



CPED STAFF REPORT

Prepared for the Zoning Board of Adjustment
 BOA Agenda Item #5
 April 21, 2016
 BZZ-7516

LAND USE APPLICATION SUMMARY

Property Location: 2636-2638 West Broadway
Project Name: State Autos Corp.
Prepared By: Janelle Widmeier, Senior City Planner, (612) 673-3156
Applicant: State Autos Corp.
Project Contact: Michael J. Viola with Siegel Brill, P.A.
Request: To allow the sale of used vehicles.
Required Applications:

Certificate of Nonconforming Use	To establish legal nonconforming rights for the sale of used vehicles.
-----------------------------------------	------------------------------------------------------------------------

SITE DATA

Existing Zoning	OR2 High Density Office Residence District
Lot Area	9,360 square feet
Ward(s)	4
Neighborhood(s)	Jordan; adjacent to NRRC
Designated Future Land Use	Urban Neighborhood
Land Use Features	Community Corridor (West Broadway)
Small Area Plan(s)	<u>West Broadway Alive (2008)</u>

Date Application Deemed Complete	March 22, 2016	Date Extension Letter Sent	Not applicable
End of 60-Day Decision Period	May 21, 2016	End of 120-Day Decision Period	Not applicable

BACKGROUND

SITE DESCRIPTION AND PRESENT USE. A one-story, nonresidential building is located on the subject property. It was permitted for construction in 1944. There is also a detached canopy structure and a detached garage. Most of the remainder of the site is paved. The rear of the property abuts an alley.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. An automobile service station is located directly to the south of the subject site and a day care center is located to the north. Residential uses are located across the alley and across West Broadway from the subject site.

PROJECT DESCRIPTION. The applicant is applying for a certificate of nonconforming use to legally establish nonconforming rights for the sale of used vehicles on a property located in the OR2 High Density Office Residence District, per section 531.30 of the zoning code:

531.30. Establishment of nonconforming rights; certificate of nonconforming use.

Any person having a legal or equitable interest in a nonconforming property may apply for a certificate of nonconforming use by complying with the procedure set forth in this section. Upon issuance, a certificate of nonconforming use shall be evidence that the use or structure designated therein is a legal nonconforming use or structure at that time.

- (4) *Determination by board of adjustment.* Following the public hearing, the board of adjustment shall determine whether the use or structure is a legal nonconforming use or structure. The burden of proof shall be on the applicant to establish the lawful nonconforming status of the use or structure and the lack of abandonment, change of use or loss under section 531.40. If the applicant does not establish the required facts, no certificate shall be issued. If the board of adjustment determines that the use or structure is a legal nonconforming use or structure, it shall direct the zoning administrator to issue a certificate of nonconforming use. The certificate shall state with particularity the type and intensity of specific use which is found to be legal. The decision of the board of adjustment may be appealed by any affected person as specified in Chapter 525, Administration and Enforcement.

PUBLIC COMMENTS. No comments have been received by the neighborhood group. Any correspondence received prior to the public meeting will be forwarded on to the Zoning Board of Adjustment for consideration.

ANALYSIS

CERTIFICATE OF NONCONFORMING USE

The Department of Community Planning and Economic Development has analyzed the application to establish legal nonconforming rights for the sale of used vehicles based on the following findings:

The current zoning of the subject site is OR2, which prohibits automobile sales. Automobile sales are only allowed in the C2, C3S, C4, downtown, and industrial districts. Except in the C4, B4C and I3 districts, automobile sales are limited to new and vintage passenger automobiles only, except that leased automobiles and used automobiles received in trade may be sold as an accessory use.

The sale of used vehicles on the subject property has been a nonconforming use since 1999. The property was zoned B3S-1 until 1999 when the City Council adopted a new zoning code, which eliminated that zoning district. Automobile sales were permitted in the B3S district. The zoning then

became C2, which only allowed the sale of new and vintage automobiles. In 2003, the site was rezoned from C2 to C1 as part of a West Broadway zoning study resulting from a moratorium on the establishment, reestablishment or expansion of any commercial or industrial use on West Broadway. The site was rezoned in 2009 from C1 to OR2 as part of another rezoning study. The purpose of that zoning study was to implement the policies of the adopted the small area plan, *West Broadway Alive*.

Under Chapter 313. Motor Vehicle Dealers of the Minneapolis Code of Ordinances, no person shall engage in the business of selling used motor vehicles by offering to sell, soliciting or advertising the sale of used motor vehicles without first acquiring a used motor vehicle dealer license. Further, each licensee is required to have an established place of business, and each license shall authorize business at only the designated premises. No motor vehicle dealer licenses have been active for the subject property since July of 2011.

Per section 531.20 of the zoning code, legal nonconforming uses and structures shall be allowed to continue so long as they remain otherwise lawful. If a nonconforming use or structure is discontinued for a continuous period of more than one year, it shall be deemed to be abandoned and may not thereafter be reestablished or resumed. Any subsequent use of the land or structure must conform to the requirements of the district in which it is located.

Staff finds that the evidence submitted by the applicant does not meet the standards of Minneapolis Zoning Code provisions 531.20(a) and 531.30(4), under which the applicant must bear the burden of proof to illustrate clear and convincing evidence that the use of the property for the nonconforming use operated was not discontinued for more than one year and remained otherwise lawful since 1999. The City has found that nonconforming rights were lost in July of 2011 when the last motor vehicle license expired. No license has been obtained since then; hence it has not remained otherwise lawful.

Findings:

1. A used automobile sales use was legally established on the subject site prior to 1999 when the site was zoned B3S-1 and the use was permitted.
2. The property owner, Dale Ebel, has owned the property since before 1999. He has submitted a signed and notarized affidavit indicating that the subject property was used as a car dealership from June of 1991 to July 31, 2015 (attached).
3. The last license for a motor vehicle dealer on this site expired in July of 2011. The license was determined to be inactive in May of 2013. The last license was held by the property owner, Dale Ebel for Crystdale Inc.
4. The following permit records were included by the applicant:
 - a. A sign permit was issued in September of 2011 for a reface of the existing "Used Cars" projecting sign.
 - b. A building permit was issued in June of 2011 to repair fire damage to an existing commercial building.
 - c. In September of 2014, sign permits were issued for VAG Financing.

The sign permits indicate that they were for automobile related uses. Sign permits are not sufficient to retain nonconforming rights. All new signs or alterations to existing signs require a sign permit. Only sign contractors licensed by the City of Minneapolis are allowed to obtain a sign permit.

5. Base Ventures operated at the site for part of 2013 and 2014. On August 22, 2013, the Licenses and Consumer Services Division sent a notice to the used car dealer explaining that a Used Motor Vehicle Dealer license was required. A representative of Base Ventures met with Zoning

staff in September of 2013. The Zoning Office determined that the auto sales use had been discontinued for more than a year because the last license had been issued in 2010 (see attached written correspondence). Options for rebutting abandonment, either through a certificate of nonconforming use or an appeal of the zoning administrator's decision to the Zoning Board of Adjustment, were conveyed at that time. Neither option was pursued.

6. On January 24, 2014, the Licenses and Consumer Services Division sent a citation notice (attached) to the property owner. The citation was sent because the used car dealer continued to sell automobiles on the site without a license after the first notification letter had been sent.
7. According to the attached signed lease, the property was rented by Vince Auto Group from August 1, 2014 through August 1, 2015. The lease included a clause that City and State licensing must be kept current. However, no City license was obtained.
8. The property was under lease by State Autos from February 1, 2015 to February 1, 2016 according to the attached lease. No City license was obtained.
9. On February 23, 2016, the Zoning Enforcement Office sent a Notice of Noncompliance to the property owner for used car sales without City approval and a prohibited motor vehicle storage lot.
10. The applicant has failed to present clear and convincing evidence that the use of the property is a legal nonconforming use for the sale of used automobiles located at 2636-2638 West Broadway in the OR2 High Density Office Residence District.

RECOMMENDATIONS

The Department of Community Planning and Economic Development recommends that the Zoning Board of Adjustment adopt staff findings for the application by State Autos Corp. for the properties located at 2636-2638 West Broadway:

A. Certificate of nonconforming use.

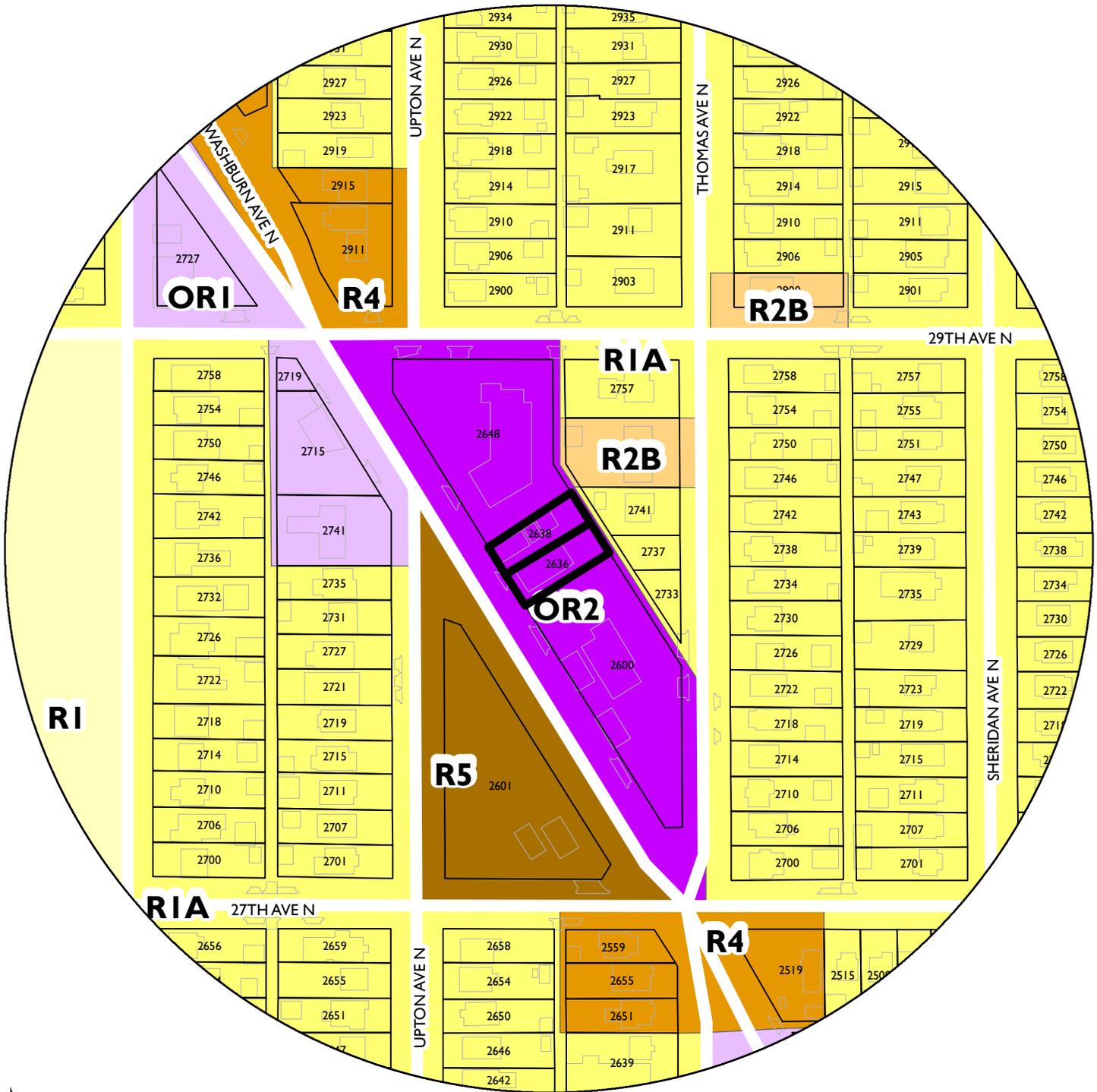
Recommended motion: **Deny** the application for a certificate of nonconforming use to establish legal nonconforming rights for the sale of used vehicles located in the OR2 High Density Office Residence District.

ATTACHMENTS

1. Zoning map
2. Written description and findings submitted by applicant
3. Site plan
4. Photos
5. Applicant's evidence
 - a. City records
 - b. Owner affidavit and related documents
 - c. Order of Hennepin County District Court
 - d. Temporary permit
6. Licensing and zoning enforcement letters
7. Email correspondence with Base Ventures

NAME OF APPLICANT

WARD



PROPERTY ADDRESS

2636-2638 West Broadway

FILE NUMBER

BZZ-7516

November 4, 2015

City of Minneapolis
Community Planning and Economic Development
Development Services Division
250 South 4th Street, Room 300
Minneapolis, MN 55415-1316

RE: General Land Use Application for State Autos Corp. regarding Certificate of Non-Conforming Use
Our File No. 27597-000

Dear Zoning Administrator:

Enclosed please find the following materials in regard to the above referenced Application:

1. General Land Use Application Worksheet executed on behalf of State Autos Corp.;
2. Check made payable in the amount of \$645.00 to the Minneapolis Finance Department;
3. List of property owners within 350 feet of the subject site, including map showing subject property, mailing labels, and list of property owners;
4. Letter dated September 17, 2015, executed by Dale L. Ebel, the fee owner of the subject property, authorizing the above referenced Application;
5. Copy of an email sent to Cathy Spann, Executive Director of the Jordan Area Community Council, and Barbara Johnson, Councilmember representing Ward 4, containing the following information:
 - a. Description of the project;
 - b. Land use applications that the applicant is aware are needed for the project;
 - c. Address of the property for which zoning approval is sought; and
 - d. Applicant's name, address, telephone number, and email address;
6. Photos of the subject property and existing structures.

This information is being submitted pursuant to the direction of a pre-application meeting my client had regarding the contents of the application for a Certificate of Non-Conforming Use. The proposed use of the subject property is for the operation of a used car dealership and the sale of used cars.

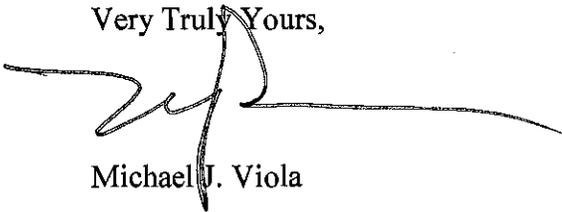
In support of the request for the Certificate of Non-Conforming Use, the applicant submits the following affidavit and documents showing the continuous use of the property from a time when the use was a legal conforming use:

1. Affidavit in re General Land Use Application and Certificate of Non-Conforming Use for 2638 West Broadway by State Autos Corp. executed by Dale Lynn Ebel (together with Exhibits A-D inclusive);
2. Order of the Hennepin County District Court, dated September 30, 1992 (Court File No. PD90-20783), which establishes the initial legal conforming use of the subject property (see Page 3);
3. Copies of those records from the City of Minneapolis Property Information website, documenting that the property was utilized for "Vehicle Related Use" and obtain various permits and inspections related to the improvement and repairs necessary for the operation of the used car dealership; and
4. Copy of a Temporary Permit for a car purchased by Kelly Montes from Vince Automotive Group, the previous operator of a used car lot on the subject premises.

The Application materials, together with the supporting documentation, clearly establish a used car dealership has occupied the subject premises continuously since June of 1991, without abandonment for a period of more than one year.

Please do not hesitate to contact me if additional information is required to process this Application.

