtained two separate controlled purchases of crack cocaine from Unit #103 of the building by utilizing a confidential reliable informant. The purchases and related surveillance indicated that narcotics were being sold from the subject property, and specifically from Unit #103. Upon serving the warrant, three individuals were arrested or cited from within the rental unit. Crack cocaine and marijuana were recovered from within the unit along with digital scales and suspected narcotics paraphernalia including glass and metal crack pipes, a large amount of currency and steel wool. The primary resident, Lawanda Oliver, admitted to the arresting officers that she was a resident of the unit and that she had recently smoked crack cocaine in addition to possessing the crack cocaine that was recovered from her. Another resident of the building, Tremaine Shaw, was also arrested or cited during this raid for narcotics offenses. Such possession and sale of controlled substances by residents of the property or their guests violates provisions of Minn. Stat. Ch. 152 and thereby

qualifies as an incident of disorderly use of the premises of rental property per M.C.O. § 244.2020(a)(3).

5. On August 8, 2006 Crime Prevention Specialist (CPS) Tom Thompson of the Minneapolis Police Department mailed a First Notice of Conduct on Licensed Premises to Ms. Lamphear-Dash, pursuant to M.C.O. § 244.2020. This notice informed Ms. Lamphear-Dash that there had been an instance of disorderly use at the premises of 3130 Pillsbury Avenue South on July 21, 2006, involving possession and sale of narcotics. The notice was recorded as a first notice of disorderly use of the premises, informed Ms. Lamphear-Dash 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 her rental dwelling license. The notice cited M.C.O. § 244.2020(a), informing Ms. Lamphear-Dash 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 sent via certified mail to the contact address supplied by Ms. Lamphear-Dash at 2100 1<sup>st</sup> Avenue South, Minneapolis, MN 55404 and a certified mail receipt was returned confirming the delivery and receipt of the notice.

7. On January 31, 2007 Minneapolis police officers served a narcotics search warrant at 3130 Pillsbury Avenue South. The warrant targeted suspected narcotics sales occurring from Unit #307 and was based upon the successful completion of a controlled purchase of crack cocaine by a confidential reliable informant from the unit. Upon execution of the search warrant, officers arrested or cited three individuals from Unit #307. Along with a digital scale and a quantity of small plastic baggies, over 120 grams of crack cocaine were recovered from the premises. Such possession of controlled substances by residents of the

property or their guests violates provisions of Minn. Stat. Ch. 152 and thereby qualifies as an incident of disorderly use of the premises of rental property per M.C.O. § 244.2020(a)(3). All of the arrested individuals from within the unit stated that the tenant on the lease—a Joseph Daniels—had been present in the apartment until a few minutes prior to the raid, indicating that they were each guests of the tenant.

8. On February 7, 2007, Crime Prevention Specialist Tom Thompson of the Minneapolis Police Department mailed a Second Notice of Conduct on Licensed Premises to Ms. Lamphear-Dash, via certified mail and pursuant to M.C.O. § 244.2020.

9. The second notice advised Ms. Lamphear-Dash that a second incident of disorderly use had occurred at the subject property and that the occurrence of a third incident within the following twelve months could result in the revocation of her rental license for the subject property.

10. On April 5, 2007 Minneapolis Police officers served a narcotics search warrant at 3130 Pillsbury Avenue South. The warrant targeted suspected narcotics sales occurring from Unit #204 and was based upon the successful completion of a controlled purchase of crack cocaine by a confidential reliable informant from the unit. Upon execution of the search warrant, officers arrested or cited three individuals from Unit #204. Along with a semi-automatic handgun and two bindles of marijuana, a substance that tested positive as crack cocaine was recovered from within Unit #204. Such possession of controlled substances by residents of the property or their guests violates provisions of Minn. Stat. Ch. 152 and thereby qualifies as an incident of disorderly use of the premises of rental property per M.C.O. § 244.2020(a)(3). Two of the arrested individuals from within the unit stated that

they lived at the residence—a Leroy Ross and Rebecca Goodman—while the third arrested individual was cited for trespass.

11. In addition to the three incidents of disorderly use occurring at the subject property as referenced above, the property has been the subject of a disproportionately high number of police calls for service since acquired by Ms. Lamphear-Dash in 2004. CPS Thompson stated that the residence was renowned as the “worst property” in his sector for criminal and nuisance activity.

