

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

Date December 13, 2006

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

Referral to City Council

Subject **Rental Dwelling License Revocation-** 3001 James Ave North, 1412 8th Street SE, 818 University Ave NE, 1607 Hollywood Ave NE, 3955 Emerson Ave North, 2900 Emerson Ave North, 3620 Longfellow Ave, 3223 Washburn Ave North, 3750 Queen Ave North, 736 Madison Street NE, and 3858 Sheridan Ave North - **Owner** Scott L. Feyereisen

Recommendation: On November 14, 2006 this item was heard by the Rental License Board of Appeals. Pursuant to Section 244.1960 (f) of the Minneapolis Code of Ordinances, the Rental Licensing Board Members are requesting approval from the City Council for the revocation of the Rental Dwelling Licenses held by Scott L. Feyereisen. Additionally, that by operation of M.C.O. § 244.1910(13) Mr. Feyereisen be deemed ineligible to hold or have an interest in a rental dwelling license issued by the City of Minneapolis for a period of five (5) years from the effective date of this action..

The Director of Inspections recommends that the City Council revoke, deny, non-renew the rental dwelling licenses held by Scott L. Feyereisen for properties at 3001 James Ave North, 1412 8th Street SE, 818 University Ave NE, 1607 Hollywood Ave NE, 3955 Emerson Ave North, 2900 Emerson Ave North, 3620 Longfellow Ave, 3223 Washburn Ave North, 3750 Queen Ave North, 736 Madison Street NE, and 3858 Sheridan Ave North., pursuant to MCO 244.1910(13). (See enclosed Recommendation to Revoke Rental Dwelling License, and supporting documentation packet.)

Previous Directives None

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

Approved by: _____ Date _____
JoAnn Velde, Deputy Director Housing Inspection Services

Approved by: _____ Date _____
Henry Reimer, Director of Inspections

Approved by: _____ Date _____

Rocco Forte, Assistant City Coordinator

Date

Permanent Review Committee (PRC) Approval _____ Not Applicable

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

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)

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

Background/Supporting Information Attached

See: Findings of Fact

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

In the matter of the Rental

Dwelling Licenses held by

Scott Feyereisen for the

Premises at 3001 James Ave N,

1412 8th Street SE, 818 University Ave NE,

1607 Hollywood Ave NE, 3955 Emerson Ave N,

2900 Emerson Ave N, 3620 Longfellow Ave N,

3223 Washburn Ave N, 3750 Queen Ave N,

736 Madison Street NE, & 3858 Sheridan Ave N

in Minneapolis, Minnesota.

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

This matter came on for hearing before the Rental Dwelling License Board of Appeals at 1:30 p.m. on November 14, 2006 in Room 14 of the Minneapolis Public Service Center. Board Chair Brian Bushay presided. Other board members present included Clinton Blaiser, Daisy Barton, Steve Schachtman and Wayne Jensen. Board members Paul Thomas Kjornes and Fathia Warsame were not present. 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, Scott Feyereisen, was present and represented by his attorney Jaren Johnson.

FINDINGS OF FACT

1. Scott Feyereisen holds rental dwelling licenses for the eleven (11) residential buildings referenced in the caption of this matter. All eleven residential buildings are located within the corporate limits of the City of Minneapolis. The rental license applications personally filed by Mr. Feyereisen list himself as the owner of the buildings and Phyllis E. Johnson as the property manager responsible for the maintenance and management of the rental properties as well as the agent/contact person authorized to receive all notices from the Inspections Division. Both Mr. Feyereisen and Ms. Johnson signed each application and by doing so affirmed the following statement: "I CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT AND I UNDERSTAND ALL MAILINGS FROM INSPECTIONS DIVISION INCLUDING THE ANNUAL RENTAL LICENSE BILLING STATEMENT WILL BE MAILED TO THE APPOINTED AGENT/CONTACT PERSON UNLESS INSPECTIONS DIVISION IS NOTIFIED OF ANY CHANGES." The applications filed by Mr. Feyereisen and Ms. Johnson list Ms. Johnson's preferred contact address as 1406 West Lake Street #205, Minneapolis, Minnesota, 55408 (with the exception of the application for the premises at 2900 Emerson Ave N for which the Licensee's submitted application contained a typographical error and the address appeared as 406 West Lake Street; this error did not substantially effect the notifications or proceedings in this matter and is attributable to the Licensee).