Very Truly Yours,



Michael J. Viola

(612) 337-6107 | Direct
michaelviola@siegelbrill.com

Enclosures

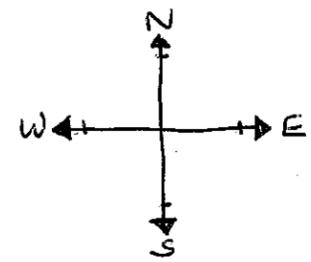
LAOA
Lao Advancement
of America

Office Building

Garage

Canopy

State Autos Corp
2638 West Broadway
Minneapolis, MN 55441



LEGEND

- 3x3 ft
- ① Parkingspots (3 is handicap)
Lined spaces
- ▨ Grass
- ⊙ Trees
- ⋯ Outdoor Sales
- - - Chain Fence
- ≡≡ Picket Fence
- Doors
- ▩ Garage Doors

City Side walk

West Broadway →

City Sidewalk

← 115' →

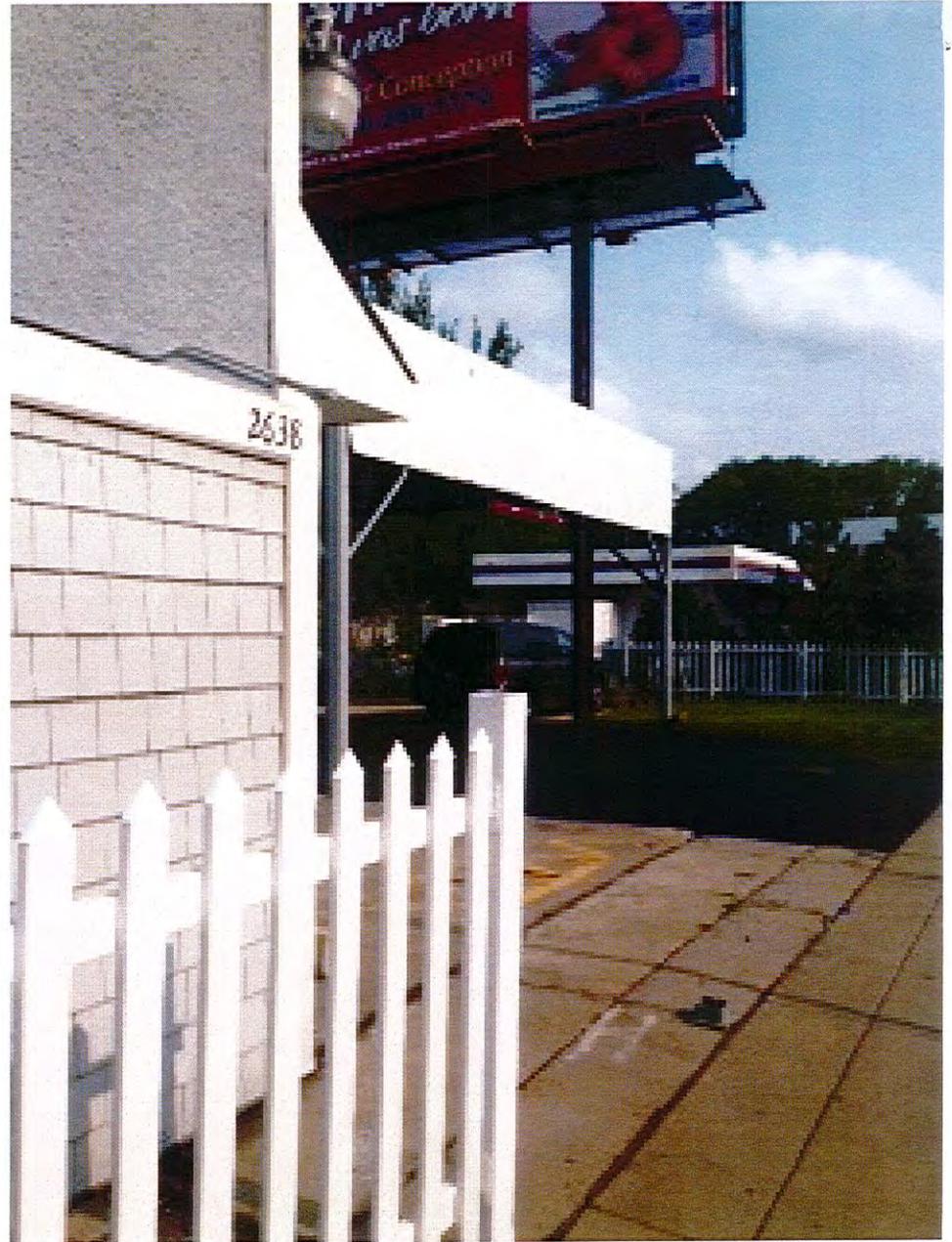
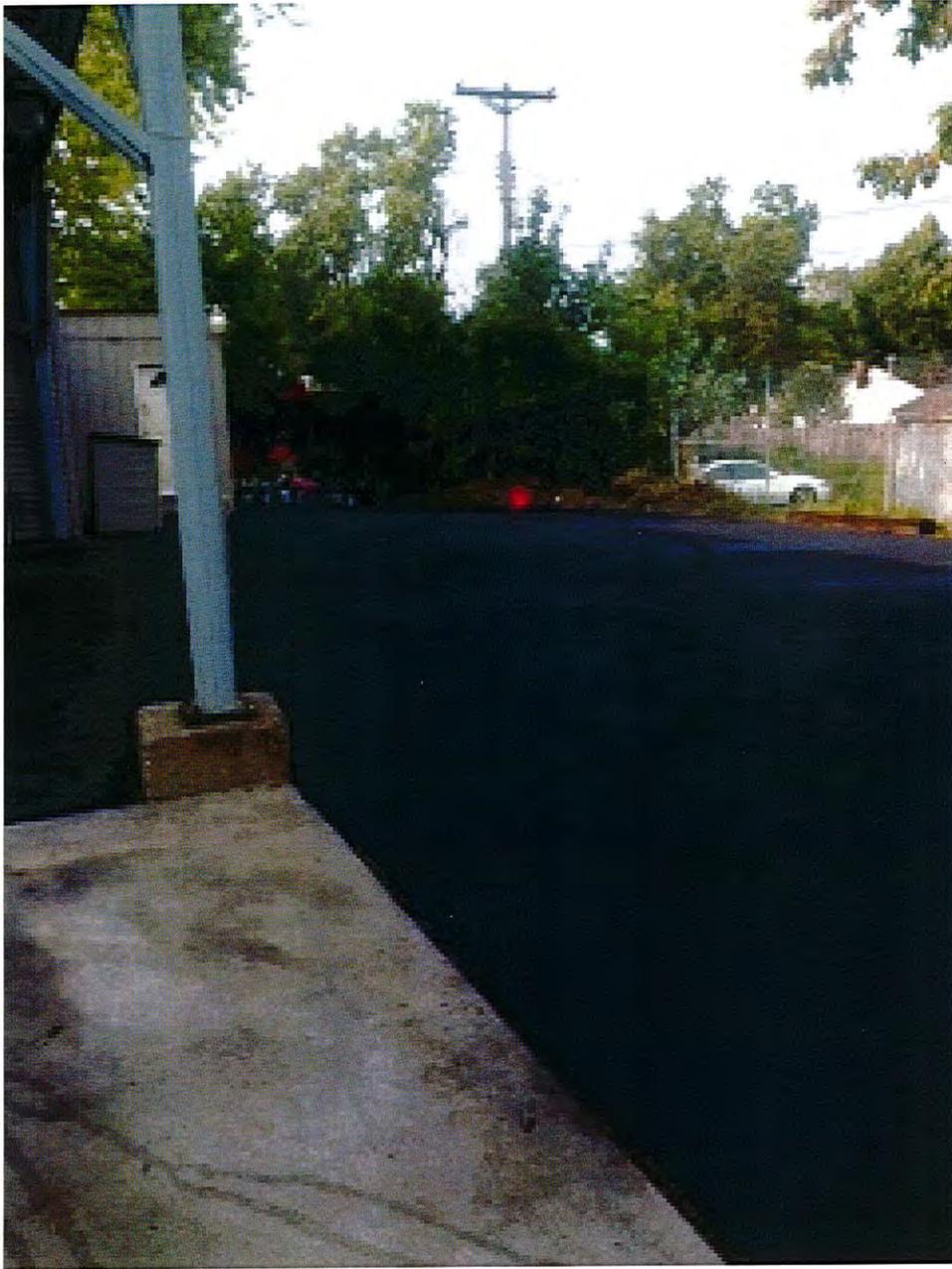
Handy Stop
Gas Station

