

**CITY OF MINNEAPOLIS
FOR THE DEPARTMENT OF
REGULATORY SERVICES**

BEFORE THE

ADMINISTRATIVE HEARING OFFICER

**In the matter of the Rental
Dwelling License held by
Spiros Zorbalas, Mary Brandt,
SZ112, Inc. S1322, Inc. & R110, Inc. for
the Premises at 905 Franklin Avenue, 3725
Cedar Avenue and 1830 Stevens Avenue
Minneapolis, Minnesota**

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

The above-entitled matter came before Administrative Hearing Officer Fabian Hoffner on September 22, 2010, September 24, 2010, November 12, 2010, December 15, 2010, December 17, 2010, December 28, 2010 and December 29, 2010, in Courtroom 310, City Hall, Minneapolis, Minnesota. The City of Minneapolis, Department of Regulatory Services, Housing Inspections Division (“City”) was represented by Lee C. Wolf, Assistant City Attorney. Nicholas Eugster, Esq., represented Respondents.

INTRODUCTION

The City moved to revoke the residential rental licenses given by it to three corporations, SZ112, Inc., S1322, Inc., and R110, Inc. for numerous violations of the Minneapolis rental code. The City alleges that each individual license should be revoked for these violations. In addition, the City alleges that Spiros Zorbalas (“Zorbalas”) has an interest

in all these properties and that he has created these “shell” corporations in order to avoid its necessary regulations. Consequently, it follows that the City is asking not only that the individual licenses be revoked but that Zorbalas’ right to hold licenses be revoked for a period of five years.¹

The corporations counter that they did not violate the rental license ordinance and that their licenses should not be revoked. Moreover, they argue each license is owned by a separate entity and each entity is unrelated to the other. In addition, Zorbalas testified that he does not own the corporations, but that he owns the company that manages the corporations.

Based upon the submissions by the parties, the arguments of counsel, the evidence and documents admitted at trial, and the record as a whole, the Administrative Hearing Officer finds that the City has met its burden to prove its allegations above and recommends that the Minneapolis City Council (“Council”) REVOKE the Rental Dwelling Licenses of SZ112, Inc., S1322, Inc., and R110, Inc. in the premises listed.

Moreover, if the Council revokes the licenses based upon this Order and Recommendation, the City has met its burden of proof that Spiros Zorbalas (“Mr. Zorbalas”) and his wife Mary Brandt (“Mrs. Zorbalas”) are persons who have “an interest in two... or more licenses revoked” and are thereby “ineligible to hold or have an interest in a rental dwelling license ... for a period of five... years.” Id. (emphasis added).

Therefore, the Administrative Hearing Officer recommends that Mr. and Mrs. Zorbalas be held INELEGIBLE to hold or have any interest in a rental license for five years.

¹ The Minneapolis Code of Ordinances provides that “[a]ny person(s) who has had an interest in two...or more licenses revoked pursuant to this article...shall be ineligible to hold or have an interest in a rental dwelling license or provisional license for a period of five...years.” M.C.O. § 244.1910 subd. 13 (2011).

FINDINGS OF FACT

1. The City seeks to revoke the three subject rental dwelling licenses pursuant to M.C.O. § 244.1910(17)(2011). The rental license revocation actions for all three properties were cited for violations of M.C.O. § 244.1910 (17) and (19).^{2 3}

2. The City seeks to revoke the rental dwelling licenses of three license holders. On June 23, 2010, Malcolm Terry, Esq., filed appeals of the rental license revocation action for the properties subject to the Department's June 9, 2010, Revocation Notices. (Exhibits N, S & W). Based upon Appellants' appeals, the revocation actions for the three properties were set for September 22 and 24, 2010.

3. The three rental dwelling license holders are S1322, Inc. at 3725 Cedar Avenue, R110, Inc. at 1830 Stevens Avenue, and SZ112, Inc. at 905 Franklin Avenue⁴, which are Florida for-profit corporations⁵ that own assets in various states, including Minnesota.

4. Mr. Zorbalas in an officer in each of the three Respondent Companies.

5. Mr. Zorbalas owns and is Managing Director of United Property Management Group, Inc. ("UPi, Inc.").

6. Mr. Zorbalas receives income from UPi, Inc.

² "Licensing standards. The following minimum standards and conditions shall be met in order to hold a rental dwelling license under this article. Failure 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." M.C.O. § 244.1910(2011).

³ An owner shall not have any violations of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, at any rental dwelling which they own or have an ownership interest. A violation of Minnesota Rule Chapter 1300.0120 subpart 1 shall result in a director's determination of noncompliance notice being sent, pursuant to 244.1930 to the owner regarding the rental dwelling where the violation occurred. A second violation, at any rental dwelling in which the owner has an ownership interest, of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, shall result in the issuance of a director's notice of denial, non-renewal, or suspension of the license or provisional license, pursuant to 244.1940 of the Code, for the rental dwelling where the second violation occurred. Id.