2. This matter was commenced by the Inspections Division to revoke the rental dwelling licenses held by Mr. Feyereisen for the eleven referenced properties under Minneapolis Code of Ordinances (hereinafter "M.C.O.") § 244.1910, Licensing standards. Additionally, the Inspections Division seeks to declare Mr. Feyereisen to be ineligible to hold an interest in any rental dwelling license for a period of five years. Section 244.1910, Licensing standards, provides in Subsection 13 "*Any person(s) who has had an interest in two (2) or more licenses*

revoked pursuant to this article or canceled pursuant to section 244.1925 or a combination of revocations or cancellations shall be ineligible to hold or have an interest in a rental dwelling license or provisional license for a period of five (5) years.” Section 244.1925, Condemned and boarded buildings, provides that *“When a building is condemned as hazardous or unfit for human habitation due to defects in its structure or its electrical, plumbing, or mechanical systems, or boarded under Minnesota Statutes, Section 463.251, requiring a code compliance inspection prior to reoccupancy, the rental dwelling license shall be cancelled on the effective date of the condemnation or boarding. The dwelling shall be eligible to hold a rental dwelling license upon issuance of a code compliance certificate..”*

3. Notices of Director’s Determination of Noncompliance were mailed to Mr. Feyereisen and Ms. Johnson on all eleven properties on September 14, 2006. Notices of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License were mailed to Mr. Feyereisen and Ms. Johnson on all eleven properties on October 3, 2006. The notices were mailed to the correct mailing addresses that Mr. Feyereisen and Ms. Johnson personally supplied on the affected rental license applications and their receipt was not contested at the hearing in this matter.

4. On October 5, 2006 Mr. Feyereisen filed a due and proper appeal of each revocation recommendation. The Licensee, in his appeal letter and through his testimony at the hearing before the Board in this matter, did not substantially dispute the existence or procedural propriety of the alleged condemnations and outstanding assessments and taxes, but instead stated that the issues were largely attributable to his own financial difficulties. Additionally, the Licensee, as backed by his sole witness David Epstein—a real estate entrepreneur assisting him in selling his Minneapolis properties, stated that he did not oppose the revocation recommendations made on some of the affected buildings and only wanted some additional time on the others in order to pursue sales of the properties, address tenant relocation issues and to

hopefully avoid potential negative effects that the revocations might have on his planned divestment of the properties. The Licensee did raise some procedural objections to the ordinance-supported policy of the Inspections Division of mailing violation notices only to the contact agent of record per M.C.O. § 244.1840. However, these objections were based on policy concerns and did not address the legality of the Inspections Division's amply-supported practice. Finally, the Licensee raised some concerns regarding the high amount of delinquent administrative citation assessments levied against some of his affected properties, which form a basis for some of the revocation recommendations under M.C.O. § 244.1910. Chapter 2 of the Minneapolis Code of Ordinances, Administrative Enforcement & Hearing Process, establishes the propriety of the escalating administrative citation amounts and provides for an appeals process with which to challenge the imposition of administrative fines. The Licensee did not avail himself of this appeal avenue and the delinquent citation amounts are therefore vested.

5. **3955 Emerson Ave N:** The evidence admitted and testimony adduced at the hearing in this matter established that Inspector Farrokh Azmoudeh is an experienced Minneapolis Housing Inspector who possesses ample training as well as an advanced graduate degree in the field of housing inspections and planning. Inspector Azmoudeh issued a proper Letter of Intent to Condemn (LINT) the property on June 5, 2006 (posted to the building on June 1, 2006) based on the fact that the building was boarded after being found to be open to trespass. After the expiration of the LINT without the abatement of the cited conditions the property was duly condemned on August 11, 2006 (posted to the building on August 10, 2006). The subsequent revocation recommendation made by the Inspections Division was based upon the existence of two condemnations of licensed rental properties of Mr. Feyereisen (this property as well as 818 University Ave NE, as discussed *infra*, per M.C.O. § 244.1910(13)) as well as multiple documented delinquent assessments on the property involving charges for grass and weed cutting and debris and rubbish removal, per M.C.O. § 244.1910(11).