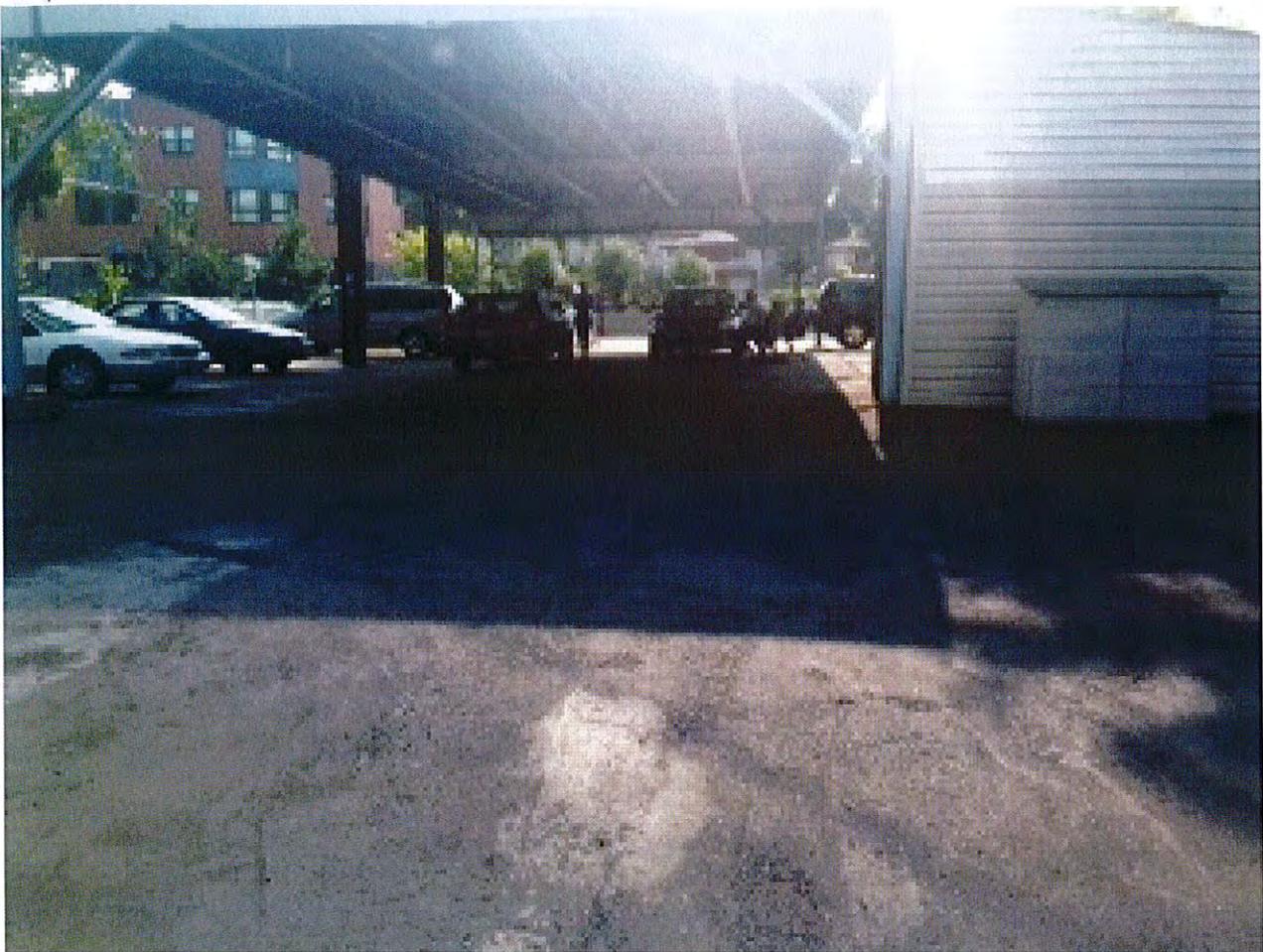
← Alley →

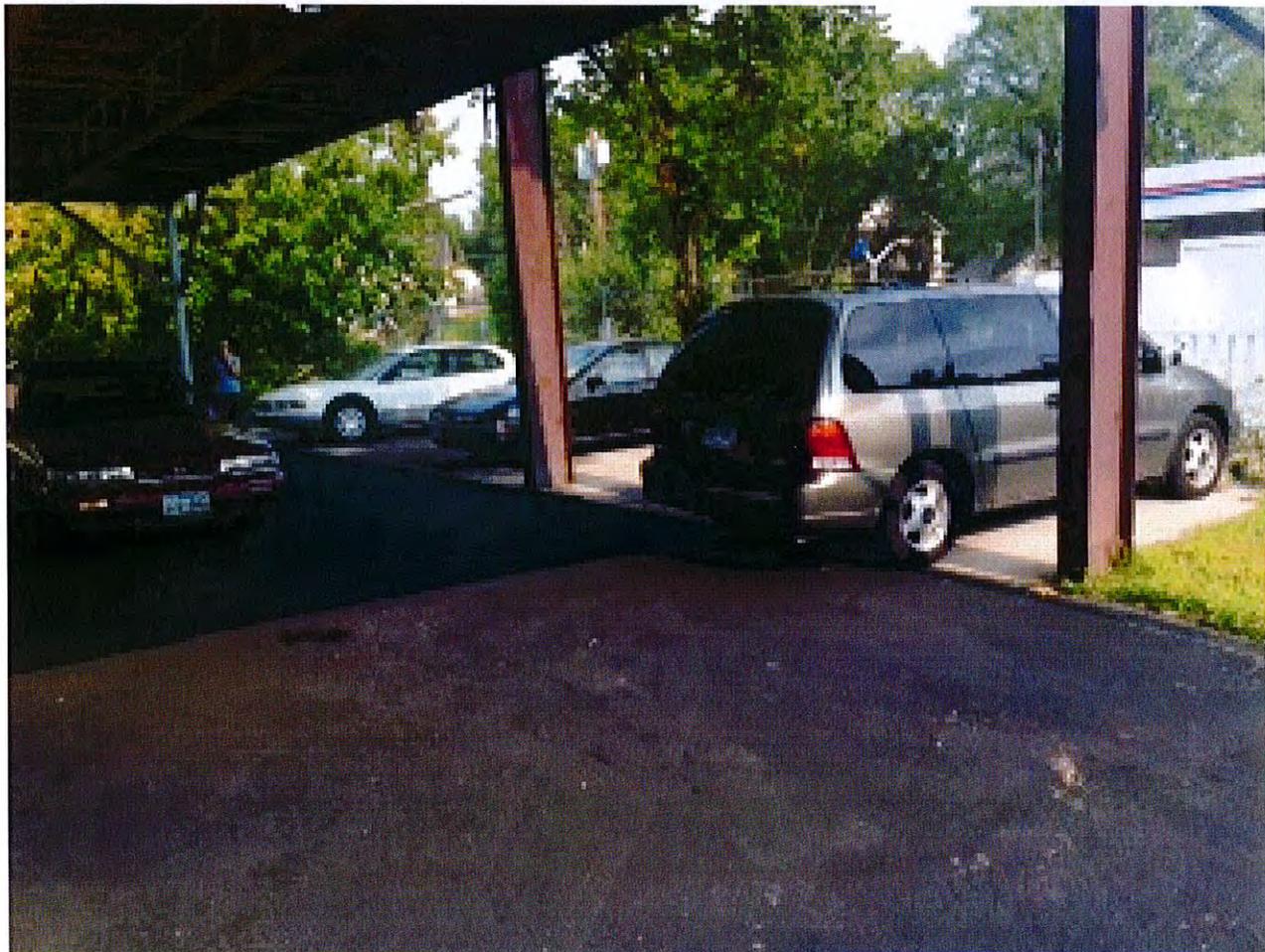
← 88' →

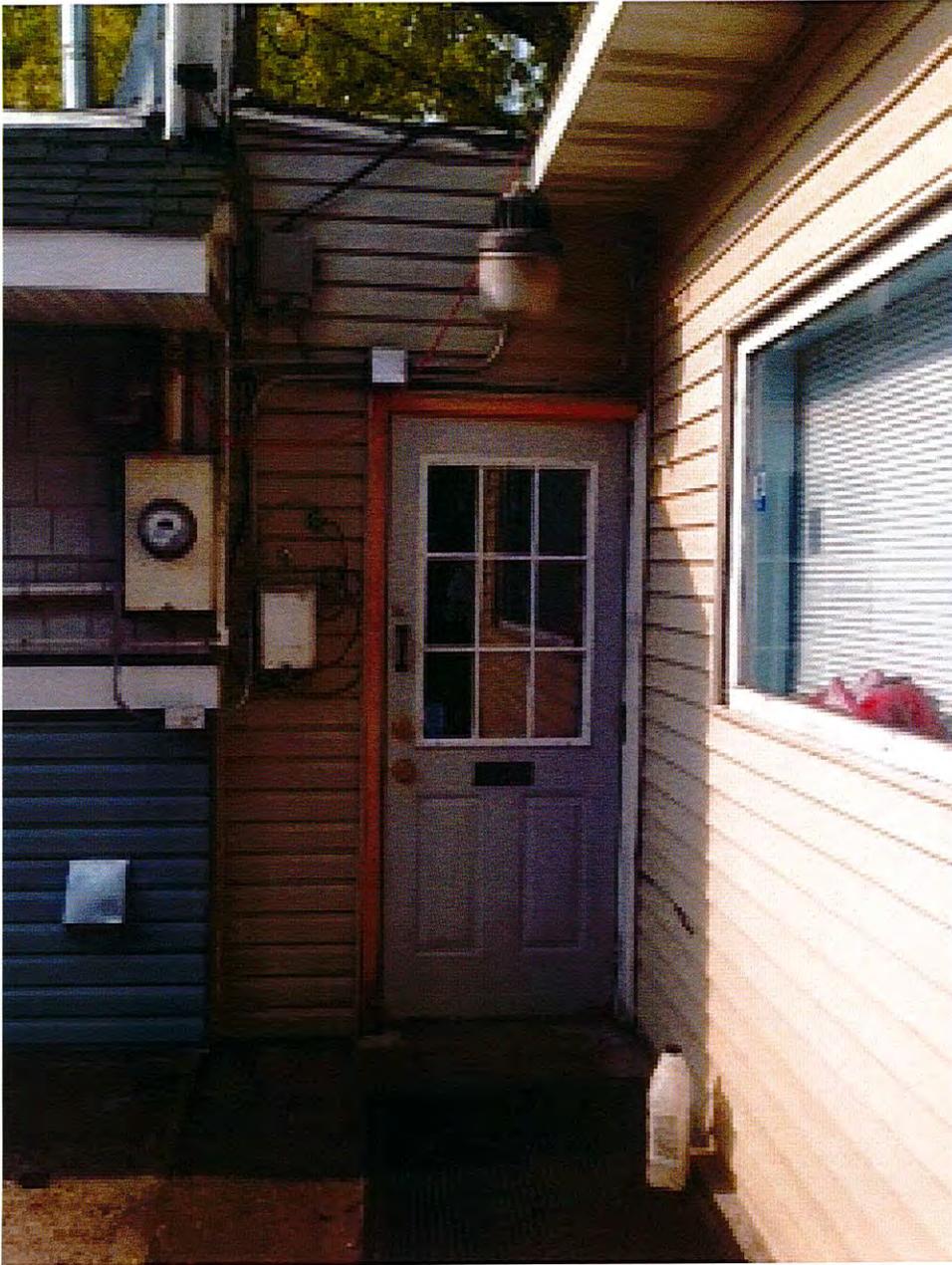
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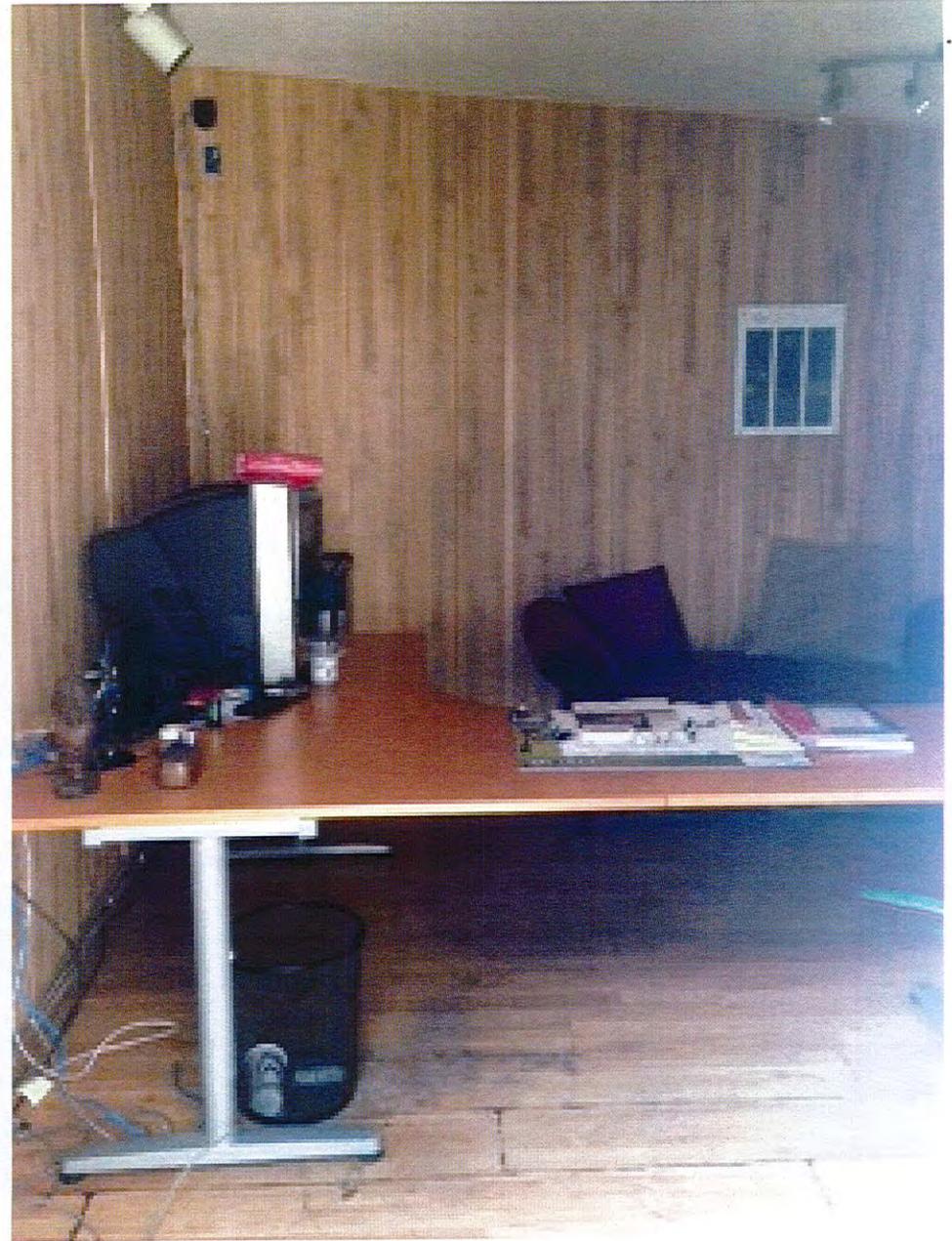
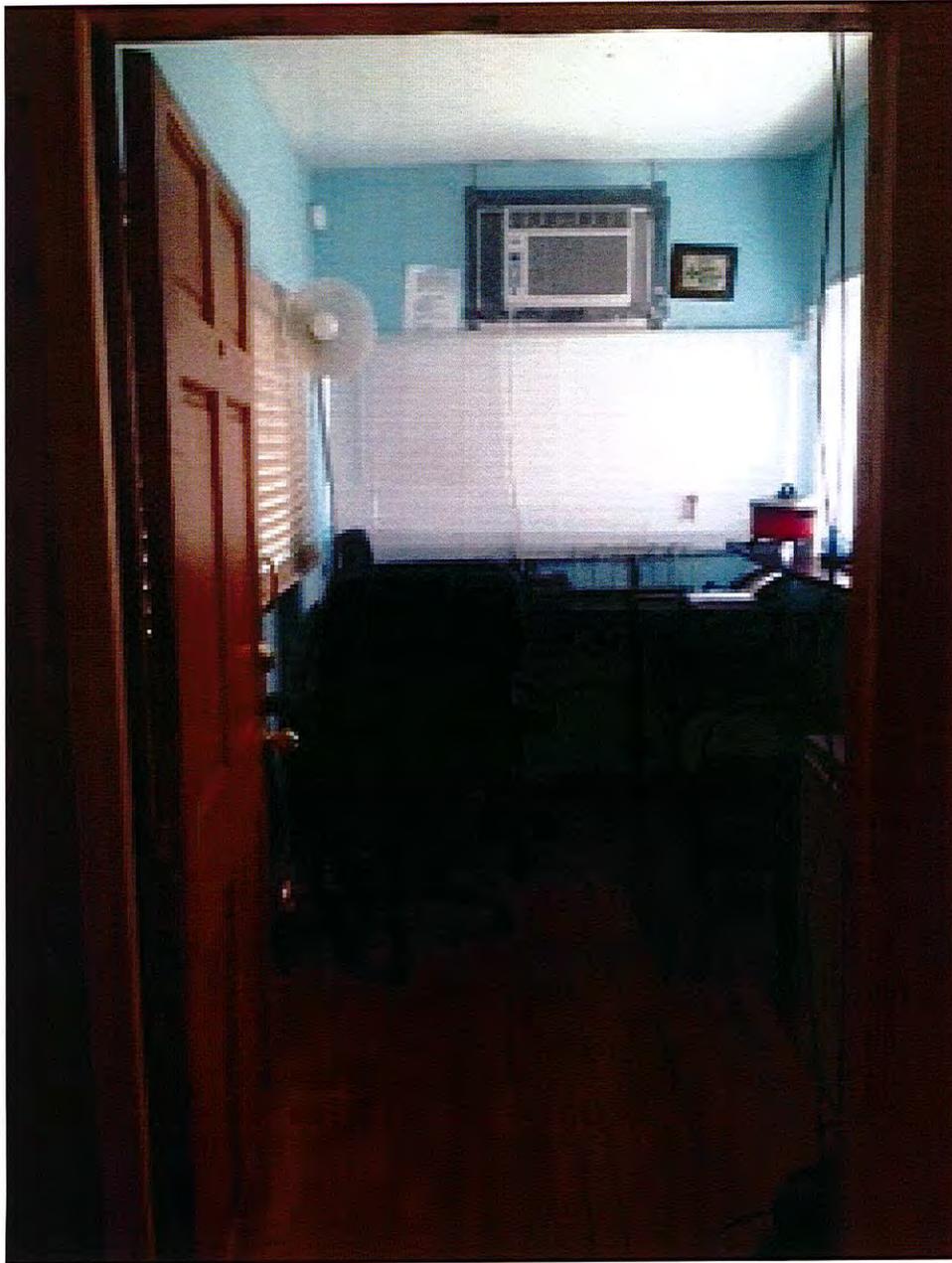
Residential

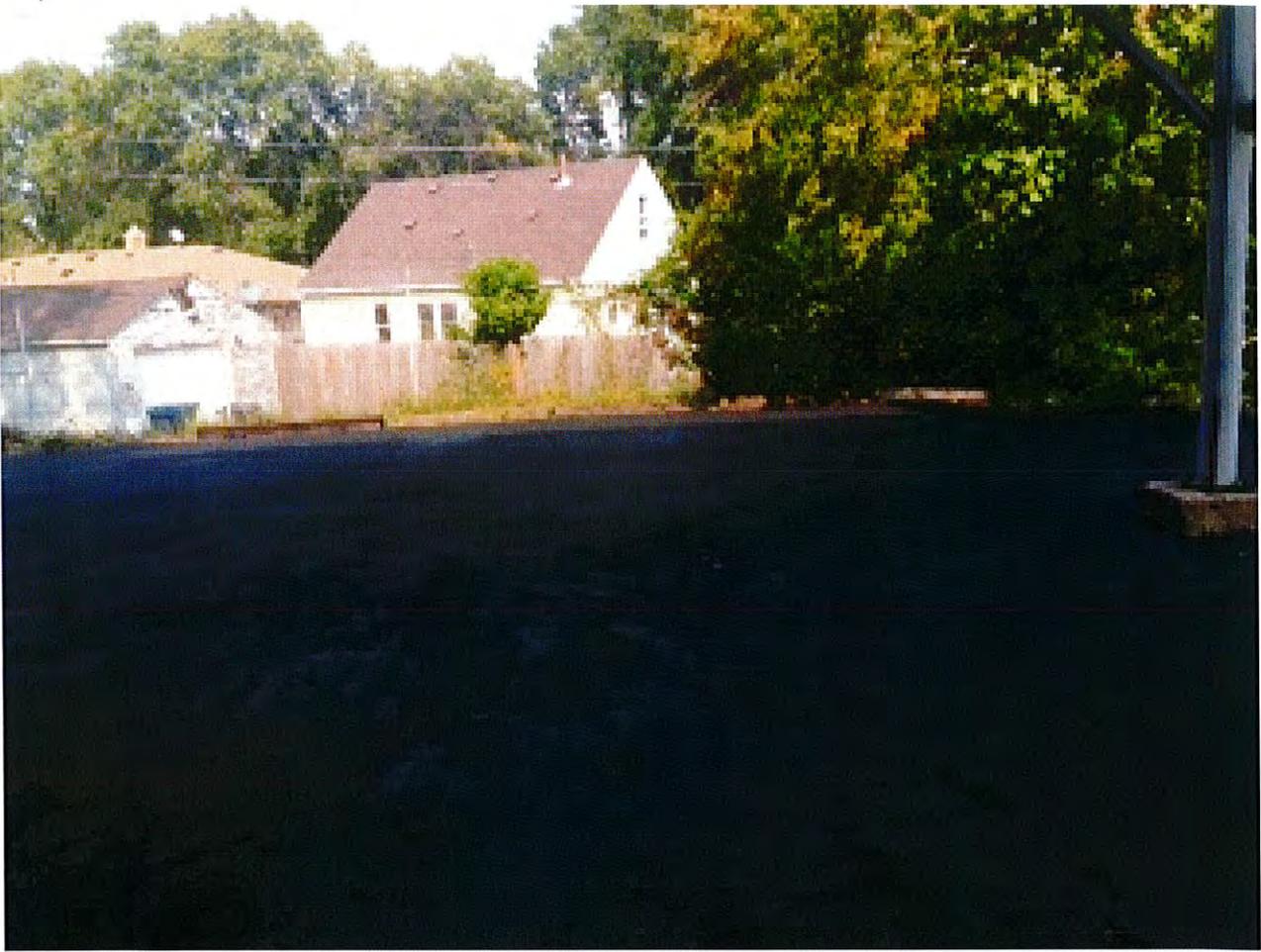












PAYMENT - INVOICE

Application | Address | Applicant | Quantities | Fee Calc | **Fee Pmt** | C Of A | Issue

Permit Type: L049 # 36796 Project: Date: 17-JAN-1997
 Permit Name: EIDE AUTO SALES Status: DONE Expire Date: 01-JUL-1998
 APN: 0802924430066 2636 WEST BROADWAY MPLS

FEES	Fee Code	Description	Quantity	Amount	Bal Due	By	Time Acct.	Calc Date
<input checked="" type="checkbox"/>	L049	MOTOR VEHICLE DEALER	1	\$185.00	\$0.00	CONV		15-JUL-1997
<input checked="" type="checkbox"/>	L049	MOTOR VEHICLE DEALER	1	\$92.50	\$0.00	CONV		14-JAN-1997
<input type="checkbox"/>								
<input type="checkbox"/>								
<input type="checkbox"/>								
<input type="checkbox"/>								
<input type="checkbox"/>								
<input type="checkbox"/>								

PAYMENT OF CURRENT RECEIPT: Void Payment Payer...1
 Detail

Pmt Code	Comment	Receipt#	Amount	Acct#	By	Date	C
OCR	CONVERTED FROM PMQ		\$185.00	0100935836031	CONV	15-JUL-1997 00:00:00	

Total Fees: \$277.50 Paid: \$277.50 Balance Due: \$0.00

Comment:

PAYMENT - INVOICE

Application | Address | Applicant | Quantities | Fee Calc | **Fee Pmt** | C Of A | Issue

Permit Type: L049 # 20998 Project: Date: 02-JUL-1999
 Permit Name: CRYSTDALE INC Status: DONE Expire Date: 01-JUL-2011
 APN: 0802924430067 2638 WEST BROADWAY MPLS

Fee Code	Description	Quantity	Amount	Bal Due	By	Time Acct	Calc Date
<input type="checkbox"/> LATE	BUSINESS LICENSE LATE FI		\$.00	\$.00	NMS		06-AUG-2012 ▲
<input type="checkbox"/> L049	MOTOR VEHICLE DEALER - 1		\$.00	\$.00	SYS		15-MAY-2011
<input type="checkbox"/> LATE	BUSINESS LICENSE LATE FI		\$.76	\$.00	STM		02-AUG-2010
<input type="checkbox"/> LATE	BUSINESS LICENSE LATE FI		\$ 76.00	\$.00	STM		02-AUG-2010
<input type="checkbox"/> L049	MOTOR VEHICLE DEALER - 1		\$ 380.00	\$.00	SYS		15-MAY-2010
<input type="checkbox"/> LATE	BUSINESS LICENSE LATE FI		\$ 76.00	\$.00	PMA		11-AUG-2009
<input type="checkbox"/> L049	MOTOR VEHICLE DEALER - 1		\$ 380.00	\$.00	SYS		15-MAY-2009
<input type="checkbox"/> LATE	BUSINESS LICENSE LATE FI		\$ 73.80	\$.00	PMA		29-JUL-2008 ▼