⁴ All addresses are within the City of Minneapolis, County of Hennepin, State of Minnesota.

⁵ See, eg. Exhibits G, H, and I, respectively.

7. UPi Management Group, Inc. receives its income from the Management of Respondent Corporations. Mr. Zorbalas' income depends largely or in part on the income of the Respondent Corporations.

8. The corporate address for all the Respondent corporations is 117 St. James Way, Naples, FL.

9. 117 St. James Way, Naples, FL is Mr. Zorbalas' home address.

10. Mary Brandt ("Mrs. Zorbalas") is listed as the local contact for all the Respondent Corporations. Mr. Zorbalas is listed as taxpayer of record for the Respondent Corporations.

11. Mary Brandt is married to Mr. Zorbalas.

12. Mr. and Mrs. Zorbalas have, through their ownership of UPi, Inc, "an interest" in Respondent Corporations.

905 Franklin Violations

1.

Illegal Boiler Installation

13. On September 29, 2008, Mechanical Inspector Tim Daugherty ("Inspector Daugherty") conducted an inspection at 905 Franklin Avenue, Minneapolis, MN. While at the property, Inspector Daugherty observed new boilers being installed at the property, that there was asbestos chunks scattered all over the boiler room, and that gas piping was missing

the main gas regulator. Inspector Daugherty, red tagged⁶ the boilers due to concern for the health and welfare of the tenants of the building.

14. Inspector Daugherty reviewed the permit history and found that no permits had been issued or applied for, in regards to the work that had been completed on the boilers at 905 Franklin Avenue. (Trans. 295-301).

15. The law requires that the Respondents obtain a permit before installing a boiler.

16. A boiler was installed at 905 Franklin Ave.

17. No permit was applied for or granted for the boiler installation at 905 Franklin Ave. before October 24, 2008.

18. On September 30, 2008, Inspector Daugherty issued an administrative citation to Mary Brandt for the failure to obtain a permit for the installation of the new steam boilers, gas piping, and venting in violation of State Building Code § 1300.0120, at 905 Franklin Avenue. (Exhibit 19). That citation is upheld in its entirety.

19. The installation of a boiler without a proper City permit is a dangerous health and safety violation contrary to the ordinances of the City of Minneapolis.⁷ Moreover the violation is the culmination of years of violations.

2.

Illegal Water Heater Installation

⁶ Red Tagging is a notification of an immediate hazard or safety issue related to a furnace or boiler. It always results in the unit being shut-off or having its energy source (usually gas or propane) being locked or closed to prevent any operation of the heating plant.

⁷ The permit was finally issued and closed on when the corrections were completed.

20. Upon arriving at the property, Inspector Daugherty, along with Inspectors John Lampert and Joe Stromeier observed that the low water cutoffs for the boilers did not work and the supervised start-up was cancelled and the work scheduled to be finished at a later date. (Trans. p. 306).

21. While at 905 Franklin Avenue on April 22, 2009, Inspectors Daugherty and Lampert observed water heaters that appeared to be newly installed in the boiler room. Inspectors Daugherty and Lampert ran checks on their laptops and found that no permits had been pulled for the installation of the water heaters. (Trans. 304-308).

22. Inspector Daugherty is an expert inspector who works full time for the City making determinations about the installations of, among other things, water heaters. His testimony is accepted as credible.

23. Inspector Lampert is an expert inspector who works full time for the City making determinations about the installations of, among other things, water heaters. His testimony is accepted as credible.

24. Inspectors Daugherty and Lampert both testified in their expert opinion that the water heaters in the premises at 905 Franklin were newly installed.

25. Mr. Romero, maintenance manager for UPi, Inc. testified that they the water heaters in 905 Franklin were installed prior to 2004. His testimony is rejected as not credible.

26. Mr. Zorbalas testified that the water heaters were installed before 2004 or before he was involved in the property. His testimony is rejected as not credible.

27. Water Heaters were installed on the premises of 905 Franklin without permit.

28. On May 13, 2009, after observing the violations photographed by Inspectors Daugherty and Lampert, Plumbing Inspector Brad Dvorak issued an administrative citation

for the installation of the water heaters without a permit, in violation of Minnesota State Building Code § 1300.0120. (Exhibit 22). That Citation is upheld in its entirety.

29. The installation of a water heater without a proper City permit is a health and safety violation contrary to the ordinances of the City of Minneapolis.⁸ Moreover the violation is the culmination of years of violations.

3.

Good Cause

30. The City also seeks to revoke the three subject rental dwelling licenses pursuant to M.C.O. § 244.1910(19), and Chapter 4, Section 16 of the Minneapolis charter for “other good cause”. From 2006, until the rental license revocation proceeding began in June of 2010, the property located at 905 Franklin Avenue has been the subject of numerous orders for violations of the housing maintenance code. They are longstanding and recent.