6. **818 University Ave NE:** The evidence admitted and testimony adduced at the hearing in this matter established that Inspector Bryan Starry is an experienced Minneapolis Housing Inspector who possesses ample training and experience in housing inspections, carpentry and building trades as well as certification from the International Code Council (ICC). Inspector Starry issued a proper Letter of Intent to Condemn (LINT) the property on July 11, 2006 (posted to the building on July 6, 2006) based on the fact that the building was boarded after being found to be open to trespass. After the expiration of the LINT without the abatement of the cited conditions the property was duly condemned on September 11, 2006 (posted to the building on the same date). The subsequent revocation recommendation made by the Inspections Division was based upon the existence of two condemnations of licensed rental properties of Mr. Feyereisen (this property as well as 3955 Emerson Ave N, as discussed *supra*) as well as multiple documented delinquent assessments on the property involving charges for grass and weed cutting and debris and rubbish removal as well as delinquent administrative citation charges.

7. **3001 James Ave N:** The revocation recommendation made by the Inspections Division on this property was based upon the existence of two condemnations of licensed rental properties of Mr. Feyereisen (the properties at 3955 Emerson Ave N and 818 University Ave NE, as discussed *supra*) as well as multiple documented delinquent assessments on the property involving charges for grass and weed cutting and debris and rubbish removal as well as delinquent administrative citation charges. The revocation recommendation was also predicated upon M.C.O. § 244.1910(5): *“The owner shall not suffer or allow weeds, vegetation, junk, debris, or rubbish to accumulate repeatedly on the exterior of the premises so as to create a nuisance condition under section 227.90 of this Code. If the city is required to abate such nuisance conditions under section 227.100 or collect, gather up or haul solid waste under section 225.690 more than three (3) times under either or both sections during a period of twelve*

(12) months or less, it shall be sufficient grounds to deny, revoke, suspend or refuse to renew a license.” The Inspections Division was forced to abate nuisance debris and vegetation issues at the property at least six (6) times in 2006 as evidenced by the assessment documentation entered into the record at the hearing in this matter.

8. **1412 8th Street SE:** The revocation recommendation made by the Inspections Division on this property was based upon the existence of two condemnations of licensed rental properties of Mr. Feyereisen (the properties at 3955 Emerson Ave N and 818 University Ave NE, as discussed *supra*) as well as documented delinquent property taxes owing on the property.

9. **1607 Hollywood Ave NE:** The revocation recommendation made by the Inspections Division on this property was based upon the existence of two condemnations of licensed rental properties of Mr. Feyereisen (the properties at 3955 Emerson Ave N and 818 University Ave NE, as discussed *supra*).

10. **2900 Emerson Ave N:** The revocation recommendation made by the Inspections Division on this property was based upon the existence of two condemnations of licensed rental properties of Mr. Feyereisen (the properties at 3955 Emerson Ave N and 818 University Ave NE, as discussed *supra*) as well as multiple documented delinquent assessments on the property involving charges for grass and weed cutting.

11. **3620 Longfellow Ave N:** The revocation recommendation made by the Inspections Division on this property was based upon the existence of two condemnations of licensed rental properties of Mr. Feyereisen (the properties at 3955 Emerson Ave N and 818 University Ave NE, as discussed *supra*) as well as multiple documented delinquent assessments on the property involving administrative citation charges.

12. **3223 Washburn Ave N:** The revocation recommendation made by the Inspections Division on this property was based upon the existence of two condemnations of licensed rental properties of Mr. Feyereisen (the properties at 3955 Emerson Ave N and 818

University Ave NE, as discussed *supra*) as well as multiple documented delinquent assessments on the property involving administrative citation charges.

