

**CITY OF MINNEAPOLIS
FOR THE DEPARTMENT OF
REGULATORY SERVICES
BEFORE THE
ADMINISTRATIVE HEARING OFFICER**

**In the matter of the Rental
Dwelling Licenses held by
Mohammed Shahidullah For the
Premises at 607 Erie Street S.E.
Minneapolis, Minnesota**

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

The above entitled matter came on for hearing before Administrative Hearing Officer Fabian Hoffner on August 10, 2009, at 3:30 p.m. and September 3, 2009, at 12:30 p.m. at courtroom 310, Minneapolis City Hall, Minneapolis, Minnesota. The City of Minneapolis was represented by Lee C. Wolf, Assistant City Attorney and Janine Atchison, District Manager Department of Housing Inspections. Mohammed Shahidullah, owner of 607 Erie Street S.E. was present.

After considering all of the evidence presented at the hearing and the arguments presented by both parties before, during and after the hearing, the Administrative Hearing Officer makes the following:

FINDINGS OF FACT

Mohammed Shahidullah owns the property located at 607 Erie Street S.E. As the owner of the property, Mohammed Shahidullah applied for and received a rental license for the property. On the rental license application Mohammed Shahidullah was listed as both the owner and the property manager/contact person for the property. Mr. Shahidullah provided

the Minneapolis Housing Inspections Division a contact address of 163 Main Ave. W., Box 907, Winsted, MN 55395.

The property located at 607 Erie Street S.E. is zoned R5/Multiple Family District allowing for six unrelated adults to live at the property. The building records show that the property is legally one dwelling unit with four rooming units.

This matter was commenced by the City of Minneapolis Housing Inspections Division to revoke the rental dwelling license held by Mohammed Shahidullah for the property located at 607 Erie Street S.E. under Minneapolis Code of Ordinances (M.C.O.) § 244.1910 (2), (3) (4) and (19). Section 244.1910 (2), states: Rental dwelling units shall not exceed the maximum number of dwelling units permitted by the zoning code. Section 244.1910 (3), states: 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. Section 244.1910 (4), states: The rental dwelling shall not have been used or converted to rooming units in violation of the zoning code. Section 244.1910 (19) allows the City to revoke a rental license for “good cause”.

On August 29, 2007, Minneapolis Housing Inspector Craig Eliason, sent an appointment letter to conduct a rental licensing inspection at 607 Erie Street S.E. The inspection was scheduled for September 21, 2007, at 1:30 p.m. On the date of the scheduled appointment the owner, Mohammed Shahidullah did not appear at the property and a no-show letter was sent and the inspection rescheduled for February 5, 2008, at 2:00 p.m. On February 5, 2008, Inspector Eliason was allowed access to the property by one of the tenants and conducted a rental license inspection.

The inspection revealed that the property was being used in a manner inconsistent with the allowed use of one dwelling unit and four rooming units. Inspector Eliason observed more than four bedrooms that had individual hasps and paddle locks on the doors, including illegal rooming units in the basement. In addition the tenant who allowed access to the property discussed with Inspector Eliason the living arrangements of the other tenants. Based upon his observations Inspector Eliason placarded the building with a placard of illegal occupancy. The placard stated that the structure at 607 Erie Street S.E. had been illegally altered and illegally occupied; the placard ordered the building to be vacated if corrections were not made by April 1, 2008. On February 6, 2008, Inspector Eliason issued written orders to the owner, Mohammed Shahidullah, to revert the building to its authorized construction and occupancy. The violation notice gave a compliance date of April 1, 2008, and also informed the owner how to file an appeal with the Zoning Department if he believed that the property had any non-conforming rights.

During his February 5, 2008, inspection, Inspector Eliason observed work that had been done at the property without proper permits. Inspector Eliason specifically pointed out new sheetrocking of the newly constructed basement bedrooms and the construction of a basement bathroom and illegal wiring. Inspector Eliason, per his usual practice in conducting a rental licensing inspection of the property, reviewed the permit history of 607 Erie Street S.E. and discovered that there had been no permits for any of the new construction or wiring that he observed at the property.

On March 17, 2008, Inspector Eliason conducted a re-inspection of the property located at 607 Erie Street S.E. At the March 17, 2008, inspection Inspector Eliason wrote several orders for violations of the housing maintenance code but found that the orders to

revert the building back to its authorized construction and occupancy had been corrected. The violations of the housing maintenance code consisted of items such as replace door hardware, ceilings, handrails, guardrails, some electrical work, providing ventilation for bathroom, and replacing or repairing defective electrical fixtures. Inspector Eliason then transferred to the Licenses and Consumer Services Division within the City and his orders were transferred to Inspector Sara Maxwell.

On March 3, 2009, the Minneapolis Housing Inspections Division received a complaint that there were up to ten (10) persons living at 607 Erie Street S.E. On March 26, 2009, Housing Inspector Sara Maxwell conducted an inspection of 607 Erie Street S.E. in response to the received complaint. Inspector Maxwell found that there was no separate dwelling unit as the whole property was open to all residents with no specific area that was separated and lockable for one unit and the kitchen was accessible to all residents. Inspector Maxwell found there were three persons living in the basement bedrooms, three persons occupying the first floor, four units occupied on the second floor and one person living in the attic.