31. Many of the written orders required immediate attention, such as low heat, damaged electrical fixtures, damaged plumbing fixtures, and failure to provide hot water to units.

32. The large numbers of violations reflects poorly on management of the property and is a drain on the resources of the Department. Moreover, the violations are a danger to the health and safety of the citizens of the City of Minneapolis. Consequently, the City has shown good cause to revoke the rental license at 905 Franklin Ave.

⁸ On August 27, 2009, a permit was issued for the corrections to the installation of the water heaters and the permit was closed on November 16, 2009, when the corrections were completed. (Trans. p. 332).

3725 Cedar Avenue Violations

1.

Illegal and Unpermitted Work

Drywall

32. On December 23, 2008, a fire occurred in unit 314 of 3725 Cedar Avenue. (Trans. p. 71).

33. On February 17, 2009, Fire Inspector Joe Larson received a complaint that work was being conducted in unit 314 without a permit. (Trans. p. 70). Inspector Larson went to the property in response to the complaint and was let into unit 314 by persons working on the unit. (Trans. p. 71).

34. Inspector Larson observed that gypsum board had been installed in unit 314 and observed exposed electrical outlets and switches hanging from the walls. (Id.). Inspector Larson took photographs of the work being completed and forwarded the information to Inspector Vicki Carey, the person responsible for reviewing unpermitted work complaints. (Trans. p. 72).

35. Inspector Larson testified that the installation of the gypsum was not ordinary in nature. He testified and the evidence shows that it was a major rehabilitation of the apartment. His testimony is based upon his years of experience working as a fire inspector and is credible and accepted as fact. Mr. Zorbalas testified that he had permission from the City to perform the work and that the work was ordinary in nature. His testimony is rejected and is not credible.

36. After reviewing the photographs taken by Inspector Larson, Inspector Carey reviewed the permit history for 3725 Cedar Avenue and found there had been no permits issued for the drywall work completed in unit 314.⁹ (Trans. p. 156).

37. The drywall work performed at 3725 Cedar Avenue Unit 314 required a permit. The drywall work at 3725 Cedar Avenue Unit 314 was performed without a permit and contrary to law.

Electrical

38. Unit 314 required substantial electrical work. The evidence shows that electrical cords were hanging loose from the walls and that electrical outlets were uncapped.

39. Fire Inspector Larson testified that when sheetrock walls are taken off and wiring is exposed and rerouted in any way, an electrical permit is required. He testified that the work performed was not minor in nature and must be performed by a licensed electrician. Consequently, the work was not exempt from permit requirements pursuant to Maintenance Code § 1300.0120, Sub. 5 and Minn. Stat. § 326B.36.

40. Inspector Larson's testimony is based upon his years of experience working as a fire inspector and is credible and accepted as fact. Mr. Zorbalas testified that he had permission from the City to perform the work and that the work was ordinary in nature. His testimony is rejected and is not credible.

41. The electrical work performed at 3725 Cedar Avenue required a permit. The electrical work at 3725 Cedar Avenue was performed without a permit and contrary to law. The facts alleged by the City are upheld in their entirety.

⁹ On March 23, 2009, the permit for the outfitting of new drywall for unit 314 was obtained and Inspector Carey's orders were closed. (Trans. p. 158).

2.

Good Cause

42. The City also seeks to revoke the three subject rental dwelling licenses pursuant to M.C.O. § 244.1910(19), and Chapter 4, Section 16 of the Minneapolis charter for “other good cause”.¹⁰

43. From 2006, until the rental license revocation proceeding began in June of 2010, the property located at 3725 Cedar Avenue was the subject of numerous orders for violations of the housing maintenance code. Many of the written orders required immediate attention, such as low heat, damaged electrical fixtures, damaged plumbing fixtures and failure to provide hot water to units. The violations are longstanding and recent.

44. The large number of violations reflects poorly on the management of the property and is a drain on the resources of the Department. Fire Marshall Bryan Tyner, who manages the Fire Inspectors and conducted inspections on all four unit and greater buildings, testified that the number of complaints and orders written for the property was very high compared to other similar buildings in the city and that it took longer to gain compliance with the orders once they were written. Marshall Tyner’s testimony is based upon his years of experience working as a Fire Marshall and is credible and accepted as fact.

45. Moreover, the violations are a danger to the health and safety of the citizens of the City of Minneapolis. Consequently, the City has shown good cause to revoke the rental license at 3725 Cedar Avenue.

¹⁰ “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.”

1830 Stevens Avenue Violations

1.

Illegal and Unpermitted Work

46. On September 2, 2009, Inspector Joe Larson received a complaint regarding the retaining wall on the 19th Street side of 1830 Stevens Avenue. Inspector Larson conducted an inspection at the property on September 10, 2009 and issued orders to repair the retaining wall and reattach the guardrail to the building and the retaining wall. (Trans. p. 236 & Exhibit 15).