Void Payment Payer...1

PAYMENT 0 OF 0 CURRENT RECEIPT

Detail

Pmt Code	Comment	Receipt#	Amount	Acct#	By	Date	C
					ZJAW	08-DEC-2015 11:45:36	▲
							▼

Total Fees: \$5,671.16 Paid: \$5,671.16 Balance Due: \$.00

Comment:

Print Receipt | Single Payment Distribution | Print Fee Listing

PAYMENT - INVOICE

Application	Address	Applicant	Quantities	Fee Calc	Fee Pmt	C Of A	Issue
Permit Type: L049	#: 20998	Project:	Date: 02-JUL-1999				
Permit Name: CRYSTDALE INC	Status: DONE	Expire Date: 01-JUL-2011					
APN: 0802924430067	2638 WEST BROADWAY	MPLS					

Fee Code	Description	Quantity	Amount	Bal Due	By	Time Acct	Calc Date
LATE	BUSINESS LICENSE LATE F		\$73.80	\$0.00	PMA		29-JUL-2008
L049	MOTOR VEHICLE DEALER -	1	\$369.00	\$0.00	SYS		15-MAY-2008
LATE	BUSINESS LICENSE LATE F		\$179.00	\$0.00	BRA		24-OCT-2007
L049	MOTOR VEHICLE DEALER -	1	\$358.00	\$0.00	SYS		15-MAY-2007
LATE	BUSINESS LICENSE LATE F		\$69.60	\$0.00	BRA		12-JUL-2006
L049	MOTOR VEHICLE DEALER -	1	\$348.00	\$0.00	SYS		15-MAY-2006
L049	MOTOR VEHICLE DEALER -	1	\$338.00	\$0.00	SYS		15-MAY-2005
L049	MOTOR VEHICLE DEALER -	1	\$328.00	\$0.00	SYS		15-MAY-2004

PAYMENT OF CURRENT RECEIPT:

Void Payment Payer...1

Pmt Code	Comment	Receipt#	Amount	Acct#	By	Date	C
CHECK	CHECK #1087	08-26-09	\$73.80	001008350100	PMA	29-JUL-2008 11:16:47	

Total Fees: \$5,671.16 Paid: \$5,671.16 Balance Due: \$0.00

Comment:

PAYMENT - INVOICE

Application | Address | Applicant | Quantities | Fee Calc | **Fee Pmt** | C Of A | Issue

Permit Type: L049 # 20998 Project: Date: 02-JUL-1999
 Permit Name: CRYSTDALE INC Status: DONE Expire Date: 01-JUL-2011
 APN: 0802924430067 2638 WEST BROADWAY MPLS

Fee Code	Description	Quantity	Amount	Bal Due	By	Time Acct.	Calc Date
L049	MOTOR VEHICLE DEALER	1	\$318.00	\$0.00	SYS		15-MAY-2003
L049	MOTOR VEHICLE DEALER	1	\$312.00	\$0.00	SYS		15-MAY-2002
L049	MOTOR VEHICLE DEALER	1	\$306.00	\$0.00	SYS		15-MAY-2001
L049	MOTOR VEHICLE DEALER	1	\$204.00	\$0.00	SYS		15-MAY-2000
L049	MOTOR VEHICLE DEALER	1	\$204.00	\$0.00	CONV		02-JUL-1999
L049	MOTOR VEHICLE DEALER	1	\$204.00	\$0.00	CONV		31-JUL-1998
L049	MOTOR VEHICLE DEALER	1	\$185.00	\$0.00	CONV		15-JUL-1997
L049	MOTOR VEHICLE DEALER	1	\$185.00	\$0.00	CONV		21-JUN-1996

PAYMENT OF CURRENT RECEIPT:

Void Payment Payer...1

Pmt Code	Comment	Receipt#	Amount	Acct#	By	Date	C
OCR			\$318.00	0100835836031	OCR	09-JUL-2003 13:38:15	

Total Fees: \$5,671.16 Paid: \$5,671.16 Balance Due: \$0.00

Comment:

Print Receipt

Single Payment Distribution

Print Fee Listing

PAYMENT - INVOICE

Application | Address | Applicant | Quantities | Fee Calc | Fee Pmt | C Of A | Issue

Permit Type: L049 #20998 Project: Date: 02-JUL-1999
 Permit Name: CRYSTDALE INC Status: DONE Expire Date: 01-JUL-2011
 APN: 0802924430067 2638 WEST BROADWAY MPLS

Fee Code	Description	Quantity	Amount	Bal Due	By	Time Acct.	Calc Date
L049	MOTOR VEHICLE DEALER	1	\$185.00	\$0.00	CONV		15-JUL-1997
L049	MOTOR VEHICLE DEALER	1	\$185.00	\$0.00	CONV		21-JUN-1996
L049	MOTOR VEHICLE DEALER	1	\$0.00	\$0.00	CONV		07-AUG-1995
LATE	BUSINESS LICENSE LATE F	1	\$37.00	\$0.00	CONV		07-AUG-1995
L049	MOTOR VEHICLE DEALER	1	\$185.00	\$0.00	CONV		31-JUL-1995
L049	MOTOR VEHICLE DEALER	1	\$185.00	\$0.00	CONV		07-JUL-1994
L049	MOTOR VEHICLE DEALER	1	\$185.00	\$0.00	CONV		30-JUN-1993
L049	MOTOR VEHICLE DEALER	1	\$185.00	\$0.00	CONV		19-JUN-1992

Void Payment Payer...1

PAYMENT 1 OF 1 CURRENT RECEIPT:

Pmt Code	Comment	Receipt#	Amount	Acct#	By	Date	C
CONV	CONVERTED FROM PMQ		\$185.00	0100835836031	CONV	19-JUN-1992 00:00:00	

Total Fees: \$5,671.16 Paid: \$5,671.16 Balance Due: \$0.00

Comment:

Print Receipt | Single Payment Distribution | Print Fee Listing

Permit Type: BSB #: 1007344 Project: Date: 07-SEP-11
 APN: 0802924430067 2638 WEST BROADWAY MPLS

APPLICATION CREATION

Application: BSB 1007344 Description: SIGNS/BILLBOARDS
 Project: Description: Priority:
 Temp Issue Issued: MTO 07-SEP-2011
 How Taken: Permit Name:
 Required C of O:
 App Lead: MRW WEE, MICHAEL
 Accepted By: MRW WEE, MICHAEL Date: 07-SEP-2011
 Temporary Number: BSB T5287 [Print Summary Report](#)

SITUS ADDRESS

Address	Dir	Street	Type	Pd	Suite	Floor	Unit	Str #	Est #	Domain	APN	Master
2638		WEST BROADWAY									0802924430067	<input type="checkbox"/> ▲
												<input type="checkbox"/> ▼

Location Description:

Str #	Structure Name	Address	Status
<input type="checkbox"/> 43092	VCL CAR SALES LOT	2638 WEST BROADWAY	EXST ▲
<input type="checkbox"/>			▼

Str #	Est #	Establishment Name	Address	Status
<input type="checkbox"/> 43092	35262	CAD AUTOMOBILE DEALER	2638 WEST BROADWAY	EXST ▲
<input type="checkbox"/> 43092	123638	CRYSTDALE INC	2638 WEST BROADWAY	EXST ▼

PERMIT OWNER

Address	Dir	Street	Type	Pd	Suite	Floor	Suite	Str #	APN
2638		WEST BROADWAY							0802924430067 ▲
									▼

Origin	Owner Name	Owner Address	City	ST	Zip	Country
PARCE	DALE EBEL	2636 BROADWAY	MPLS	MN	55411	▲
						▼

Owner on Application

Owner Name: DALE EBEL
 Addr line 1: 2636 BROADWAY
 Addr line 2:
 Addr line 3:
 City: MPLS State: MN Zip: 55411
 Phone: E-mail:

Permit Type: BIRE #: 3072192 Project: Date: 27JUN-11
 APN: 0802924430067 2638 WEST BROADWAY MPLS

APPLICATION CREATION

Application: BIRE 3072192 Description: REMODELING
 Project: Description: Priority:
 Temp Issue Issued: AEM 27JUN-2011
 How Taken: W Permit Name: FIRE DAMAGE
 Required C of D:
 App Lead: BRA ANGER, BECKY
 Accepted By: RLE EDWARDS, RHONDA Date: 27JUN-2011
 Temporary Number: BIRE T56118 [Print Summary Report](#)

SITUS ADDRESS

Address	Dir	Street	Type	Pd	Suite	Floor	Unit	Str #	Est #	Domain	APN	Master
2638		WEST BROADWAY						43092			0802924430067	<input type="checkbox"/> ^
												<input type="checkbox"/> v

Location Description:

Str #	Structure Name	Address	Status
<input checked="" type="checkbox"/> 43092	MCL CAR SALES LOT	2638 WEST BROADWAY	EXST ^
<input type="checkbox"/>			v

Str #	Est #	Establishment Name	Address	Status
<input type="checkbox"/> 43092	35262	CAD AUTOMOBILE DEALER	2638 WEST BROADWAY	EXST ^
<input type="checkbox"/> 43092	123638	CRYSTDALE INC	2638 WEST BROADWAY	EXST v

PERMIT OWNER

Address	Dir	Street	Type	Pd	Suite	Floor	Suite	Str #	APN
2638		WEST BROADWAY						43092	0802924430067

Origin	Owner Name	Owner Address	City	ST	Zip	Country
PARCE	DALE EBEL	2636 BROADWAY	MPLS	MN	55411	

Owner on Application

Owner Name: DALE EBEL
 Addr line 1: 2636 BROADWAY
 Addr line 2:
 Addr line 3:
 City: MPLS State: MN Zip: 55411
 Phone: E-mail:
 Fax: SSN:

CLEARANCE CHECKLIST

X	Activity	Description	Assgd To	Target End Date	Decision	By	Decision Date	- Nodes - Beg End		Cmt
<input checked="" type="checkbox"/>	AZONING	ZONING REVIEW	BEE	11-JUL-2011	DONE	BEE	27-JUN-2011	1	2	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	BDPW	DEPT OF PUBLIC WORKS	RIC	11-JUL-2011				1	2	<input type="checkbox"/>
<input checked="" type="checkbox"/>	CPLREV SUB	PLAN REVIEW SUBMITALS	TJH	11-JUL-2011	APPR	TJH	27-JUN-2011	1	2	<input type="checkbox"/>
<input checked="" type="checkbox"/>	DMPLS APPL	ADDITIONAL MPLS APPROVA	MPLS REV	11-JUL-2011				1	2	<input type="checkbox"/>
<input checked="" type="checkbox"/>	ESTATE/CT	OTHER STATE/COUNTY/FED	S/C REV	11-JUL-2011				1	2	<input type="checkbox"/>
<input checked="" type="checkbox"/>	FHOUS/BLD	HOUSING/BUILDING/FIRE OF	REV	11-JUL-2011				1	2	<input type="checkbox"/>
<input type="checkbox"/>										<input type="checkbox"/>
<input type="checkbox"/>										<input type="checkbox"/>
<input type="checkbox"/>										<input type="checkbox"/>
<input type="checkbox"/>										<input type="checkbox"/>
<input type="checkbox"/>										<input type="checkbox"/>

Dept: RSVC Dur: 10 Comment: REPAIR FIRE DAMAGE TO EXISTING COMMERCIAL BUILDING All Activities
 Stat: DONE Dur Type: W Only Available

QUANTITIES - VALUATIONS

Est Value: 15000.00 Calc Value: 15000.00 Area:

Quantity Code	Description	Quantity	Rate (\$)	Unit	Value (\$)	Prt
B-BUILDING	BUILDING WORKSHEET	1	0	VALUE	15000	<input type="checkbox"/> ▲
B-BUILDPR	BUILDING PLAN REVIEW W		0	VALUE		<input type="checkbox"/>
EXPED	EXPEDITED PLAN REVIEW		0	EACH		<input type="checkbox"/> ▼

Detail Code	Description	Quantity	Rate (\$)	Unit	Value (\$)	Prt E/N
B-BLDG-P	BUILDING PERMIT FEE	1	15000	VALUE	15000.00	<input type="checkbox"/> <input type="checkbox"/> ▲
Yes / No: <u>Y</u>	Comments:				Date: <u>27-JUN-2011</u>	
Yes / No: <input type="checkbox"/>	Comments:				Date:	<input type="checkbox"/>
Yes / No: <input type="checkbox"/>	Comments:				Date:	<input type="checkbox"/> ▼

FEEES

Fee	Description	Quantity	Amount	Bal Due	By	Time Acct.	Calc Date
BB01	BUILDING PERMIT	15000	\$327.60	\$.00	TJH		27-JUN-2011 ▲
BB02	BUILDING PLAN REVIEW		\$.00	\$.00	TJH		27-JUN-2011
BB12	EXPEDITED PLAN REVIEW		\$.00	\$.00	TJH		27-JUN-2011
BBMIN	BLDG PERMIT MINIMUM		\$.00	\$.00	TJH		27-JUN-2011
BSUR	STATE SURCHARGE	15000	\$7.50	\$.00	TJH		27-JUN-2011 ▼

PAYMENTS

Pmt Code	Comment	Checking Account	Receipt#	Amount	Acct#	By	Date
CASH	CASH PAYMENT		11-04367	\$327.60	001008350901	AEM	27-JUN-2011 ▲

TOTALS

Fees: \$335.10 Paid: \$335.10 Balance Due: \$.00

INSPECTION HISTORY

Time	Description	Result	Completed	Sched for	Compl hu	Entered hu	Sched Date/Time	Corr	Notes	Comm
------	-------------	--------	-----------	-----------	----------	------------	-----------------	------	-------	------

PROFESSIONALS

Professional Name	Type	Type Stat	Role	Permit Contact	Status	Valid License		
						Loc	St	W/C
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Prf Name: _____
Address: _____
City/ St: _____ **Zip:** _____
Prf Contact: _____ **Status:** _____ **On Hold?:**
Loc Bus#: _____ **Exp:** _____ **Phone:** _____ **Phone Type:** _____
St Tax#: _____ **Exp:** _____ **Contact Phone:** _____ **Other Phone:** _____
W/C Ins: _____ **Exp:** _____ **E-MAIL:** _____ **Bond Exempt?:**
Policy #: _____

APPLICANT

Applicant: DALE EBEL **Home Ph:** _____
Representative: _____ **Work Ph:** 763-300-4047
Position/Title: _____ **Extension:** _____
Address Line 1: 2636 BROADWAY **Fax:** _____
Address Line 2: _____ **Type:** _____
City / State: MPLS MN **Zipcode:** 55411 **SSN:** _____
E-mail: _____

CONTACT

Contact: DALE EBEL **Home Ph:** _____
Representative: _____ **Work Ph:** 763-300-4047
Position/Title: _____ **Extension:** _____
Address Line 1: 2636 BROADWAY **Fax:** _____
Address Line 2: _____ **Type:** _____
City / State: MPLS MN **Zipcode:** 55411 **Birthdate:** _____
E-mail: _____

SCOPE

Scope: B-R/R BUSINESS OCCUPANCY REMODEL OR REPAIR

REPAIR FIRE DAMAGE, 2-3 FULL SPAN 2 X 12'S RAFTERS (APPROX 20 FT) (TH-#2)
 GUT WALLS, R-19 INSULATION, VAPOR BARRIER, DRYWALL, WEST WALL NEEDS 5/8" TYPE X DRYWALL

All roof drains, area drains, or other stormwater or clearwater connections to the City's sanitary sewer system must be disconnected per Chapter 56 of the Minneapolis Code of Ordinances. Contact Arvella Greenway at 612 673 5898 if you questions.