13. **3750 Queen Ave N:** The revocation recommendation made by the Inspections Division on this property was based upon the existence of two condemnations of licensed rental properties of Mr. Feyereisen (the properties at 3955 Emerson Ave N and 818 University Ave NE, as discussed *supra*) as well as multiple documented delinquent assessments on the property involving charges for rubbish removal as well as delinquent administrative citation charges and delinquent property taxes.

14. **736 Madison Street NE:** The revocation recommendation made by the Inspections Division on this property was based upon the existence of two condemnations of licensed rental properties of Mr. Feyereisen (the properties at 3955 Emerson Ave N and 818 University Ave NE, as discussed *supra*) as well as multiple documented delinquent assessments on the property involving charges for grass and weed cutting and debris and rubbish removal as well as delinquent administrative citation charges.

15. **3858 Sheridan Ave N:** The revocation recommendation made by the Inspections Division on this property was based upon the existence of two condemnations of licensed rental properties of Mr. Feyereisen (the properties at 3955 Emerson Ave N and 818 University Ave NE, as discussed *supra*) as well as multiple documented delinquent assessments on the property involving charges for debris and rubbish removal as well as delinquent administrative citation charges.

CONCLUSIONS

1. The Inspections Division followed the appropriate procedural steps and provided the necessary notices as required under the Minneapolis Code of Ordinances with regard to its recommendations to revoke the rental dwelling licenses currently held by Scott Feyereisen for

the eleven (11) residential properties referenced in the caption of this matter, all located in the City of Minneapolis.

2. The eleven (11) referenced rental dwelling licenses held by Scott Feyereisen are subject to revocation under M.C.O. § 244.1910(13), which provides for revocation of all rental dwelling licenses held by any individual who has had an interest in two or more such licenses revoked or cancelled through condemnation of the affected buildings under M.C.O. § 244.1925. Revocation of **all** referenced rental dwelling licenses is appropriate under this provision.

3. Additionally and independently from the revocation basis found to exist in Conclusion #2, *supra*, the rental dwelling licenses referenced in Findings #5 through #8 and Findings #9 through 15, *supra*, held by Scott Feyereisen are also subject to revocation under M.C.O. § 244.1910(11), which provides that “[t]here shall be no delinquent property taxes or assessments on the rental dwelling” and further provides that “[f]ailure to comply with any of these standards and conditions shall be adequate grounds for the denial, refusal to renew, revocation, or suspension of a rental dwelling license or provisional license.”

4. Additionally and independently from the revocation bases found to exist in Conclusions #2 and #3, *supra*, the rental dwelling license referenced in Finding #7, *supra*, held by Scott Feyereisen is also subject to revocation under M.C.O. § 244.1910(5), which provides that “The owner shall not suffer or allow weeds, vegetation, junk, debris, or rubbish to accumulate repeatedly on the exterior of the premises so as to create a nuisance condition under section 227.90 of this Code. If the city is required to abate such nuisance conditions under section 227.100 or collect, gather up or haul solid waste under section 225.690 more than three (3) times under either or both sections during a period of twelve (12) months or less, it shall be sufficient grounds to deny, revoke, suspend or refuse to renew a license.”

5. Additionally, by operation of M.C.O. § 244.1910(13) Scott Feyereisen is ineligible to hold or have an interest in any subsequent rental dwelling licenses issued by the City

of Minneapolis for a period of five years as measured from the effective date the revocations, which will occur upon approval of this action by the Minneapolis City Council and official publication thereof.

RECOMMENDATION

That the rental dwelling licenses held by Scott Feyereisen for the premises at 3001 James Ave N, 1412 8th Street SE, 818 University Ave NE, 1607 Hollywood Ave NE, 3955 Emerson Ave N, 2900 Emerson Ave N, 3620 Longfellow Ave N, 3223 Washburn Ave N, 3750 Queen Ave N, 736 Madison Street NE, and 3858 Sheridan Ave N, in Minneapolis, Minnesota be revoked. Additionally, that by operation of M.C.O. § 244.1910(13) Mr. Feyereisen be deemed ineligible to hold or have an interest in a rental dwelling license issued by the City of Minneapolis for a period of five (5) years from the effective date of this action.

Brian Bushay
Chair,
Rental Dwelling License Board of Appeals