47. The issued orders gave a compliance deadline of October 15, 2009. (Id).

48. On November 12, 2009, Inspector Larson conducted a re-inspection of the property at 1830 Stevens Avenue and observed that the retaining wall had been completely dismantled and was being replaced with an entirely new retaining wall. After observing this activity Inspector Larson forwarded the information to Inspector Vicki Carey. (Trans. p. 239-240).

49. On November 12, 2009, Inspector Vicki Carey conducted an inspection at 1830 Stevens Avenue and observed that a new retaining wall was being constructed at the property and that no permit had been issued for its construction. (Trans. p.260-263).

50. On November 17, 2009, Inspector Carey issued orders to Mary Brandt, with a copy to R110, Inc., to obtain a permit for the construction of the retaining wall at 1830 Stevens Avenue. (Exhibit 17).

51. A permit is required for the work done on the retaining wall at 1830 Stevens Avenue. The condition of the retaining wall on September 2, 2009 was a violation of the Building Code.

52. Work was performed without the required permit. The work done without a permit was dangerous and posed a risk for the health and safety of the citizens of the City of Minneapolis.

53. A permit was not issued for the construction of the retaining wall at 1830 Stevens Avenue until On November 30, 2009.

54. The City's allegations relating to the unpermitted work are upheld in their entirety.

2.

Good Cause

55. The City also seeks to revoke the three subject rental dwelling licenses pursuant to M.C.O. § 244.1910(19), and Chapter 4, Section 16 of the Minneapolis charter for "other good cause". From 2006, until the rental license revocation proceeding began in June of 2010, the property located at 1830 Stevens Avenue has been the subject of numerous orders for violations of the housing maintenance code. They are longstanding and recent.

56. Many of the written orders required immediate attention, such as low heat, damaged electrical fixtures, damaged plumbing fixtures, and failure to provide hot water to units.

57. The large numbers of violations reflects poorly on management of the property and is a drain on the resources of the Department. Moreover, the violations are a danger to

the health and safety of the citizens of the City of Minneapolis. Consequently, the City has shown good cause to revoke the rental license at 1830 Stevens Avenue.

Ownership Issues at 905 Franklin Avenue

57. On December 16, 2002, the property located at 905 Franklin Avenue, Minneapolis, MN. was transferred, via quit claim deed, from Uptown Classic Properties, Inc., to SZ112, Inc. for valuable consideration under five hundred dollars. Mr. Zorbalas drafted the quitclaim deed, the Grantor was listed as Uptown Classic Properties, Inc., signed by Mr. Zorbalas, President, and the Grantee is listed as Mr. Zorbalas for SZ112, Inc. (Exhibit V).

58. Uptown Classic Properties, Inc. was a Florida for-profit corporation that had a listed business address of 117 St. James Way, Naples, Florida. Mr. Zorbalas was the President of Uptown Classic Properties, Inc. ("Ex. M"). Uptown Classic Properties Inc. was dissolved and is no longer an active corporation. (Transcript p. 536). Prior to its dissolution, Uptown Classic Properties, Inc. owned 3325 Nicollet Avenue, Minneapolis, MN. (Trans. p.536).

59. On June 23, 2008, Sheila Rawski, a Housing Inspector (at the time an inspector responsible for unpermitted work) for the City of Minneapolis, issued written orders to Mary Brandt, as the person responsible for the maintenance and management of 3325 Nicollet Avenue, Minneapolis, MN. The written orders required the owner or property manager to obtain permits for the installation of a new boiler at 3325 Nicollet Avenue, which was observed being installed by an unlicensed contractor in November of 2007, in violation of

State Building Code § 1300.0120. (Exhibit B, findings of fact, conclusions of law and order re: administrative citation 08-0637917 for 3325 Nicollet Ave.).

60. The June 23, 2008, written orders also included language pursuant to M.C.O. § 244.1930 Director's Determination of Non-Compliance, that the violation for having unpermitted work performed at the property was a violation of M.C.O. § 244.1910 (17) and that another violation at any property, in which the owner had an ownership interest for unpermitted work, may result in the revocation, denial, non-renewal, or suspension of the rental license for the second property. (Exhibit 3).

61. On August 22, 2008, Inspector Rawski issued an administrative citation for the failure to comply with written orders as no permit had been obtained for the installation of the new boiler at 3325 Nicollet Avenue, in violation of State Building Code § 1300.0120. (Exhibit B).

62. Mr. Zorbalas testified that he has no interest and no ownership interest in the property located at 905 Franklin and purported owned by SZ112, Inc. His testimony is rejected as not credible and not supported by the evidence.

63. The evidence shows that the ownership scheme developed by Mr. Zorbalas is an elaborate shell game designed to avoid proper regulation by the City of Minneapolis for the health and safety of it's citizens.