Inspector Maxwell found that the entire building was being used as rooming units and further found that there were approximately ten to twelve persons living in the building. Based upon these observations Inspector Maxwell, on April 2, 2009, issued orders to revert the building to its authorized construction and occupancy. The Inspector's comments read "all rooms (3) in basement, (4) on 1st floor (1 vacant) and (4) on second floor are being rented as rooming units all have access to kitchen and all have keys locks on doors." The owner was given until May 1, 2009, to make the corrections. Inspector Maxwell also placarded the property with an Unlawful Occupancy notice which indicated that the property was illegally

occupied as the dwelling unit was converted to rooming units, a second placard of Unlawful Occupancy noticed that the building was over-occupied on the 1st floor and the basement. Both placards gave a vacation date of May 1, 2009, if the violations were not corrected. Inspector Maxwell also wrote orders on April 2, 2009, to discontinue the unlawful occupancy of the illegal attic unit and placarded the building with another Unlawful Occupancy notice regarding the illegal attic occupancy, the owner was again given until May 1, 2009, to correct the violation.

Inspector Maxwell also conducted an exterior inspection of the property and observed a porch area of the property that was constructed without a permit having been obtained. Inspector Maxwell issued numerous orders regarding violations of the housing maintenance code, which included such items as provide smoke detectors, provide carbon monoxide detectors, repair or remove illegal wiring, repair defective electrical fixtures. Inspector Maxwell conducted various follow-up inspections and observed that the owner has corrected a number of the violations.

Based upon the second violation of M.C.O. § 2244.1910 (2), (3) & (4), on April 3, 2009, a Notice of Revocation, Denial, Non-Renewal or Suspension of rental license for the property located at 607 Erie Street S.E., was sent to Mohammed Shahidullah. The Notice of Revocation also noticed that the revocation action was being based upon "Good Cause" pursuant to M.C.O. § 244.1910 (19). On April 22, 2009, a letter was received from the owner, Mohammed Shahidullah, and accepted as an appeal of the Notice of Revocation, Denial, Non-Renewal or Suspension.

CONCLUSIONS OF LAW

The City of Minneapolis Department of Housing Inspections issued valid orders, for a violation of M.C.O. § 244.1910 (2), (3) and (4) which require that rental properties in the City of Minneapolis not exceed the maximum number of dwelling unit allowed by the zoning code, that they not be over-occupied or illegally occupied in violation of the zoning code or the housing maintenance code, and that rental properties not be converted to rooming units in violation of the zoning code. The Department followed proper procedure in issuing a Notice of Non-Compliance, pursuant to M.C.O. § 244.1930 (b), which gave the owner fifteen days to bring the property into compliance with licensing standards M.C.O. § 244.1910 (2), (3) and (4).

On a second occasion, within a year and a half of the first violation, the City of Minneapolis Department of Housing Inspections issued valid orders, for a violation of M.C.O. § 244.1910 (2), (3) and (4) which require that rental properties in the City of Minneapolis not exceed the maximum number of dwelling unit allowed by the zoning code, that they not be over-occupied or illegally occupied in violation of the zoning code or the housing maintenance code, and that rental properties not be converted to rooming units in violation of the zoning code.

M.C.O. § 244.1940 states: "If after any period for compliance under section 244.1930 has expired, the director determines that the dwelling fails to comply with any of the licensing standards in sections 244.1910 or 244.1920, or the director has initiated an action to deny, revoke, suspend, or not renew a license pursuant to section 244.2020, the director shall mail the owner a notice of denial, non-renewal, revocation, or suspension of the license or provisional license." In this matter the property at 607 Erie Street S.E. was found to be in

violation of M.C.O. § 244.1910 (2), (3) and (4) on February 5, 2008. After the period for compliance had expired the property was again found to be in violation of M.C.O. § 244.1910 (2), (3) and (4) on March 26, 2009.

The Department followed proper procedure in issuing a Notice of Revocation, Denial, Non-Renewal, or Suspension based upon the second violation of M.C.O. § 244.1910 (2), (3) and (4).

M.C.O. § 244.1910 (19) states: "The provisions of this section are not exclusive. Adverse license action may be based upon good cause as authorized by Chapter 4, Section 16 of the Charter. The Department followed proper procedure in issuing a Notice of Revocation, Denial, Non-Renewal, or Suspension based upon M.C.O. § 244.1910 (19) based upon the continued violations of the housing maintenance code that have occurred and continue to occur at 607 Erie Street S.E. and the amount of un-permitted work that has occurred at 607 Erie Street S.E. It appears that the owner simply does what he wants at the property and will only make corrections or comply with the maintenance code or obtain the proper permits after violations have been detected by Department staff.

RECOMMENDATION

That the rental dwelling license held by Mohammed Shahidullah for the property located at 607 Erie Street S.E., Minneapolis, Minnesota be revoked.

Dated Nov 5 2009



FABIAN HOFFNER
ADMINISTRATIVE HEARING OFFICER