PERMIT COMMENTS

PROFESSIONALS

Professional Name	Type	Type Stat	Role	Permit Contact	Status	Valid License Loc St W/C
A-SIGN AND SCREEN PRINTING CO	SC			CHOU VANG	HOLD	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
						<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
						<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
						<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Prf Name: A-SIGN AND SCREEN PRINTING 19845
Address: 708 LOWRY AVE N
City/ St: MINNEAPOLIS MN **Zip:** 55411
Prf Contact: CHOU VANG
Loc Bus#: **Exp:** **Status:** **On Hold?:**
St Tax#: **Exp:** **Phone:** 612-529-6617 **Phone Type:** **Contact Phone:** **Other Phone:** **E-MAIL:** chou@sign4u.com
W/C Ins: **Exp:** **Bond Exempt?:** **Policy #:**

APPLICANT

Applicant: A-SIGN AND SCREEN PRINTING CO **Home Ph:** 612-529-6617
Representative: CHOU VANG **Work Ph:** **Extension:** **Fax:** **Type:** **SSN:** **Position/Title:** CONTACT
Address Line 1: 708 LOWRY AVE N
Address Line 2: **City / State:** MINNEAPOLIS MN **Zipcode:** 55411
E-mail: chou@sign4u.com

CONTACT

Contact: A-SIGN AND SCREEN PRINTING CO **Home Ph:** 612-529-6617
Representative: CHOU VANG **Work Ph:** **Extension:** **Fax:** **Type:** **Birthdate:** **Position/Title:** CONTACT
Address Line 1: 708 LOWRY AVE N
Address Line 2: **City / State:** MINNEAPOLIS MN **Zipcode:** 55411
E-mail: chou@sign4u.com

SCOPE

Scope: SIGN/BLBRD SIGNS AND/OR BILLBOARDS

Zone: OR2
FREESTANDING SIGN (NONCONFORMING POLE - REFACE ONLY)
Size: 4' x 6' = 24 sq.ft.
Height: 12'
PBw/:
Location: Front elevation
Illumination: NONE
Copy: VAG FINANCING

QUANTITIES - VALUATIONS

Est Value: **Calc Value:** 0.00 **Area:**

DEVELOPMENT PERMITS



Owners | Zoning | Struct | Establ | Flags | Geo Area | Permits | RFS | Legal | Parcel Attr

APN: 0802924430067 2638 WEST BROADWAY

Project #	Permit	Number	Appl Date	Issue Date	Status	Decision	Dec. Date
	BSB	1009970	22-SEP-2014	10-OCT-2014	OPEN		
	BSB	1009971	17-SEP-2014	10-OCT-2014	OPEN		
	BTPA	5151939	04-APR-2013	04-APR-2013	DONE	APPROVED	12-APR-2013
	BIRE	3083659	25-FEB-2013	02-APR-2013	DONE	APPROVED	03-APR-2013
	BTPA	5148459	19-DEC-2012	19-DEC-2012	DONE	APPROVED	12-APR-2013
	BTMA	4108089	07-NOV-2012	07-NOV-2012	DONE	APPROVED	13-NOV-2012
	BTMA	4104595	08-MAR-2012	08-MAR-2012	DONE	APPROVED	13-NOV-2012
	BTMA	4104594	08-MAR-2012	08-MAR-2012	DONE	CAN	
	BSB	1007344	07-SEP-2011	07-SEP-2011	OPEN		
	BIRE	3072192	27-JUN-2011	27-JUN-2011	DONE	APPROVED	03-APR-2013
	FCOM	13333	30-JUL-2009	30-JUL-2009	OPEN		
	BIRE	3030452	13-AUG-2004	13-AUG-2004	DONE	APPROVED	08-SEP-2010
	PCAB	94929	01-OCT-1999	01-OCT-1999	DONE	DONE	05-JUL-2012
	ASR	41152	01-OCT-1999	01-OCT-1999	DONE		08-JUL-2005
	ASR	12530	01-OCT-1999	01-OCT-1999	DONE		01-OCT-1999
	ASR	19768	01-OCT-1999	01-OCT-1999	DONE		01-OCT-1999
	ASR	17390	01-OCT-1999	01-OCT-1999	DONE		01-OCT-1999

Highlight desired permit and select an option from the menu

Scope

Scope Description

DEVELOPMENT PERMITS



Owners | Zoning | Struct | Establ | Flags | Geo Area | **Permits** | RFS | Legal | Parcel Attr

APN: 0802924430067

2638 WEST BROADWAY

Project #	Permit	Number	Appl Date	Issue Date	Status	Decision	Dec. Date
	ASR	14885	01-OCT-1999	01-OCT-1999	DONE		01-OCT-1999
	L049	20998	02-JUL-1999	20-AUG-2010	DONE	INACTIVE	06-MAY-2013
	PCAB	88823	22-OCT-1998	22-OCT-1998	DONE		22-OCT-1998
	ASR	39291	24-JUL-1998	24-JUL-1998	DONE		24-JUL-1998
	ASR	14886	24-JUL-1998	24-JUL-1998	DONE		24-JUL-1998
	ASR	12531	24-JUL-1998	24-JUL-1998	DONE		24-JUL-1998
	D	956456	11-MAY-1998	11-MAY-1998	DONE	11	20-MAY-1998
	D	956200	29-APR-1998	29-APR-1998	DONE	11	01-MAY-1998
	PCAB	82452	01-SEP-1997	01-SEP-1997	DONE		01-SEP-1997
	ASR	38047	11-JUN-1997	11-JUN-1997	DONE		11-JUN-1997
	PCAB	75924	01-SEP-1996	01-SEP-1996	DONE		01-SEP-1996
	ASR	36094	03-JUL-1996	03-JUL-1996	DONE		03-JUL-1996
	F	893512	04-MAR-1996	04-MAR-1996	DONE	22	13-MAR-1997
	PCAB	69571	07-FEB-1996	07-FEB-1996	DONE		07-FEB-1996
	B	624877	09-NOV-1995	09-NOV-1995	DONE	11	17-DEC-1996
	ASR	34157	30-JUN-1995	30-JUN-1995	DONE		30-JUN-1995
	PCAB	63307	13-FEB-1995	13-FEB-1995	DONE		13-FEB-1995

Highlight desired permit and select an option from the menu

Scope

Scope Description

DEVELOPMENT PERMITS



Owners | Zoning | Struct | Establ | Flags | Geo Area | **Permits** | RFS | Legal | Parcel Attr

APN: 0802924430067

2638 WEST BROADWAY

Project #	Permit	Number	Appl Date	Issue Date	Status	Decision	Dec. Date
	ASR	38047	11-JUN-1997	11-JUN-1997	DONE		11-JUN-1997 ▲
	PCAB	75924	01-SEP-1996	01-SEP-1996	DONE		01-SEP-1996
	ASR	36094	03-JUL-1996	03-JUL-1996	DONE		03-JUL-1996
	F	893512	04-MAR-1996	04-MAR-1996	DONE	22	13-MAR-1997
	PCAB	69571	07-FEB-1996	07-FEB-1996	DONE		07-FEB-1996
	B	624877	09-NOV-1995	09-NOV-1995	DONE	11	17-DEC-1996
	ASR	34157	30-JUN-1995	30-JUN-1995	DONE		30-JUN-1995
	PCAB	63307	13-FEB-1995	13-FEB-1995	DONE		13-FEB-1995
	ASR	32133	05-JUL-1994	05-JUL-1994	DONE		05-JUL-1994
	PCAB	50824	01-SEP-1993	01-SEP-1993	DONE		01-SEP-1993
	B	599256	23-JUN-1993	23-JUN-1993	DONE	11	23-MAY-1996
	F	865879	17-JUN-1993	17-JUN-1993	DONE	11	21-JUN-1993
	ASR	30018	08-JUN-1993	08-JUN-1993	DONE		08-JUN-1993
	PCAB	44808	15-MAR-1993	15-MAR-1993	DONE		15-MAR-1993
	ASR	27915	17-JUN-1992	17-JUN-1992	DONE		17-JUN-1992
	ASR	24711	09-MAR-1992	09-MAR-1992	DONE		09-MAR-1992
	PCAB	39123	24-SEP-1991	24-SEP-1991	DONE		24-SEP-1991 ▼

Highlight desired permit and select an option from the menu

Scope

Scope Description

9. In all times dating from June of 1991 until the present, the Property has continued to be utilized as a used car dealership.

THE FOLLOWING PAGE IS THE SIGNATURE AND NOTARY PAGE.

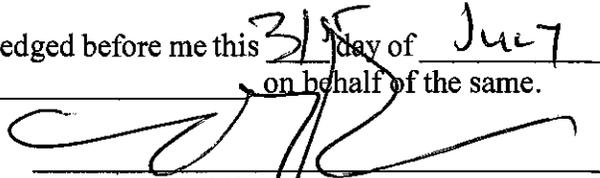
FURTHER THE AFFIANT SAYETH NOT.

Dated: July 31, 2015



Dale Lynn Ebel

The foregoing instrument was acknowledged before me this 31st day of July,
2015, by Dale Lynn Ebel, a _____ on behalf of the same.



Notary Public

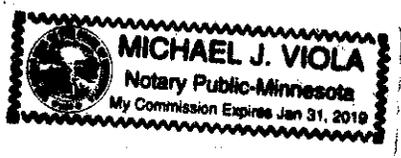


EXHIBIT A
PROPERTY

Lot 16, Block 1, Radisson Park Addition to Minneapolis, Hennepin County, Minnesota.

EXHIBIT B
LICENSE RENEWAL NOTICES



LICENSE RENEWAL NOTICE

LICENSE
L049 20998

Applicant Name Crystdale Inc. Bus. Phone 612 521-9879

Signature [Handwritten Signature] Date 6-28-2004

Class **L049 20998 MOTOR VEHICLE DEALER - USED ONL** Units **1** Fee **328.00**

DBA:

CRYSTDALE, INC
CRYSTDALE INC
2638 WEST BROADWAY

Date Due: 01-JUL-04
Amount Due: \$ 328.00
Late Penalty: _____
Total: _____

Licenses and Consumer Services
Minneapolis City Hall Room 1-C
Phone: (612) 673-2080

Make Checks Payable To: MINNEAPOLIS FINANCE DEPARTMENT

0049020998 0000032800000000007010400490209983

<u>2638 West Broadway</u>	<u>55411</u>	<u>612-521-9879</u>
IF A CORPORATION, GIVE DATE OF INCORPORATION: <u>1-1-1985</u>	STATE IN WHICH INCORPORATED: <u>Minnesota</u>	

LIST ALL NAMES OF OWNERS, PARTNERS OR CORPORATE MEMBERS

FIRST NAME, FULL MIDDLE NAME AND LAST NAME: BIRTHDATE: TITLE: PHONE NUMBER:



LICENSE RENEWAL NOTICE



LICENSE
L049 20998

Applicant Name CRYSTDALE INC Bus. Phone 612-521-9879

Signature [Handwritten Signature] Date 7-6-06

Class L049 20998 MOTOR VEHICLE DEALER - USED ONI Units 1 Fee 348.00

DBA: CRYSTDALE, INC
CRYSTDALE INC
2638 WEST BROADWAY

PAID
JUL 12 2006
BY: BA

I

Date Due: 01-JUL-06
Amount Due: \$ 348.00
Late Penalty: 69.60
Total: 417.60

Licenses and Consumer Services
Minneapolis City Hall Room 1-C
Phone: (612) 673-2080

Make Checks Payable To: MINNEAPOLIS FINANCE DEPARTMENT



MICRO PERFORATED: Detach and return this portion with completed renewal materials. Do not fold this stub.



LICENSE RENEWAL NOTICE

License L049 20998 Applicant Name _____ Bus. Phone _____

Signature _____ Date _____

Class L049 20998 MOTOR VEHICLE DEALER - USED ONI Units 1 Fee 537.00

DBA: CRYSTDALE, INC
CRYSTDALE INC
2638 WEST BROADWAY

PAID
OCT 24 2007
BY: ma

Date Due: 01-JUL-07
Amount Due: \$ 537.00 358
Late Penalty: 79
Total: 537.00

CASH

Licenses and Consumer Services
Minneapolis City Hall Room 1-C
Phone: (612) 673-2080

Make Checks Payable to: MINNEAPOLIS FINANCE DEPARTMENT

FEDERAL BUREAU OF INVESTIGATION

100-100000

SEARCHED

INDEXED

SERIALIZED

FILED

APR 1964

APR 1964

APR 1964

APR 1964

APR 1964

APR 1964





City of Minneapolis
 Licenses and Consumer Services
 350 South 5th Street - Room 1C
 Minneapolis, MN 55415-1391
 Phone: 612-673-3000 or 311
 Fax: 612-673-3399 TTY: 612-673-2157
www.ci.minneapolis.mn.us/business-licensing



LICENSE ID #	L049-20998
CSR:	SPM
Date:	6/2/2010

LICENSE RENEWAL APPLICATION

BACKGROUND INFORMATION

Type of License for Renewal Used CARS	Applicant's Name (Last, First, MI) EBEL DAIE LYNN		
Name of Business CRYSTAL INC	Minnesota Sales Tax ID Number, Social Security Number, or Individual Tax ID Number 318 9533		
Business Address 2638 West Broadway	City Mpls	State MN	Zip Code 55411
Telephone Number 612-822-4445	E-mail Address BRUCEWILLIAMS@EXECUTIVE-SEARCH.COM		

Have you been convicted of a crime in the past five years? YES NO

Have there been any changes to your business including but not limited to new owners, partners or corporate officers; expansion of your premises or services; or contact information? YES NO If Yes, list the specific changes.

- 1.
- 2.
- 3.

I understand I am required to report any change to my business to the City of Minneapolis Division of Licenses and Consumer Services.

WORKERS' COMPENSATION

Workers' Compensation Company (Insurance Company Name)	Policy Number	Dates of Coverage Starting Ending
--------------------------------------------------------	---------------	--------------------------------------

I certify that I am not required to carry workers' compensation insurance because: I am self insured. I am the sole proprietor and I have no employees. I have no employees who are covered by workers' compensation law. Only employees who are specifically exempted by statute are not covered by the workers' compensation law. These include: spouse, parents, and children regardless of age. All other workers whose work is controllable by the employer must be covered.

VERIFICATION

The data which you furnish on this application will be used by the City of Minneapolis to assess your qualifications for licensure. This information is required by law. Disclosure of this information is voluntary. You are not legally required to provide this data, however if you fail to do so, the City of Minneapolis may be unable to process this application. Disclosure of your Social Security number, Minnesota Tax ID Number, or Individual Tax ID Number is required by Minnesota Statutes 270C.72 and your Social Security number may be requested by and released to the Minnesota Commissioner of Revenue. After issuance of a license, all information contained in this application, except your Social Security Number, will be public information pursuant to Minnesota Statutes, Chapter 13. The information provided above will be verified by the Minnesota Department of Labor and Industry and individuals are subject to a \$2,000 penalty if the information is false.

A SIGNATURE IS REQUIRED IN ORDER TO PROCESS THIS APPLICATION

I, (name) DAIE EBEL, certify or declare under penalty of perjury under the laws of the State of Minnesota that the foregoing is true and correct. All information given is subject to verification by the State of Minnesota.

SIGNATURE OF APPLICANT

DATE 6-8-10

PRINT NAME DAIE EBEL

TITLE Pres

Applicant's signature confirms that there are no changes. Failure to report changes will result in fines.

minneapolis
city of lakes

LICENSE ANNUAL BILLING

LICENSE
L049 20998

Applicant Name DAIE EBEL

Bus. Phone 612 522-4445

Signature [Signature]

Date 6-18-10

Class L049 20998 MOTOR VEHICLE DEALER - USED ONI Units 1 Fee 380.00

PAID
AUG 02 2010
BY: STM

DBA: CRYSTDALE, INC
CRYSTDALE INC
2638 WEST BROADWAY

Date Due: 01-JUL-10
Amount Due: \$ 380.00
Late Penalty: 76
Total: 456-

Licenses and Consumer Services
Minneapolis City Hall Room 1-C
Phone: (612) 673-2080

Make Checks Payable To: MINNEAPOLIS FINANCE DEPARTMENT

0049020998 000003800000000000000000716300049020998

Have you been convicted of a crime in the past five years? YES NO

Have there been any changes to your business including but not limited to new owners, partners or corporate officers; expansion of your premises or services; or contact information? YES NO If Yes, list the specific changes.

- 1.
- 2.
- 3.

I understand I am required to report any change to my business to the City of Minneapolis Division of Licenses and Consumer Services.

WORKERS' COMPENSATION

Workers' Compensation Company (Insurance Company Name)	Policy Number	Dates of Coverage Starting Ending

Or

I certify that I am not required to carry workers' compensation insurance because: I am self insured. I am the sole proprietor and I have no employees. I have no employees who are covered by workers' compensation law. Only employees who are specifically exempted by statute are not covered by the workers' compensation law. These include: spouse, parents, and children regardless of age. All other workers whose work is controllable by the employer must be covered.