64. Judicial notice is taken of the decision of The Hon. John Holahan, Judge of District Court in Yusuf v. Uptown Classic Properties and UPi, Inc. at Hennepin County Court File No. AC 03-7682 where the Court found UPi, Inc. and Uptown Classic Properties are all "shells established by Mr. Zorbalas in an attempt to avoid creditors." Moreover, the Court found that "all these companies are alter egos" of Mr. Zorbalas.

Ownership Issues at 3725 Avenue

65. On January 13, 2006, a rental license application was completed for the property located at 3725 Cedar Avenue, Minneapolis, MN. A computer screen printout indicated that Spiros Zorbalas is the representative of the owner and that Mary Brandt is the person responsible for the maintenance and management of the property. (Exhibit 12).

66. Hennepin County tax records indicated that S1322, Inc., is the owner and that Spiros G. Zorbalas and S1322, Inc. are the taxpayers for the property located at 3725 Cedar Avenue, Minneapolis, MN. (Exhibit K).

67. S1322, Inc., is a Florida for-profit corporation with a listed business address of 117 St. James Way, Naples, Florida. Spiros Zorbalas is listed as the registered agent for S1322, Inc. and also is listed as an officer or director of the corporation. (Exhibit G).

68. On December 16, 2002, the property located at 3725 Cedar Avenue, Minneapolis, MN. was transferred, via quitclaim deed, from Uptown Classic Properties, Inc. to S1322, Inc. for valuable consideration under five hundred dollars. Spiros G. Zorbalas drafted the quitclaim deed, the Grantor was listed as Uptown Classic Properties, Inc., signed by Spiros G. Zorbalas, President, and the Grantee is listed as Spiros G. Zorbalas for SZ112, Inc. (Exhibit M).

69. Mr. Zorbalas testified that he has no interest and no ownership interest in the property located at 3725 Cedar Avenue and purportedly owned by S1322, Inc. His testimony is rejected as not credible and not supported by the evidence.

70. The evidence shows that the ownership scheme developed by Mr. Zorbalas is an elaborate shell game designed to avoid proper regulation by the City of Minneapolis for the health and safety of its citizens.

71. Judicial notice is taken of the decision of The Hon. John Holahan, Judge of District Court in Yusuf v. Uptown Classic Properties and UPi, Inc. at Hennepin County Court File No. AC 03-7682 where the Court found UPi, Inc. and Uptown Classic Properties are all “shells established by Mr. Zorbalas in an attempt to avoid creditors.” Moreover, the Court found that “all these companies are alter egos” of Mr. Zorbalas.

Ownership Issues at 1830 Stevens Avenue

72. On January 13, 2006, a rental license application was completed for the property located at 1830 Stevens Avenue, Minneapolis, MN. The owner of the property is listed as R110, Inc. Spiros Zorbalas is listed on the application as the Chief Operating Officer/Natural person representing the owner of the property. Mary Brandt is listed as the person responsible for the maintenance and management of the property. (Exhibit 14).

73. Hennepin County tax records indicated that R110, Inc., is the owner and the taxpayer for the property located at 1830 Stevens Avenue, Minneapolis, MN. (Exhibit O).

74. R110, Inc., is a Florida for-profit corporation with a listed business address of 117 St. James Way, Naples, Florida. Spiros Zorbalas is listed as the registered agent for R110, Inc. and also is listed as an officer of the corporation. (Exhibit H).

75. On May 8, 2008, the property located at 1830 Stevens Avenue, Minneapolis, MN. was transferred, via quitclaim deed, from Uptown Classic Properties, Inc., to R110, Inc.

for valuable consideration under five hundred dollars. Spiros G. Zorbalas, Director of Uptown Classic Properties as the Grantor, signed the quitclaim deed and the Grantee was listed as R110, Inc. (Exhibit M).

76. Mr. Zorbalas testified that he has no interest and no ownership interest in the property located at 1830 Stevens Avenue and purportedly owned by R110, Inc. His testimony is rejected as not credible and not supported by the evidence.

77. The evidence shows that the ownership scheme developed by Mr. Zorbalas is an elaborate shell game designed to avoid proper regulation by the City of Minneapolis for the health and safety of it's citizens.

78. Judicial notice is taken of the decision of The Hon. John Holahan, Judge of District Court in Yusuf v. Uptown Classic Properties and UPi, Inc. at Hennepin County Court File No. AC 03-7682 where the Court found UPi, Inc. and Uptown Classic Properties are all "shells established by Mr. Zorbalas in an attempt to avoid creditors." Moreover, the Court found that "all these companies are alter egos" of Mr. Zorbalas.

79. SZ112, Inc., S1322, Inc., R110 Inc, Uptown Classic Properties, Inc., and UPI Property Management Group, LLC. are all shell corporations and alter egos of Mr. Zorbalas and are evidence of ownership interest and "an interest."

