



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

Date: August 13th, 2008

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

Referral to: City Council

Subject: Rental Dwelling License Revocation- 1539 26th St. E - Owner David Klein

Recommendation:

The Director of Inspections recommends that the City Council deny, the rental dwelling license for the premises at 1539 26th St. E. Previously the Director of Inspections had made a recommendation to re-instate the rental dwelling license to David Klein but rescinded that recommendation based on illegal occupancy before the conclusion of the rental license reinstatement process.

On July 8th, 2008 this item was heard by the Rental Dwelling License Board of Appeals which upheld the Director's decision to deny the rental dwelling license based on Illegal Occupancy pursuant to Minneapolis code of Ordinance 244.1910(3) and for good cause pursuant to Chapter 4, Section 16 of the charter and Minneapolis code of Ordinance 244.1910(19). The matter was forwarded for consideration to the Public Safety & Regulatory Services Committee of the Minneapolis City Council for hearing on August 13th, 2008.

Previous Directives None

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

Approved by: _____

Henry Reimer, Director of Inspections

8/5/08

Date

Approved by: Rocco Forte

8/5/08

Rocco Forte, Assistant City Coordinator

Date

Permanent Review Committee (PRC) Approval _____ Not Applicable XX

Note: To determine if applicable see <http://insite/finance/purchasing/permanent-review-committee-overview.asp>

Policy Review Group (PRG) Approval _____ Date of Approval _____ Not Applicable XX

Note: The Policy Review Group is a committee co-chaired by the City Clerk and the City Coordinator that must review all requests related to establishing or changing enterprise policies.

Presenters in Committee (name, title)

Financial Impact (Check those that apply)

XX No financial impact (If checked, go directly to Background/Supporting Information)

___ Action requires an appropriation increase to the ___ Capital Budget or ___ Operating Budget.

___ Action provides increased revenue for appropriation increase.

___ Action requires use of contingency or reserves.

___ Business Plan: ___ Action is within the plan. ___ Action requires a change to plan

___ Other financial impact (Explain):

___ Request provided to department's finance contact when provided to the Committee Coordinator

Community Impact (use any categories that apply) Not Applicable

Neighborhood Notification

City Goals

Comprehensive Plan

Zoning Code

Other

Supporting Information: See Findings of Fact

CITY OF MINNEAPOLIS
RENTAL DWELLING LICENSE BOARD OF APPEALS

**In the matter of the Rental
Dwelling License Application submitted by
David Klein d/b/a Klein Group Two LLC
for the premises at 1539-41 26th Street East,
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 July 8, 2008 in Room 14 of the Minneapolis Public Service Center. Board chair Brian Bushay presided. Other board members present, constituting a quorum, included Kerry Hinze, Cecelia Rodriguez-Melendez, Steven Schachtman and Genevieve Gaboriault. Assistant City Attorney Joel Fussy was present as *ex officio* counsel to the board. Lee Wolf, Assistant City Attorney, represented the Inspections Division. The License Applicant, Mr. David Klein, appeared at the hearing without legal counsel.

FINDINGS OF FACT

1. The property located at 1539-41 26th Street East in Minneapolis, Minnesota is a residential duplex.
2. During the year 2006 the property was owned by Angelen Borodin, who rented the two dwelling units pursuant to a rental dwelling license issued by the City of Minneapolis.
3. On August 18, 2006 the Minneapolis City Council voted to revoke the rental dwelling license held by Angelen Borodin. The revocation was based upon ongoing illegal narcotics activity occurring on the premises in violation of Minneapolis Code of Ordinances (M.C.O.) § 244 2020, *Conduct on licensed premises*. The license revocation became effective upon publication of the council action on August 26, 2006.

4. Pursuant to ordinance and policy, after the August 2006 license revocation action the premises were vacated by order of the Inspections Division
5. On or about September 2007 the property was purchased by David Klein d/b/a Klein Group Two, LLC.
6. Mr. Klein purchased the property with the intention of securing a rental dwelling license allowing him to rent the two residential units.
7. Mr. Klein made application for the required rental dwelling license on or about February 28, 2008. As established by the evidence adduced at hearing including the testimonial admissions of Mr. Klein, he has never been issued a rental dwelling license for the subject property.
8. On or before March 6, 2008 Mr. Klein did submit a code compliance certificate indicating that the property met minimum code standards and he did submit an acceptable management plan as is required for re-licensure of a rental property which has previously been the subject of a revocation action.
9. Mr. Klein was aware that a rental license had not been approved for the property and that the matter would be scheduled for consideration by the Public Safety & Regulatory Services Committee of the City Council. Mr. Klein was further aware that the rental dwelling license would not be issued for the subject property until the City Council approved such request.
10. The City Council was scheduled to consider Mr. Klein's rental dwelling license application at its April 4, 2008 meeting. Prior to this meeting, on April 1, 2008 Housing Inspections District Manager Janine Atchison was made aware that Mr. Klein was illegally renting the upper unit of the duplex prior to obtaining a rental license and that the Minneapolis Police Department had information that illicit narcotics activity was recurring at the property.
11. Based on an inspection conducted April 3, 2008 Inspector Craig Eliason issued a violation notice on April 4, 2008 to Mr. Klein for illegally renting the upper unit without a duly-issued rental dwelling license. On the same date Inspector Eliason also issued Mr. Klein a \$200 administrative citation for the illegal occupancy violation. Mr. Klein subsequently paid the \$200 citation, thereby admitting to the illegal occupancy violation. At hearing, Mr. Klein further admitted to this

violation by testifying that "... in hindsight, yeah, I shouldn't have done that. I shouldn't probably have had renters in there since I didn't physically have my license."