VERIFICATION

The data which you furnish on this application will be used by the City of Minneapolis to assess your qualifications for licensure. This information is required by law. Disclosure of this information is voluntary. You are not legally required to provide this data, however if you fail to do so, the City of Minneapolis may be unable to process this application. Disclosure of your Social Security number, Minnesota Tax ID Number, or Individual Tax ID Number is required by Minnesota Statutes 270C.72 and your Social Security number may be requested by and released to the Minnesota Commissioner of Revenue. After issuance of a license, all information contained in this application, except your Social Security Number, will be public information pursuant to Minnesota Statutes, Chapter 13. The information provided above will be verified by the Minnesota Department of Labor and Industry and individuals are subject to a \$2,000 penalty if the information is false.

A SIGNATURE IS REQUIRED IN ORDER TO PROCESS THIS APPLICATION

I, (name) DAIE EBEL, certify or declare under penalty of perjury under the laws of the State of Minnesota that the foregoing is true and correct. All information given is subject to verification by the State of Minnesota.

SIGNATURE OF APPLICANT [Signature] DATE 6-8-10

PRINT NAME DAIE EBEL TITLE Pres

EXHIBIT C
COMMERCIAL LEASE – VINCE AUTO GROUP

Commercial Lease

This Lease is made on 7-14-14, between Justin Ebel,
Landlord, of 2638 W. Broadway, City of
Mpls, State of Minnesota, and
Vince Auto group, Tenant, of 2638 W. Broadway Ave N,
City of Mpls, State of MN.

1. The Landlord agrees to rent to the Tenant and the Tenant agrees to rent from the Landlord the following property:

2638 W. Broadway Ave N.

2. The rental payments will be \$ 1300.00 per month and will be payable by the Tenant to the Landlord on the 1st day of each month, beginning on 8-1-14. If any rental payment is not paid within five (5) days of its due date, the Tenant agrees to pay an additional late charge of 5% (five percent) of the rental payment due.

3. The term of this Lease will be from 8-1-14, until 8-1-15. If Tenant is in full compliance with all of the terms of this Lease at the expiration of this term, Tenant shall have the option to renew this Lease for an additional term of 1 year, with all terms and conditions of this Lease remaining the same, except that the rent shall be \$ 1400.00. If the Tenant remains as tenant after the expiration of this Lease with the consent of the Landlord but without signing a new lease, a month-to-month tenancy will be created with the same terms and conditions as this Lease, except that such new tenancy may be terminated by ninety (90) days written notice from either the Tenant or the Landlord, and that the rent shall be \$ 1400.00.

4. The Tenant has paid the Landlord a security deposit of \$ 0. This security deposit will be held as security for the repair of any damages to the property by the Tenant. This deposit will be returned to the Tenant within ten (10) days of the termination of this Lease, minus any amounts needed to repair the property, but without interest.

5. The Tenant has paid the Landlord an additional month's rent in the amount of \$ 0. This rent deposit will be held as security for the payment of rent by the Tenant. This rent payment deposit will be returned to the Tenant within ten (10) days of the termination of this Lease, minus any rent still due upon termination, but without interest.

6. The Tenant agrees to use the property only for the purpose of carrying on the following lawful business:

7. The Landlord agrees that the Tenant may install the following equipment and fixtures for the purpose of operating the Tenant's business and that such equipment and fixtures shall remain the property of the Tenant:

None

8. The Tenant has inspected the property and has found it satisfactory for its intended purposes. The Landlord shall be responsible for the repair and upkeep of the exterior of the property, including the roof, exterior walls, parking areas, landscaping, and building foundation. The Tenant shall be responsible for the repair and upkeep of the interior of the property, including all electrical, mechanical, plumbing, heating, cooling, or any other system or equipment on the property. Tenant agrees to maintain the interior of the property and the surrounding outside area in a clean, safe, and sanitary manner and not to make any alterations to the property without the Landlord's written consent. At the termination of this Lease, the Tenant agrees to leave the property in the same condition as when it was received, except for normal wear and tear. Tenant also agrees to comply with all rules, laws, regulations, and ordinances affecting the property or the business activities of the Tenant.

9. The Tenant agrees to obtain and pay for all necessary utilities for the property.

10. The Tenant agrees not to sub-let the property or assign this Lease without the Landlord's written consent, which shall not be unreasonably withheld. Tenant agrees to allow the Landlord reasonable access to the property for inspection and repair. Landlord agrees to enter the property only after notifying the Tenant in advance, except in an emergency.

11. If the Tenant fails to pay the rent on time or violates any other terms of this Lease, the Landlord will provide written notice of the violation or default, allowing 15 days to correct the violation or default. If the violation or default is not completely corrected within the time prescribed, the Landlord will have the right to terminate this Lease with 30 days notice and in accordance with state law. Upon termination of this Lease, the Tenant agrees to surrender possession of the property. The Landlord will also have the right to re-enter the property and take possession of it, remove Tenant and any equipment or possessions of Tenant, and to take advantage of any other legal remedies available.

12. The Landlord agrees to carry fire and casualty insurance on the property, but shall have no liability for the operation of the Tenant's business. The Tenant agrees not to do anything that will increase the Landlord's insurance premiums and, further agrees to indemnify and hold the Landlord harmless from any liability or damage, whether caused by Tenant's operations or otherwise. The Tenant agrees to carry and pay all premiums for casualty insurance on any equipment or fixtures that Tenant installs at the property. In addition, the Tenant agrees to carry business liability insurance, including bodily injury and property damage coverage, covering all Tenant's business operations in the amount of \$ 600,000 with the Landlord named as a co-insured party. Tenant agrees to furnish Landlord copies of the insurance policies and to not cancel the policies without notifying the Landlord in advance. Tenant agrees to provide Landlord with a Certificate of Insurance which indicates that Landlord is a co-insured party and that Landlord shall be provided with a minimum of ten (10) days written notice prior to cancellation or change of coverage.

13. This Lease is subject to any mortgage or deed of trust currently on the property or which may be made against the property at any time in the future. The Tenant agrees to sign any documents necessary to subordinate this Lease to a mortgage or deed of trust for the Landlord.

14. This Lease may only be terminated by 60 days written notice from either party, except in the event of a violation of any terms or default of any payments or responsibilities due under this Lease, which are governed by the terms in Paragraph 11 of this Lease.

15. Tenant agrees that if any legal action is necessary to recover the property, collect any amounts due under this Lease, or correct a violation of any term of this Lease, Tenant shall be responsible for all costs incurred by Landlord in connection with such action, including any reasonable attorney's fees.

16. As required by law, the Landlord makes the following statement: "Radon gas is a naturally-occurring radioactive gas that, when accumulated in sufficient quantities in a building, may present health risks to persons exposed to it. Levels of radon gas that exceed federal and state guidelines have been found in buildings in this state. Additional information regarding radon gas and radon gas testing may be obtained from your county health department".

17. The following are additional terms of this Lease:

Must pay Rent on Area leased or will move!

Keep Current City and state licensing as well as Bond

18. The parties agree that this Lease, including the following attachments:

and Insurance

Have the Option to Renew lease after two years.

is the entire agreement between them and that no terms of this Lease may be changed except by written agreement of both parties. This Lease is intended to comply with any and all applicable laws relating to landlord and tenant relationships in this state. This Lease binds and benefits both the Landlord and Tenant and any heirs, successors, representatives, or assigns. This Lease is governed by the laws of the State of Minnesota.

Signature of Landlord

Signature of Tenant

Name of Landlord

Name of Tenant

EXHIBIT D
COMMERCIAL LEASE – STATE AUTOS CORP.

Commercial Lease

This Lease is made on 2-13-15, between Justin End,
Landlord, of 2638 W. Broadway Ave N, City of
Minneapolis, State of Minnesota, and
State Autos, Tenant, of 2638 W. Broadway Ave N,
City of Minneapolis, State of Minnesota.

1. The Landlord agrees to rent to the Tenant and the Tenant agrees to rent from the Landlord the following property: 2638 W. Broadway Ave N.

2. The rental payments will be \$ 1300.00 per month and will be payable by the Tenant to the Landlord on the 10th day of each month, beginning on 2-10-15. If any rental payment is not paid within five (5) days of its due date, the Tenant agrees to pay an additional late charge of 5% (five percent) of the rental payment due.

3. The term of this Lease will be from 2-1-15, until 2-1-16. If Tenant is in full compliance with all of the terms of this Lease at the expiration of this term, Tenant shall have the option to renew this Lease for an additional term of 1 year, with all terms and conditions of this Lease remaining the same, except that the rent shall be \$ 1400.00. If the Tenant remains as tenant after the expiration of this Lease with the consent of the Landlord but without signing a new lease, a month-to-month tenancy will be created with the same terms and conditions as this Lease, except that such new tenancy may be terminated by ninety (90) days written notice from either the Tenant or the Landlord, and that the rent shall be \$ 1300.00 per month

4. The Tenant has paid the Landlord a security deposit of \$ ~~0~~. This security deposit will be held as security for the repair of any damages to the property by the Tenant. This deposit will be returned to the Tenant within ten (10) days of the termination of this Lease, minus any amounts needed to repair the property, but without interest.

5. The Tenant has paid the Landlord an additional month's rent in the amount of \$ ~~0~~. This rent deposit will be held as security for the payment of rent by the Tenant. This rent payment deposit will be returned to the Tenant within ten (10) days of the termination of this Lease, minus any rent still due upon termination, but without interest.

6. The Tenant agrees to use the property only for the purpose of carrying on the following lawful business:

Auto Sales, Auto Rental, Auto Repair

7. The Landlord agrees that the Tenant may install the following equipment and fixtures for the purpose of operating the Tenant's business and that such equipment and fixtures shall remain the property of the Tenant:

Cameras, security sys, lights etc

8. The Tenant has inspected the property and has found it satisfactory for its intended purposes. The Landlord shall be responsible for the repair and upkeep of the exterior of the property, including the roof, exterior walls, parking areas, landscaping, and building foundation. The Tenant shall be responsible for the repair and upkeep of the interior of the property, including all electrical, mechanical, plumbing, heating, cooling, or any other system or equipment on the property. Tenant agrees to maintain the interior of the property and the surrounding outside area in a clean, safe, and sanitary manner and not to make any alterations to the property without the Landlord's written consent. At the termination of this Lease, the Tenant agrees to leave the property in the same condition as when it was received, except for normal wear and tear. Tenant also agrees to comply with all rules, laws, regulations, and ordinances affecting the property or the business activities of the Tenant.

9. The Tenant agrees to obtain and pay for all necessary utilities for the property.

10. The Tenant agrees not to sub-let the property or assign this Lease without the Landlord's written consent, which shall not be unreasonably withheld. Tenant agrees to allow the Landlord reasonable access to the property for inspection and repair. Landlord agrees to enter the property only after notifying the Tenant in advance, except in an emergency.

11. If the Tenant fails to pay the rent on time or violates any other terms of this Lease, the Landlord will provide written notice of the violation or default, allowing 15 days to correct the violation or default. If the violation or default is not completely corrected within the time prescribed, the Landlord will have the right to terminate this Lease with 30 days notice and in accordance with state law. Upon termination of this Lease, the Tenant agrees to surrender possession of the property. The Landlord will also have the right to re-enter the property and take possession of it, remove Tenant and any equipment or possessions of Tenant, and to take advantage of any other legal remedies available.

12. The Landlord agrees to carry fire and casualty insurance on the property, but shall have no liability for the operation of the Tenant's business. The Tenant agrees not to do anything that will increase the Landlord's insurance premiums and, further agrees to indemnify and hold the Landlord harmless from any liability or damage, whether caused by Tenant's operations or otherwise. The Tenant agrees to carry and pay all premiums for casualty insurance on any equipment or fixtures that Tenant installs at the property. In addition, the Tenant agrees to carry business liability insurance, including bodily injury and property damage coverage, covering all Tenant's business operations in the amount of \$ 100,000 with the Landlord named as a co-insured party. Tenant agrees to furnish Landlord copies of the insurance policies and to not cancel the policies without notifying the Landlord in advance. Tenant agrees to provide Landlord with a Certificate of Insurance which indicates that Landlord is a co-insured party and that Landlord shall be provided with a minimum of ten (10) days written notice prior to cancellation or change of coverage.

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14. This Lease may only be terminated by 30 days written notice from either party, except in the event of a violation of any terms or default of any payments or responsibilities due under this Lease, which are governed by the terms in Paragraph 11 of this Lease.

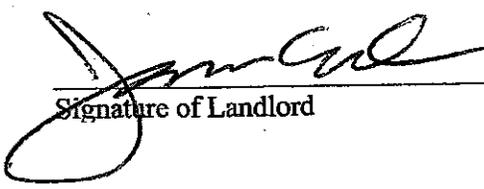
15. Tenant agrees that if any legal action is necessary to recover the property, collect any amounts due under this Lease, or correct a violation of any term of this Lease, Tenant shall be responsible for all costs incurred by Landlord in connection with such action, including any reasonable attorney's fees.

16. As required by law, the Landlord makes the following statement: "Radon gas is a naturally-occurring radioactive gas that, when accumulated in sufficient quantities in a building, may present health risks to persons exposed to it. Levels of radon gas that exceed federal and state guidelines have been found in buildings in this state. Additional information regarding radon gas and radon gas testing may be obtained from your county health department".

17. The following are additional terms of this Lease:

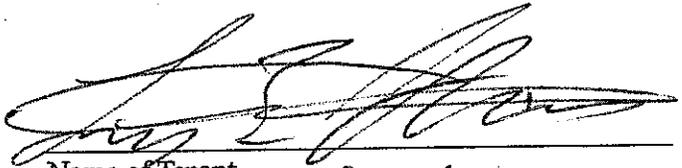
18. The parties agree that this Lease, including the following attachments:

is the entire agreement between them and that no terms of this Lease may be changed except by written agreement of both parties. This Lease is intended to comply with any and all applicable laws relating to landlord and tenant relationships in this state. This Lease binds and benefits both the Landlord and Tenant and any heirs, successors, representatives, or assigns. This Lease is governed by the laws of the State of Minnesota.

 2-13-15
Signature of Landlord

Monica W. M. Anderson
Signature of Tenant

Justin Edel 612-221-7694
Name of Landlord


Kelly S. Morter
Name of Tenant

ORDER FOUND IN
FILE - NOT ENTERED
INTO SYSTEM - 10/27/92

FILED

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
OCT 1 1 50 PM '92
FOURTH JUDICIAL DISTRICT
BY *[Signature]* DEPUTY
CLERK OF DISTRICT
COURT ADMINISTRATOR
ct. File No. PD 90-20783

Dale Lynn Ebel and
Crystdale, Inc.,

Plaintiffs,

vs.

ORDER

City of Minneapolis, a municipal
corporation, and council members
Joan Campbell, Sandra Hilary,
Walter Dziedzic, Jackie Cherryhomes,
and Dennis Schulstad,

Defendants.

The above-entitled matter was considered by the Honorable Cara Lee Neville, Judge of District Court, on the 9th day of July, 1992, on Defendants' Motion for Summary Judgment.

George Gubbins, Esq. appeared on behalf of Plaintiffs.
Corey Conover, Esq. of the Minneapolis City Attorney's Office
appeared on behalf of Defendants.

Based upon the files, pleadings, submissions and arguments of
the parties,

IT IS HEREBY ORDERED:

- ✓ 1. Defendants' Motion for Summary Judgment and/or Judgment on the Pleadings is granted.
- ✓ 2. The attached Memorandum is hereby incorporated.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: 9/30/92

[Signature]
Cara Lee Neville
Judge of District Court

MEMORANDUM OF LAW

Introduction

This action arises over the activities of Minneapolis City Council members Joan Campbell, Sandra Hilary, Walter Dzedzic, Jackie Cherryhomes, and Dennis Schulstad and the City of Minneapolis. The above named Defendants denied Plaintiff Dale Lynn Ebel a license to do business as a used car dealership. Plaintiff claims that the denial was wrongful and as a result he suffered damages.

Defendants have brought a motion to dismiss Plaintiff's Complaint for failing to state a claim upon which relief can be granted as to each individual defendant and to the City of Minneapolis. Defendants request summary judgment to each individual defendant and the City of Minneapolis on the basis that Defendants are immune pursuant to Minn. Stat. Sect. 466.03, subd.10, Minn. Stat. Sect. 466.03, subd. 6 and Minn. Stat. Sect. 466.03, subd. 8. Defendants seek dismissal of Plaintiff's claims against the individually named Defendants pursuant to Rule 12 of the Minnesota Rules of Civil Procedure on the basis that the Plaintiff has failed to allege any individual action by any of the individual Defendants that has caused injury to the Plaintiff.