CONCLUSIONS OF LAW

80. On June 23, 2008, the Department issued valid orders to Mary Brandt, the property manager for 3325 Nicollet Avenue, for violating the State Building Code §

1300.0120 for the installation of a boiler system at 3325 Nicollet Avenue, prior to the obtaining of a permit for the work.

81. The June 23, 2008, orders included proper notice that the unpermitted work violation also constituted a violation of M.C.O. § 244.1910 (17) and that the order served as a Director's Determination of Non-Compliance pursuant to M.C.O. § 244.1930. The above dated orders also put the owner and property manager on notice that a violation at any other property in which the owner had an ownership interest may result in the revocation, denial, non-renewal, or suspension of the rental license for the dwelling where the second violation of State Building Code § 1300.0120 occurred.

82. On September 30, 2008, a valid order was issued by the Department, to UPI, Property Management Group, the management company which manages 905 Franklin Avenue and employs Mary Brandt, the person responsible for the management of the property, for a violation of State Building Code § 1300.0120 for the installation of new steam boilers, gas piping and venting, without a permit, at the property located at 905 Franklin Avenue.

83. On May 13, 2009, the Department, issued the property manager for 905 Franklin Avenue, for the installation of hot water heaters without a permit, in violation of Minnesota State Building Code § 1300.0120, at the property located at 905 Franklin Avenue a valid administrative citation to Mary Brandt.

84. SZ112, Inc. and Spiros Zorbalas are the owners for the properties located at 3325 Nicollet Avenue and 905 Franklin Avenue and were under proper notice, after the first incident of unpermitted work occurred at 3325 Nicollet Avenue, that a second incident of performing work without a required permit may result in the revocation, denial, non-renewal,

or suspension of the rental license for the property/dwelling where a second violation for unpermitted work occurred.

85. The Department followed proper procedure in issuing a Notice of Revocation, Denial, Non-Renewal, or Suspension, pursuant to M.C.O. § 244.1910 (17), for the property located at 905 Franklin Avenue based upon a violation of the State Building Code § 1300.0120 at a property where the owner, having had a previous property in violation of State Building Code § 1300.0120, had an ownership interest.

86. On February 18, 2009, valid orders were issued by the Department, to Spiros Zorbalas/S1322 Inc., with a copy to Mary Brandt, the property manager for 3725 Cedar Avenue, for the installation of new/replacement drywall in unit 314 without a required permit, in violation of Minnesota State Building Code § 1300.0120, at the property located at 3275 Cedar Avenue.

87. S1322, Inc. and Spiros Zorbalas are the owners of 3725 Cedar Avenue and have an ownership interest in the property located at 3325 Nicollet Avenue and were under proper notice, after the first incident of unpermitted work occurred at 3325 Nicollet Avenue, that a second incident of performing work without a required permit may result in the revocation, denial, non-renewal, or suspension of the rental license for the property/dwelling where a second violation for unpermitted work occurred.

88. The Department followed proper procedure in issuing a Notice of Revocation, Denial, Non-Renewal, or Suspension, pursuant to M.C.O. § 244.1910 (17), for the property located at 3725 Cedar Avenue based upon a violation of the State Building Code § 1300.0120 at a property where the owner had a previous property in violation of State Building Code § 1300.0120, had an ownership interest.

89. On November 17, 2009, valid orders were issued to Mary Brandt, the property manager for 1830 Stevens Avenue, with a copy to R110, Inc., for the installation of a new retaining wall without a permit, in violation of State Building Code § 1300.0120, at the property located at 1830 Stevens Avenue.

90. R110 Inc., and Spiros Zorbalas are the owners of 1830 Stevens Avenue and have an ownership interest in the property located at 3325 Nicollet Avenue and were under proper notice, after the first incident of unpermitted work occurred at 3325 Nicollet Avenue, that a second incident of performing work without a required permit may result in the revocation, denial, non-renewal, or suspension of the rental license for the property/dwelling where a second violation for unpermitted work occurred.

91. The Department followed proper procedure in issuing a Notice of Revocation, Denial, Non-Renewal, or Suspension, pursuant to M.C.O. § 244.1910 (17), for the property located at 1830 Stevens Avenue based upon a violation of the State Building Code § 1300.0120 at a property where the owner had a previous property in violation of State Building Code § 1300.0120, had an ownership interest.

92. 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).

93. The inordinate numbers of orders written to these properties has caused a drain on City resources and would not be necessary if the owner and management company were proactive in their management of the properties. Spiros Zorbalas, through the shell corporations he has set up, continually violated the housing maintenance code at the three

properties he owns. Although the number of citations issued went down recently, the pattern shown by Mr. Zorbalas an UPI Property Management Inc., is not at a level, which would provide quality housing for tenants and reduce the need for constant review by the Department. This and the unpermitted work that occurred at Mr. Zorbalas' properties demonstrates that the owner simply does what he wants at the properties and will only make corrections or obtain the proper permits after violations are discovered by Department staff.