12. Crime Prevention Specialist (CPS) Don Greeley of the Minneapolis Police Department's Third Precinct was made aware by police officers and neighbors during this time period that apparent narcotics-related activity was ongoing at the property and emanating from and related to the upper unit tenants who were allowed to illegally occupy the premises by Mr. Klein.
13. CPS Greeley and District Manager Atchison met with Mr. Klein on two occasions on and prior to April 18, 2008 and made Mr. Klein aware of their concerns over reemerging drug activity connected to the illegal occupancy of the upper unit.
14. On April 18, 2008 Mr. Klein signed an agreement which was also executed by CPS Greeley and District Manager Atchison which stated that "Any further violation of MPLS Code of Ordinance 244.2020(3) which prohibits the unlawful sale or possession of controlled substances within the next 12 months will be sufficient grounds for rental license revocation." The purpose of this agreement was to establish conditions should Mr. Klein's then-pending rental dwelling license application eventually be approved by the City Council
15. On April 28, 2008, based on the continuing illegal occupancy of the upper dwelling unit, Inspector Eliason posted the property with an unlawful occupancy placard requiring the tenants to vacate the property by May 15, 2008. Until this time Mr. Klein had taken no action to abate this conceded illegal occupancy violation.
16. Based on continuing reports of narcotics activity stemming from the property, on or about May 6, 2008 Minneapolis Police officers successfully completed a controlled purchase of one gram of a substance which tested positive as cocaine by utilizing a confidential reliable informant (CRI). The purchase was made from tenants or guests of the subject property and \$20 was exchanged by the CRI for the quantity of narcotics.
17. Based on the controlled purchase of cocaine a search warrant was obtained on May 6, 2008 permitting a search of the property. On May 8, 2008 a second controlled

purchase of cocaine was made by the same CRI from the same tenant or guest of the dwelling unit. Again, \$20 worth of cocaine was purchased. That night, the search warrant was executed at the premises and two individuals were arrested on outstanding criminal warrants and four other individuals were cited for participating in a disorderly house. Additionally, a crack pipe was seized from the premises during the search. The two separate incidents of sale and possession of cocaine constitute violations of M.C.O. § 244.2020.

18. Based on the ongoing illegal occupancy violation, the ongoing illegal narcotics activity and the violation of the April 18, 2008 agreement a Notice of Denial of Rental License was properly issued to Mr. Klein on May 16, 2008 informing him that the Inspections Division would be recommending to the City Council that it deny his pending rental license application. The notice informed Mr. Klein that he had the right to appeal such determination to the Rental Dwelling License Board of Appeals.
19. On May 29, 2008 Mr. Klein timely and properly appealed the license denial recommendation and the matter was referred to the Rental Dwelling License Board of Appeals.

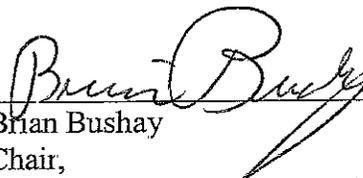
CONCLUSIONS

1. M.C.O. § 244.1910 provides that "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 ... of a rental dwelling license... (3) 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... (19)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."
2. 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.

3. The license applicant, David Klein, knowingly permitted the subject property to be illegally occupied by renting the upper unit prior to obtaining the required rental dwelling license.
4. Good cause exists to deny the rental dwelling license application of David Klein for the subject property based on (1) the above-referenced knowing and ongoing permitting of illegal occupancy, (2) the two incidents of controlled purchases of narcotics from the illegally-occupied dwelling unit occurring during the pendency of the license application in violation of M.C.O. § 244 2020 and the duly-executed April 18, 2008 agreement signed by the applicant, (3) the evidence of pervasive and ongoing narcotics activity occurring at the premises during the pendency of the license application, and (4) the failure of the applicant to take appropriate action after being made aware of the illegal occupancy and ongoing concerns of narcotics activity at the premises. Denial of the referenced rental dwelling license application is the appropriate action in this case.
5. The subject property has been the source of repeated criminal, disorderly and nuisance activity. The activities at this property have had a substantial negative impact on the surrounding community for many years, inclusive of the time during which it has been owned and managed by the present applicant.

RECOMMENDATION

That the rental dwelling license application submitted by David Klein and Klein Group Two, LLC for the premises at 1539-41 26th Street East, in Minneapolis, Minnesota be denied.



Brian Bushay
Chair,
Rental Dwelling License Board of Appeals