Additionally, Defendants' seek summary judgment in favor of the City of Minneapolis and each individual Defendant on the grounds that the Defendants were acting within the course and scope of their employment in good faith and have qualified immunity in exercising their official duties. Lastly, Defendants' seek summary judgment and/or judgment on the pleadings declaring that the

Plaintiff is not entitled to relief upon his claim of a violation of the due process clause of the 14th Amendment to the United States Constitution and Section 7 Article 1 of the Bill of Rights of the Minnesota Constitution.

Defendants assert Plaintiff has failed to plead or show reasonably ascertainable damages and has failed to mitigate any of the damages alleged. Furthermore, Defendant seeks to strike Plaintiff's claim for punitive damages.

II. FACTS MATERIAL TO THE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

The following are the undisputed facts which are material to Defendants' motion for summary judgment and/or judgment on the pleadings.

1. Each individual named as a defendant was a Minneapolis City Council member and was serving as a member of the Standing Committee on Public Safety and Regulatory Services on June 20, 1990.

2. Plaintiff Dale Lynn Ebel applied to Defendants for a City of Minneapolis license to operate a used car dealership at 2638 West Broadway Avenue in the City of Minneapolis.¹

¹ It is unclear whether the license Plaintiff applied for was a used motor vehicle dealer license or a license to operate a used car lot at 2638 West Broadway Avenue in the City of Minneapolis. Plaintiff asserts the license applied for was to operate a used car dealership and for the sale of used cars. Defendants assert it is unclear. However, for purposes of this summary judgment, it is undisputed, by the parties, that the Plaintiff was denied to operate a used car lot at 2638 West Broadway Avenue. Therefore, the only question for the Court is whether Plaintiff has a claim for which relief can be granted whether the application was for a license for the sale of used cars and/or a license to operate a used car lot.

3. Prior to applying, Plaintiff met all inspection and zoning requirements.

4. The property located at 2638 West Broadway Avenue is zoned B3S-1. B3S-1 districts permit used car dealerships along with various other types of businesses to operate.

5. On June 29, 1990, based upon the recommendation of the named Defendants, the full Minneapolis City Council denied Plaintiff permission to operate a dealership. The denial was approved by Mayor Donald Fraser on July 5, 1990.

6. On June 13, 1991, Plaintiff did receive a license from the Minneapolis City Council to operate a used car dealership at 2638 West Broadway Avenue.

7. Plaintiff is currently operating a used car dealership at 2638 West Broadway in Minneapolis.

III. SUMMARY JUDGMENT STANDARD

Rule 56.02 of the Minnesota Rules of Civil Procedure provides that a court may grant a motion for summary judgment when the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show that there is no genuine issue of material fact and that a party is entitled to judgment as a matter of law. Minn. R. Civ. P. 56.02.

The trial court may not rule on fact issues on a motion for summary judgment. Rather, the court only determines whether fact issues exist. Rediske v. Minnesota Valley Breeder's Ass'n, 374 N.W.2d 745, 753 (Minn. Ct. App. 1985). The party moving for summary judgment carries the burden of proof of showing that the

dispositive issue is one of law, and that no genuine issue of material fact exists. A material issue of fact occurs when a factual resolution determines the outcome of the case. Zappa v. Fahey, 310 Minn. 555, 245 N.W.2d 258 (1976); Rathbun v. W.T. Grant Co., 300 Minn. 223, 219 N.W.2d 641 (1974). The court must resolve all doubts and factual inferences against the moving party. Id.; Simonson Cashway Co. v. Merickel Constr. Co., 391 N.W.2d 903, 905 (Minn. Ct. App. 1986); Alexander Constr. Co. v. C & H Contracting Inc., 354 N.W.2d 535 (Minn. Ct. App. 1984). The court views the evidence in the light most favorable to the nonmoving party. Nord v Herreid, 305 N.W.2d 455 (Minn. Ct. App.), review denied, (Minn. 1985).

The Minnesota Supreme Court has emulated the United States Supreme Court's standards by holding that "when the moving party makes out a prima facie case, the burden of producing facts that raise a genuine issue shifts the opposing party. Thiele v. Stich, 425 N.W.2d 580, 583); see also Carlisle v. City of Minneapolis, 437 N.W.2d 712, 714-15 (Minn. Ct. App. 1989) (interpreting the moving party's burden as a duty to reproduce credible evidence that would entitle it to a directed verdict if uncontroverted at trial).

Minnesota Rules of Civil Procedure 12.02 allows claims to be dismissed for failing to state a claim upon which relief can be granted. The only question for the Court is whether the complaint sets forth a legally sufficient claim for relief. Elzie v. Commissioner of Public Safety, 298 N.W.2d 29, 32 (Minn. 1980). It is immaterial whether or not the plaintiff can prove the facts

alleged.

A motion to dismiss for failing to state a claim for which relief can be granted serves a limited function. In Northern States Power Co. v. Franklin, 265 Minn. 391, 395, 122 N.W.2d 667, 670 (1963) this limited function is defined:

A claim is sufficient against a motion to dismiss based on Rule 12.02(5) if it is possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded. To state is another way, under this rule a pleading will be dismissed only if it appears to a certainty that no facts, which could be introduced consistent with the pleading, exist which would support granting the relief demanded.

A motion for judgment of the pleadings is not a favored way of testing the sufficiency of a pleading. If a liberal construction of the pleading can be held sufficient, the motion will not be sustained. Ryan v. Lodermeier, 367 N.W.2d 653, 653 (Minn. Ct. App. 1986). The pleadings are construed in favor of the party against whom the judgment is asked. Only if the pleadings create no fact issues should a motion for judgment on the pleadings be granted.
Id.

IV. APPLICATION

THE DENIAL OF AN APPLICATION FOR A USED CAR DEALERSHIP LICENSE IS A DISCRETIONARY ACT AND DEFENDANTS ARE IMMUNE FROM LIABILITY PURSUANT TO MINN. STAT. §466.03, SUBD. 6.

Plaintiff argues that he met all city inspection and zoning requirements prior to applying for a license. Affidavit of Dale Lynn Ebel, June 26, 1992. Plaintiff alleges that Defendants arbitrarily, capriciously, maliciously with wanton disregard of Plaintiff's property rights denied Plaintiff an operating license.

Defendants respond that under Minn. Stat. §466.03 subd. 6, Defendants are immune from liability. Minn. Stat. §466.02, subd. 02 provides:

[e]very municipality is subject to liability for its torts and those of its officers, employees and agents acting within the scope of their employment or duties whether arising out of a governmental or proprietary function.

Minn. Stat. §466.03 lists the exceptions to §466.02 liability and grants immunity to specific types of claims. Minn. Stat. §466.03 subd. 6 specifically exempts from liability:

Any claim based upon the performance or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused.

Minn. Stat. §466.03 subd. 6 is a grant of **discretionary immunity**. The purpose of discretionary immunity is to preserve the separation of powers by assuring that courts do not pass judgment on policy decisions entrusted to coordinate branches of government. Sayers by Sayers v. Beltrami County, 472 N.W.2d 656, 662 (Minn. Ct. App. 1991). Discretionary immunity gives municipalities the freedom to carry out their policy making decisions. It is true that not all municipal conduct is protected. Discretionary immunity applies only where a municipality shows that the conduct complained of is of policy-making nature, involving a balancing of social, political, or economic considerations. Id.

In Minneapolis Auto Parts Co. v. City of Minneapolis, 572 F. Supp. 389 (D. Minn. 1983) a city council denied Plaintiff a license to operate a junkyard. The lower court found the City Council's action "unreasonable, arbitrary and capricious" yet, Plaintiff was

still denied damages.

The Minneapolis Auto Parts Co. Court's reasoning recognizes the discretionary nature of the licensing function. Id. at 395. It is imperative that Council members consider, before granting or denying a license, whether applicants have met applicable zoning and inspection requirements. Yet, a decision to grant or deny a license to do business must also consider other policy objectives such as enforcement problems, safety ordinances and neighborhood development efforts. The licensing function inherently requires a balancing of social, political and policy-making decisions. Therefore the conduct now complained of is clearly discretionary and falls under the protection of Minn. Stat. §466.03 subd. 6.

The individual City Council members, acting in their capacity as members of the Standing Committee on Public Safety and Regulatory Services, are entitled to an absolute official privilege in the exercise of discretionary city council and committee functions. The decision to recommend to the full City Council that Plaintiff be denied a license involved the exercise of discretion on part of the individually named Defendants as members of the Standing Committee of Public Safety and Regulatory Services. Because City Councils are charged with the duty, in the exercise of their discretion, to carry out this licensing function, the individually named City Council members as Defendants enjoy an absolute privilege of immunity from liability.

Evidence shows that Plaintiff did not know any of the individually named Defendants prior to his application nor of any

reason to find that the individuals named were acting out of personal vendetta. (Ebel Deposition, pages 50-51, 57-59). Nor are there any complaints or evidence showing that the individually named Defendants were acting outside the scope of their duties. It is unfortunate that the operation of Plaintiff's car lot was delayed, however, both the City of Minneapolis and the individually named Defendants are granted immunity under Minn. Stat. §466.03 subd. 6. Minn. Stat. §466.03 subd. 6 provides immunity "whether or not the discretion is abused."

DEFENDANTS' ACTS NOW COMPLAINED OF WERE NOT "EGREGIOUS, IRRATIONAL OR EXTRAORDINARY" SO AS TO AMOUNT TO A VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS.

Plaintiff complains that the actions taken by Defendants denied Plaintiff the right to obtain income from the property located at 2638 West Broadway Avenue Minneapolis, Minnesota and that such actions in fact amounted to a defacto taking of the property for which Plaintiff has not been compensated. Such actions, Plaintiff argues, were in violation of the Fourteenth Amendment to the Constitution of the United States and Article I, Section 7 Bill of Rights of the Minnesota Constitution, wherein no person shall be deprived of Life, Liberty or Property without due process of law, nor shall private property be taken for public use without just compensation.

Plaintiff's complaint alleges both a substantive due process violation and an unconstitutional taking of Plaintiff's property. First, the Northpointe Court sets forth the standard for finding a substantive due process violation in the context of land use

regulation. Northpointe Plaza v. City of Rochester, 465 N.W.2d 686 (Minn. 1991). In Northpointe, a City Council denied Plaintiff a conditional use permit based upon traffic concerns and neighborhood opposition. Id. at 688. The court found that the denial was, at best, arbitrary. Accordingly, the court held that there was no substantive due process violation.

The test applied to determine whether there was a violation of substantive due process was two fold: one, whether there was a deprivation of a protectable property interest and, second, whether the deprivation was a result of an abuse of government power sufficient to constitute a constitutional violation. Id. at 689. In Minnesota, it is clear that a license to do business is not a property right but is in the nature of a privilege and applicants have no legitimate expectation of entitlement to a license or permit. Cleveland v. Rice County, 238 Minn. 180, 185, 56 N.W.2d 641, 633 (1952). Therefore, Defendants' decision to deny Plaintiff a license was not a deprivation of a protectable property interest and consequently Plaintiff does not have a claim to assert a violation of substantive due process.

Furthermore, even if there was a cognizable property interest in a license to do business, in the present case, it is clear that the conduct complained of does not meet the second prong of the Northpointe standard. To find a substantive due process violation, Plaintiff must show acts so egregious and irrational that the acts exceed standards of inadvertence and mere errors of law. Id. at 689. Evidence shows that the reasons Plaintiff was denied a

license were due to neighborhood opposition and enforcement concerns. Affidavit of Holstrom. And although Plaintiff argues that the denial was because Defendants did not like Plaintiff's type of business, Plaintiff does not submit evidence to show that the denial was for discriminatory reasons. Therefore, even if Minnesota recognized a property interest in applications for licenses to do business, the acts complained of would not meet the threshold standard for finding a substantive due process violation as there was no abuse of governmental power.

Second, Plaintiff argues that the denial was in effect a inverse condemnation for which he should be compensated. Plaintiff's right to use property as he wishes is subject to and limited by proper regulation of land use. The regulation of use does not constitute a compensable taking unless it deprives the property of all reasonable use. The burden is on the land owner to show deprivation of all reasonable use. Where only one functional use, such as the operation of a used car lot has been denied, it is purely speculative to conclude that all reasonable use is denied. Thompson v. City of Red Wing, 455 N.W.2d 512, 516-17 (Minn. Ct. App. 1990).

Evidence shows that there are many uses for which Plaintiff's land is zoned. Although Plaintiff was originally denied the right to use his property as a used car dealership lot, there remained several secondary uses for the property. Therefore, Plaintiff has failed to establish that the Defendants' denial of a license to operate a used car dealership effects an inverse condemnation.

Additionally, there is no evidence to show Plaintiff's land diminished in value due to the denial. No appraisal was submitted. Therefore, Plaintiff's complaint is dismissed for failing to state a claim based upon the 14th Amendment to the Constitution of the United States or upon Article I, Section 7 of the Bill of Rights of the Minnesota Constitution.

IV. PLAINTIFF IS NOT ENTITLED TO PUNITIVE DAMAGES

The Plaintiff's Complaint seeks punitive damages. Punitive damages are not recoverable against the City of Minneapolis. Minn. Stat. §466.04, subd. 1 provides in part:

Subdivision 1. Limits; punitive damages.
(a) Liability of any municipality on any claim within the scope of Sections 466.01 to 466.15 shall not exceed:

...
(b) No award for damages on any such claim shall include punitive damages.

Accordingly, Plaintiff's claim for punitive damages is stricken.

V. CONCLUSION

The denial of a license to operate a used car dealership and/or for the sale of used cars is a discretionary act protected from liability under Minn. Stat. §466.03, subd. 6. Therefore, both the City of Minneapolis and the individually named Defendants are granted immunity even if Defendants' acts were an abuse of discretion. Additionally, because Plaintiff does not have a protectable property interest in an application for a license to operate a used car dealership there was no violation of Plaintiff's constitutional rights. Both the City of Minneapolis and the individually named Defendants are entitled to summary judgment

and/or a motion to dismiss for failing to state a claim upon which relief can be granted. Request for attorney fees is denied.

TWENTY-ONE DAY TEMPORARY PERMIT

CO 5734 32

2002 Nissan
INTDR09Y52W743287

01 0215

3062049480208 MN

Vince Automotive Corp

38137 2638 W Broadway Ave Minneapolis, MN 55412

12/12/14

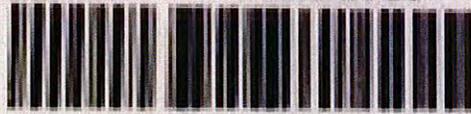
WARNING:

THIS PERMIT IS VALID ONLY FOR THE PURPOSES AND CONDITIONS LISTED ON THE PERMIT. IT IS NOT VALID FOR ANY OTHER PURPOSES.

251271



Vince Automotive Group Corp
Okwuchuwu Jidoefor



251271-402943



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If lost, or destroyed, there is a replacement fee of \$25.00

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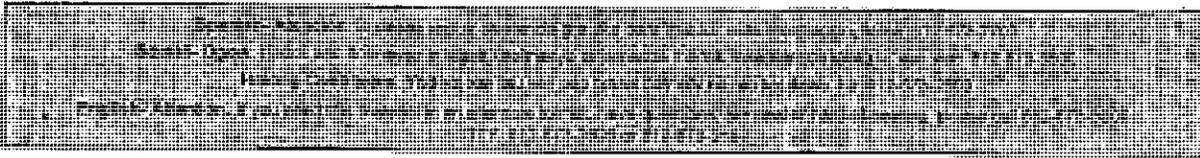
Phone: 612-367-4910

Fax: 612-588-2222

vinceautogroup@gmail.com



City of Minneapolis
Licenses and Consumer Services Division
350 South Fifth Street Room 1-C City Hall
Minneapolis, Minnesota 55415
www.minneapolismn.gov



USED CAR DEALER

2638 WEST BROADWAY
MINNEAPOLIS, MN 55411

22-AUG-13
Request Number: 13-1002995

BUSINESS LICENSE REQUIRED

Re: 2638 WEST BROADWAY

The Business License Division has been made aware that your business may be operating without the below described license. Immediately cease all business activity that requires a license.

Minneapolis Code of Ordinances Chapter 313.20 requires any person who sells or offers to sell more than three (3) motor vehicles in a twelve-month period to obtain a City of Minneapolis motor vehicle dealer's license.