Consequently I make the following:

RECOMMENDATIONS

1. That the rental license for the property located at 905 Franklin Avenue, Minneapolis, MN, be revoked.
2. That the rental license for the property located at 3725 Cedar Avenue, Minneapolis, MN, be revoked.
3. That the rental license for the property located at 1830 Stevens Avenue, Minneapolis, MN, be revoked; and the Council find,
4. That Spiros Zorbalas ("Mr. Zorbalas") and his wife Mary Brandt ("Mrs. Zorbalas") are persons who are owners in fact or have "an interest in two... or more licenses revoked" and are thereby "ineligible to hold or have an interest in a rental dwelling license ... for a period of five... years." Id. (emphasis added).

SO ORDERED:

Fabian Hoffner
Administrative Hearing Officer

DATED _____

MEMORANDUM

The entire record in this case boils down to several salient facts. First, that the three corporations that hold the rental licenses have long serious records of not taking care of property that is rented out to citizens of Minneapolis. Moreover those violations have actually put citizens lives at risk. Secondly, that the center of all these violations is Spiros Zorbalas. As Judge Holahan wisely wrote, Zorbalas has “attempted to confuse” the issues. He found that Zorbalas set up “shells” in an attempt to avoid creditors. Here he has attempted to set up shells to avoid the proper regulation of the city of Minneapolis, which are designed to protect the health and safety of its citizens. All his testimony and all his complex ownership schemes does not change the fact that he, and he alone is responsible for the proper maintenance of the buildings in which his tenants live. In this he has failed miserably.

It is clear from the record that unpermitted work was completed at the four properties involved in this revocation proceeding. In November of 2007, a Department employee observed an unlicensed contractor installing a new boiler at 3325 Nicollet Avenue, Minneapolis, MN., in violation State Building Code § 1300.0120. (Exhibit B, findings of fact, conclusions of law and order re: administrative citation 08-0637917 for 3325 Nicollet Ave.).

On September 29, 2008, a Department employee observed work being completed on the boiler system at 905 Franklin Avenue and confirmed that no permit had been obtained, which is a violation of State Building Code § 1300.0120. Additionally, at 905 Franklin Avenue, when inspectors were out to the property to close out the first incident of unpermitted work, they observed that new water heaters had been incorrectly installed at the property and

again confirmed that no permit had been obtained, another violation of State Building Code § 1300.0120.

On February 17, 2009, a Department employee observed that unit 314 of 3725 Cedar Avenue was being outfitted with new drywall after a fire occurred at the property. Records reviewed showed that no permit had been obtained, a violation of State Building Code § 1300.0120. Finally, on November 12, 2009, a Department employee observed the retaining wall at 1830 Stevens Avenue was being completely rebuilt and records reviewed showed that no permit had been obtained, a violation of State Building Code § 1300.0120.

M.C.O. § 244.1910 (17) states:

An owner shall not have any violations of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, at any rental dwelling which they own or have an ownership interest. A violation of Minnesota Rule Chapter 1300.0120 subpart 1 shall result in a director's determination of noncompliance notice being sent, pursuant to 244.1930 to the owner regarding the rental dwelling where the violation occurred. A second violation, at any rental dwelling in which the owner has an ownership interest, of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, shall result in the issuance of a director's notice of denial, non-renewal, or suspension of the license or provisional license, pursuant to 244.1940 of the Code, for the rental dwelling where the second violation occurred.

Appellants claim that the revocation action is inappropriate because there are separate owners of the four buildings and that because there is no common ownership, the revocation action must fail. However, SZ112, INC., which is listed as the owner of 3325 Nicollet Avenue, is also listed as the owner of 905 Franklin Avenue. Spiros Zorbalas and SZ112, Inc. are also listed as the taxpayer for both 3325 Nicollet Avenue and 905 Franklin Avenue.

The listed owner, Mary Brandt and Spiros Zorbalas, all had notice through the June 23, 2008 written order which included language pursuant to M.C.O. § 244.1930 Director's

Determination of Non-Compliance, that the violation for having unpermitted work performed at the property was a violation of M.C.O. § 244.1910 (17) and that another violation at any property, in which the owner had an ownership interest, for unpermitted work, may result in the revocation, denial, non-renewal, or suspension of the rental license for the second property.

Appellants' arguments regarding the non-applicability of the rental license revocation actions against 3725 Cedar Avenue and 1830 Stevens Avenue due to lack of common ownership also fails. All the entities involved share numerous connections that all come back to Spiros Zorbalas. 3325 Nicollet Avenue, 3725 Cedar Avenue, 905 Franklin Avenue, and 1830 Stevens were all formerly owned by Uptown Classic Properties, Inc., and sold to the current corporation listed as the owner. Spiros Zorbalas was the registered agent for Uptown Classic Properties, Inc. and several of the quitclaim deeds, transferring ownership from Uptown Classic Properties, Inc. to the current listed owner corporations, were drafted by Mr. Zorbalas and signed by Mr. Zorbalas as both the Grantor and Grantee on behalf of the corporations. All of the quitclaim deeds transferring ownership from Uptown Classic Properties, Inc., to the new owner corporations indicated the value of the consideration for the transfer of ownership was under \$500.00.