12. On May 4, 2007 a Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License was sent to Ms. Lamphear-Dash. The notice advised Ms. Lamphear-Dash that the Inspections Division would recommend to the City Council that her rental dwelling license for 3130 Pillsbury Avenue South be revoked. The recommendation was made pursuant to M.C.O. § 244.2020(f), which authorizes license revocation upon a third such disorderly use of the premises during the requisite period of time. The notice was served via certified mail and a receipt was returned confirming the delivery and receipt of the notice by Ms. Lamphear-Dash at P.O. Box 5528, Hopkins, Minnesota, 55343.

13. On May 18, 2007 Ms. Lamphear-Dash filed a timely and proper appeal of the revocation recommendation. The Licensee, in her appeal and in her testimony at hearing, conceded that the referenced police incidents occurred at the building but asserted several factors in her defense:

- Ms. Lamphear-Dash claimed that she is not the owner of the property and hence is not the proper party in this matter. However, the evidence indicates that the LLC that is the listed owner of the property is controlled by her and that she remains the required identified natural person responsible for the maintenance and management of the property pursuant to M.C.O. § 244.1840(3).

- Ms. Lamphear-Dash claimed that her interest in the rental license at the property may not be revoked because JBL Companies is the court-appointed receiver pursuant to the judgment entered against her in the lawsuit with Franklin National Bank. However, the evidence in the record indicates that Ms. Lamphear-Dash interfered with and failed to cooperate with the receiver until the court was forced to impose its second order in the case on May 1, 2007—well after all three qualifying incidents of disorderly use had occurred. Furthermore, although there was a receiver appointed in this case, Ms. Lamphear-Dash and her LLC have remained the responsible owners and identified contact persons under the auspices of the issued rental license on the property. Finally, the separate litigation indicates that the property went into foreclosure and disrepair based on the failure of Ms. Lamphear-Dash to comply with her legal, economic and fiduciary responsibilities on the property. Ms. Lamphear-Dash’s managerial failures should not and do not provide a loophole or shield from the imposition of adverse license action against the rental license she and her LLC continue to hold on the referenced property.
- Ms. Lamphear-Dash claimed that the first incident of disorderly use is invalid because one of the involved tenants was in the process of being evicted. M.C.O. § 244.2020(g) provides “*No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days after a notice is given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or his/her guests. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee.*” However, the evidence in the record indicates that tenant Lawanda Oliver of Unit #103 was only given a “notice of threat of eviction” on February 27, 2006, well prior to the July 21, 2006 drug raid. Ms. Oliver was given a “notice of eviction” on May 24, 2006 however no records of an actual legal eviction action were ever produced. In fact, the “notice of eviction” simply requested of Ms. Oliver “Please contact me ... as soon as possible to make arrangements to move out.” A subsequent letter from the Section 8 housing subsidy program dated July 10, 2006 did inform Ms. Lamphear-Dash that Ms. Oliver’s housing assistance would be terminated effective July 31, 2006, but this notice does not constitute a formal eviction action and is not indicative of “diligently pursued” eviction proceedings. Furthermore, in addition to Ms. Oliver, two other individuals were arrested or cited in Unit #103 during the July 21<sup>st</sup> drug raid.

## CONCLUSIONS

1. The incidents of disorderly use that occurred on and about July 21, 2006, January 31, 2007, and April 5, 2007 are instances of disorderly use within the meaning of M.C.O. § 244.2020(a).

2. The licensee, Kelly Lamphear-Dash, failed to take timely, appropriate action in response to notices from Community Crime Prevention/SAFE concerning disorderly incidents on the premises of 3130 Pillsbury Avenue South.

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 property has been the source of repeated criminal, disorderly and nuisance activity and has stood boarded and vacant for a substantial period of time. The activities at this property have had a substantial negative impact on the surrounding community.

5. The rental dwelling license held by Kelly Lamphear-Dash for 3130 Pillsbury Avenue South is subject to revocation or suspension pursuant to M.C.O. § 244.2020(f) based on the occurrence of a third incident of disorderly use within the prescribed timeframe. Adequate protection of public health, safety and welfare requires the establishment and enforcement of minimum rental housing and standards. *See* M.C.O. § 244.30. Revocation of the referenced rental dwelling license is an appropriate sanction, pursuant to the cited provisions of the Housing Maintenance Code and as aggravated by the extensive history of criminal and nuisance activity at the premises and the current foreclosed and economically-unstable status of the property.

## **RECOMMENDATION**

That the rental dwelling license held by Kelly Lamphear-Dash for the premises at 3130 Pillsbury Avenue South, in Minneapolis, Minnesota be revoked.

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Brian Bushay  
Chair,  
Rental Dwelling License Board of Appeals