Inspector's Comments: Your business requires a Used Motor Vehicle Dealer license. You must officially start the licensing process by the due date. It does not appear that the process has started yet. Please contact me with any questions.

Due Date: 01-SEP-2013

License application materials can be obtained online at www.minneapolismn.gov/licensing. The ordinance requires a fee to accompany your application. Please complete this application and submit with your check made payable to: **Minneapolis Finance Department**, by the due date listed above.

Failure to comply with the above city ordinance(s) may result in a citation.

IF YOU HAVE ANY QUESTIONS ABOUT THESE ORDERS, OR IF YOU ARE NOT THE OWNER, AGENT OR OCCUPANT, PLEASE CALL THE INSPECTOR LISTED BELOW.

The Minneapolis code of ordinances is available at:

- ◆ Minneapolis Public Library, Government Documents Section
- ◆ City Clerk's Office, Room 304 City Hall, 350 So. 5th St.
- ◆ www.minneapolismn.gov/government/laws

PJC
RFS# 13-1002995
BLICREQD

Information on business licenses can be reached on line at www.minneapolismn.gov/licensing.

ALL MATERIAL AND SERVICES ARE AVAILABLE IN ACCESSIBLE FORMATS

TTY NUMBER: 612-673-2157

MICHELE HARVET, LICENSING INSPECTOR, Phone: (612) 673-5484

Office hours 8:00am – 4:00pm



City of Minneapolis
Licenses and Consumer Services Division
350 South Fifth Street Room 1-C City Hall
Minneapolis, Minnesota 55415
www.minneapolismn.gov



DALE EBEL
2636 WEST BROADWAY
MINNEAPOLIS, MN 55411

24-JAN-14

Request number: 13-1002995

CITATION NOTICE
VIOLATIONS OF THE CODE OF ORDINANCES

RE: 2638 WEST BROADWAY

Enclosed is an administrative citation that has been issued for noncompliance of city ordinances as follows:

Minneapolis Code of Ordinances Chapter 313.20 requires any person who sells or offers to sell more than three (3) motor vehicles in a twelve-month period to obtain a City of Minneapolis motor vehicle dealer's license.

Inspector's Comments: The used car dealer was warned on approximately 8/22/13 about the requirement to obtain a Used Motor Vehicle Parts Dealer license. They have not obtained one and are still operating. Discontinue this use by due date. Pay or appeal citation by due date.

The fine amount for this citation is indicated on the citation. Failure to pay this citation before 13-FEB-14 will result in an additional late fee penalty. If you fail to comply with the above city ordinance, additional citations may be issued and fines may double daily. Nonpayment of fines may result in loss of your business license.

You may request a hearing to contest this citation. A request for a hearing must be in writing and must be received within twenty days from issuance of the citation. Your inspector cannot waive, reduce or dismiss this fine. If you decide to request a hearing, please be aware that the hearing officer has the following authority:

- (1) Mediate and enforce a settlement of the dispute;
- (2) Determine whether a violation occurred;
- (3) Dismiss the administrative citation;
- (4) Impose the scheduled fine;

- (5) Reduce, stay or waive a scheduled fine upon compliance with appropriate conditions; or
- (6) Increase the scheduled fine when the actual costs of enforcement are shown by a preponderance of the evidence to be greater than the amount of the scheduled fine.

IF YOU HAVE ANY QUESTIONS ABOUT THESE ORDERS, OR IF YOU ARE NOT THE OWNER, AGENT, OR OCCUPANT, PLEASE CALL THE INSPECTOR LISTED BELOW.

The Minneapolis Code of Ordinances is available at:

- Minneapolis Public Library, Government Documents Section
- City Clerk's Office, Room 304 City Hall, 350 South 5th Street
- www.minneapolismn.gov/government/laws

Information on business licenses can be reached on line at www.minneapolismn.gov/business-licensing.

ALL MATERIALS AND SERVICES ARE AVAILABLE IN ACCESSIBLE FORMATS

TTY NUMBER: 612-673-3300

MICHELE HARVET, LICENSING INSPECTOR, Phone: (612) 673-5484

Office hours 8:00 a.m. – 4:00 p.m.



City of Minneapolis
Licenses and Consumer Services Division
 350 South Fifth Street Room 1-C City Hall
 Minneapolis, Minnesota 55415
www.minneapolismn.gov



Spanish - Atención: Si desea recibir asistencia gratuita para traducir esta información, llame 612-673-2700.
Somali - Ogow: Haddii aad doonayso in lagaa kaalmeeyo tarjamaadda macluumaadkan, oo lacag la'aan wac 612-673-3600.
Hmong - Ceeb toom: Yogis koj xav tau kev nabs bhnais cov xov no rau koj dawb, hu 612-673-2800.
English - Attention: If you need this material in an alternate format, have questions, are deaf or hard-of-hearing, please call 612-673-3000.
 TTY: 612-673-2626 or 612-673-2157.

24-JAN-14

DALE EBEL

2636 WEST BROADWAY
 MINNEAPOLIS, MN 55411

ADMINISTRATIVE CITATION

This citation charges you with a violation of Minneapolis City Code of Ordinances.
 For information on how to respond to this citation, see the reverse side of this form.

Violation number: 13-1002995
Violation Location: 2638 WEST BROADWAY
Violation Date: 13-JAN-14

Violation: LR049
 Failure to obtain a Motor Vehicle Dealer's license per MCO 313.20

FINE: \$200 (if not paid by 13-FEB-14 a 10% late payment fee will be added)

MICHELE HARVET, LICENSING INSPECTOR, Phone: (612) 673-5484

**Warning – Failure to respond to this citation within twenty (20) days will
 result in increased penalties and fees assessed.
 DO NOT COMBINE THIS PAYMENT WITH ANY OTHER CITY BILLING**

Make Checks Payable to: MINNEAPOLIS FINANCE DEPARTMENT

MICRO-PERFORATED: Detach and return this portion with payment. Do not fold this

ADMINISTRATIVE CITATION BILLING STATEMENT

Location: 2638 WEST BROADWAY	MAIL PAYMENTS TO Licenses and Consumer Services Division 350 South 5 th St, Room 1-C Minneapolis MN 55415-1316	Date Due: 13-FEB-14	Amount Due: Now \$200
		Amount Due After Above Due Date: \$ 220	
Please write this number on your check: 13- 1002995			

CITY OF MINNEAPOLIS
COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT
DEVELOPMENT SERVICES, ZONING ENFORCEMENT SECTION
300 PUBLIC SERVICE CENTER
250 SOUTH 4TH STREET
MINNEAPOLIS, MINNESOTA 55415

DALE EBEL
2636 WEST BROADWAY
MPLS, MN 55411

NOTICE OF NON-COMPLIANCE

23-FEB-16
Request Number: 16-1160503

RE: 2638 WEST BROADWAY

On **19-FEB-16** an inspection of the premises at the above address disclosed conditions that are in non-compliance with the Minneapolis Code of Ordinances. Please make the corrections listed below by the due dates. A re-inspection will be conducted after the due date to assure all non-compliant issues have been corrected.

If all non-compliant items listed below have been corrected, no re-inspection fee will be charged. If the non-compliant items are not corrected you will be required to pay a two hundred dollar (\$200.00) fee for any subsequent inspection per Sections 525.570 (a) and (b).

The following corrections are required:

The use of the property is not allowed in the zoning district and/or overlay district. Minneapolis Code of Ordinances 546.30, 547.30, 548.30, 549.30, 549.350, 550.30 and 551.30.

Inspector's Comments: USED CAR SALES ARE NOT ALLOWED WITHOUT CITY APPROVAL. DISCONTINUE USE AND REMOVE ALL VEHICLES.

Due Date: 08-MAR-2016

The use of the property is not allowed in the zoning district and/or overlay district. Minneapolis Code of Ordinances 546.30, 547.30, 548.30, 549.30, 549.350, 550.30 and 551.30.

Inspector's Comments: A MOTOR VEHICLE STORAGE LOT IS NOT ALLOWED. REMOVE ALL VEHICLES.

Due Date: 08-MAR-2016

The parking and storage of inoperable vehicles outdoors must cease. Minneapolis Code of Ordinances 541.90.

Inspector's Comments: SEE ATTACHED DEFINITION.

Due Date: 08-MAR-2016

This order may be appealed to the Board of Adjustment in accordance with the provisions of Section 525.170 of the City of Minneapolis Zoning Code within ten (10) calendar days of the date of this order, i.e., no later than 3:30 p.m. **04-MAR-16** or the first business day after if **04-MAR-16** is a weekend or city holiday. If you wish to appeal this order or have questions about the appeal process, please call 612-673-3000 ('311' if within the City of Minneapolis) **and ask for a service request to be created for "Zoning"** or visit the Zoning Office, located at 250 South 4th Street, Room 300, between the hours of 8:00-3:30 p.m.

Please be aware that any appeal of this order to the Board of Adjustment will include (at minimum): (1) submittal of a complete appeal application by the date outlined in the paragraph above (including mailing labels from Hennepin County Taxpayer Services), (2) full payment of appeal application fee (currently \$365 + \$25 publication fee + first class postage for notification of all property owners within 350 feet of the affected property), and (3) a public hearing in front of the Board of Adjustment.

Per MCO 259.15 and MCO 360.140, failure to pay all financial claims associated with zoning compliance orders (including but not limited to unpaid administrative citations and/or re-inspection fees) may result in adverse license action for any City of Minneapolis licensed business at this location. Adverse license action may include denial or revocation of any business license application.

If you have any questions or concerns regarding this order, please call me:

STUART ROBERSON (ZSER), ZONING INSPECTOR II, Phone: (612)685-8529

Code Information:

The Minneapolis Code of Ordinances is available on computer terminals at:

- ◆ Minneapolis Public Library, Government Documents Section
- ◆ City Clerk's Office, Room 304 City Hall, 350 South 5th Street

The code is also available through the Internet using the Minneapolis home page, www.ci.minneapolis.mn.us

Below are the steps to guide you through the web page:

- ◆ Go to How do I find out about...
- ◆ Select Minneapolis Ordinances
- ◆ Click the GO button

- ◆ Click on [Minneapolis Code of Ordinances](#)
- ◆ Enter your subject or ordinance code and click on Send Query

English- Attention. If you want help translating this information, call

Spanish- Atención. Si desea recibir asistencia gratuita para traducir esta información, llama 612-673-2700

Somali- Ogow. Haddii aad dooneyso in lagaa kaalmeeyo tarjamadda macluumaadkani oo lacag la' aan wac 612-673-3500

Hmong-Ceeb toom. Yog koj xav tau kev pab txhais cov xov no rau koj dawb, hu 612-673-2800

Sign Language Interpreter- 612-673-3220 TTY: 612-673-2626

Widmeier, Janelle A.

From: Ellis, Bradley E.
Sent: Wednesday, March 18, 2015 9:15 AM
To: Widmeier, Janelle A.
Subject: FW: 2638 West Broadway

FYI

Brad Ellis, AICP

Interim Manager – Zoning Administration

City of Minneapolis – Community Planning and Economic Development – Development Services

250 South Fourth Street – Room 300

Minneapolis, MN 55415

Office: 612-673-3239

bradley.ellis@minneapolismn.gov

www.minneapolismn.gov/cped



From: Poor, Steve
Sent: Wednesday, March 18, 2015 9:01 AM
To: Ellis, Bradley E.
Subject: FW: 2638 West Broadway

Steve Poor

Interim Director

Development Services Division

City of Minneapolis – Community Planning and Economic Development

250 S. Fourth Street – Room 300

Minneapolis, MN 55414

Office: 612-673-5837

fax: 612-673-2526

steve.poor@minneapolismn.gov

www.minneapolismn.gov/cped



From: Harvet, Michele M.
Sent: Friday, October 10, 2014 9:40 AM
To: Poor, Steve
Subject: FW: 2638 West Broadway

Steve,

I spoke with Dale Ebel and he said that he is going to get his tenant in next week to apply for a Used Car Dealer license. I told him if there are any issues with getting the zoning addendum signed, that he should ask for you.

Thank you,

Michele Harvet
612-673-5484

From: Harvet, Michele M.
Sent: Tuesday, October 07, 2014 2:53 PM
To: Poor, Steve
Subject: FW: 2638 West Broadway

Steve,

I should have brought this email to today's meeting. I am sorry. So, if they come in with a new application, will their zoning addendum get signed off?

Thank you,

Michele Harvet
612-673-5484

From: Vrchota, Christopher A.
Sent: Wednesday, December 18, 2013 8:18 AM
To: Harvet, Michele M.
Subject: RE: 2638 West Broadway

Hi Michelle-

They have not submitted any sort of application, and I don't think they've even talked to anyone here for months. They need a Certificate of Non-Conforming Use, but have not talked to Shanna at all about submitting it. I would say it's highly unlikely that it will be going to any sort of hearing next month.

Chris

From: Harvet, Michele M.
Sent: Tuesday, December 17, 2013 1:19 PM
To: Vrchota, Christopher A.
Subject: RE: 2638 West Broadway

Chris,

Hi! Do you know if they are appealing the determination? The business owner said that there is a hearing on this next month.

Thank you,

Michele
X5484

From: Vrchota, Christopher A.
Sent: Friday, September 13, 2013 9:40 AM
To: Oluwaseyi Olawore
Cc: Harvet, Michele M.; Anderson, Nicole; SSkrypek@Kuepperslaw.com
Subject: RE: 2638 West Broadway

The Zoning Administrator reviewed all available information, including the addendum that was signed in May of 2012. The determination is considered final. You can appeal this determination, though that is also a public hearing process through the Board of Adjustment.

Chris

From: Oluwaseyi Olawore [<mailto:oluwaseyi@base-ventures.com>]
Sent: Friday, September 13, 2013 9:21 AM
To: Vrchota, Christopher A.
Cc: Harvet, Michele M.; Anderson, Nicole; SSkrypek@Kuepperslaw.com
Subject: RE: 2638 West Broadway

Thank you Chris for getting back to me on this. The issue I have now is that I was there May 2012 to make sure the property is okay for the use and I was told , yes it was. Not only that, the required document was signed to proceed with the property. If the property has been out since 2010 and I came 2012 and I was not informed, I think that is a bit of an issue. Now going through public hearing, drawing plans and every other thing is not part of my budget for the property and that was why I came before I proceed.

I will be glad if this issue can be review again. If though I did not move in until 2013, I can pay all the back payment to make it current.



Oluwaseyi Olawore

oluwaseyi@base-ventures.com

www.baseventuresshipping.com

Office: 612-276-3508

Fax: 651-319-9003

www.baseventuresshipping.com

For Bookings Confirmation email: bookings@baseventuresshipping.com

For Export Documentations email: bvsdocs@baseventuresshipping.com

For Transportation Dispatch email: dispatch@baseventuresshipping.com

For Invoices / Billings email: billings@baseventuresshipping.com

For all Inquires email: info@baseventuresshipping.com

This e-mail, and attachments, if any, is/are submitted as CONFIDENTIAL and may contain non-public, proprietary, personal or confidential information and is therefore marked "CONFIDENTIAL." Exemption from disclosure of this document and copies of it is claimed under all applicable statutes, rules and regulations, including but not limited to exemptions under the Freedom of Information Act. It is requested that before any disclosure is permitted of any document, or any part or copies of it, that timely notice be given to the undersigned. Please delete immediately if you receive this in error without opening any attachment or reading the content.

From: Vrchota, Christopher A. [<mailto:Christopher.Vrchota@minneapolismn.gov>]
Sent: Friday, September 13, 2013 9:10 AM
To: oluwaseyi@base-ventures.com
Cc: Harvet, Michele M.; Anderson, Nicole
Subject: 2638 West Broadway

Shay-

I went over the information we had for this property with the Zoning Administrator, Steve Poor. He agreed that, based on the amount of time that the used auto sales use has been discontinued on the site (no valid license since 2010), the use is considered abandoned and the non-conforming rights have been lost. In order to operate on the site, you will need to get a Non-Conforming Use Certificate, which requires a public hearing with the Zoning Board of Adjustment. In order to rebut the presumption of abandonment, you must demonstrate that the discontinuance of the use was due to circumstances beyond the property owner's control.

The first step in this process is to have a pre-application meeting, which is something that you can schedule with me.

Chris V.

Chris Vrchota, City Planner
City of Minneapolis
CPED- Development Services Division- Zoning Section
612-673-5467
chris.vrchota@minneapolismn.gov