Uptown Classic Properties, Inc. and the new ownership corporations all share the same filing and business address, 117 St. James Way, Naples Florida. The 117 St. James Way, Naples, Florida address is listed as a residential address owned by George and Katina Zorbalas with addresses listed as Paul G. Zorbalas and Spiros G. Zorbalas.

The management company, UPI Property Management Group, that manages all of the properties involved in this action, is a Florida Limited Liability Company, which also has a

filing and business address of 117 St. James Way, Naples Florida. Although the registered agent is listed as Alpha-Omega Companies, Inc., which also lists 117 St. James Way, Naples, Florida as the business address, the registered signature is that of Spiros Zorbalas. Additionally, a 2006 letter to the Department from UPI, is signed by Spiros Zorbalas as Managing Member.

In addition to Mr. Zorbalas being the managing member of UPI Property Management Group, the person listed, on the rental license applications for 3325 Nicollet Avenue, 905 Franklin Avenue, 3725 Cedar Avenue, and 1830 Stevens Avenue, the person responsible for the maintenance is Mary Brandt, Mr. Zorbalas' wife. During testimony, Mr. Zorbalas stated that he lived in Florida with his wife. (Trans. p. 539).

Mr. Zorbalas has previously been involved with litigation surrounding the ownership ties between himself and Uptown Properties, Inc., UPI Property Management Group, and S1322, Inc. In 2004, Hennepin County District Court Judge John Holahan found that all of the above companies were shells established by Mr. Zorbalas in an attempt to avoid creditors and that all the companies were alter egos of Mr. Zorbalas.

A review the doctrine of piercing the corporate veil, an equitable remedy, and alter ego is applicable here as well. "Alter ego" status is an equitable finding that the corporation/LLC and an individual are one and the same. An alter ego is a "corporation used by an individual in conducting personal business." *Black's Law Dictionary* 91 (Bryan A. Garner ed., 8th ed., West 2004). Therefore, an alter ego is liable for the other's faults. *See Victoria Elevator Co. of Minneapolis v. Meriden Grain Co.*, 283 N.W.2d 509, 513 (Minn.1979). (finding shareholder liable for alter ego corporation's debts). When using the alter ego theory to pierce the corporate veil, courts look to the reality and not form, with how

the corporation operated and the individual defendant's relationship to that operation.” *Hoyt Props, v. Prod. Res. Group, L.L.C*, 736 N.W.2d 313, 318 (Minn.2007).

In the case at bar, it is clear that Mr. Zorbalas is responsible for everything that occurs at the properties involved. He is an agent or officer of every single entity tied to these buildings and was even an officer/agent of the corporation that transferred title to the current owner corporations. Mr. Zorbalas testified on behalf of all the buildings subject to this action without any testimony from any managers or maintenance personnel.

Because the corporations are the alter egos of Mr. Zorbalas, he was on notice after the first incident of unpermitted work at 3325 Nicollet Avenue, and any further violations of State Building Code § 1300.0120 at any of the other buildings that he owned/managed may result in a revocation, denial, non-renewal, or suspension of the rental license for the dwelling where the second violation of State Building Code § 1300.0120 occurred.

Mr. Zorbalas claims that he is not a shareholder in these corporations does not defeat this theory. Whether a party holds an ownership interest in the entity is not dispositive. Veil piercing is an equitable remedy, and courts are to consider “reality and not form” in determining a party's involvement in a corporate enterprise. *Hoyt Properties*, 736 N.W.2d at 318. If veil piercing were solely dependent on a party's ownership interest in an entity, unscrupulous parties could avoid personal liability under the doctrine by simply acting in a capacity that does not involve ownership. *State v. Strimling*, 265 N.W.2d 423, 430-31 (Minn.1978). (stating as part of an analysis of criminal liability for diversion of corporate funds that “[i]n the realm of closely held corporations, the role of the silent strong man is a familiar one,” and it would be “ill-advised” to allow such a person “to insulate himself from

liability ... merely by making certain that he is not formally designated as an official of the corporation whose property he wishes to divert”).

Because veil piercing is grounded in equity and intended to prevent abuse of corporate protections, piercing the corporate veil may be imposed against any party who disregards the corporate form, regardless of whether the party holds an ownership interest in the entity.

Equity Trust Co, Custodian FBO Heather Eisenmenger IRA, et al. v. Cole, 766 N.W.2d 334, 339 (Minn.App.2009).

Consequently, the revocations must stand and Mr. Zorbalas must be held accountable.

F.S.H.