



April 6, 2023

Samantha H. Baker
samantha@ovblaw.com

[via Hand Delivery and U.S. Mail]
Administrative Review Board of Appeals
City Hall
200 E. Wells Street, Room 200
Milwaukee, WI 53202

RE: Notice of Appeal – Nuisance Premises, MCO § 80-10
4295 N Teutonia Ave., Milwaukee, WI

To City Clerk,

Please find the enclosed Notice of Appeal pursuant to MCO § 80-10-5 and 320-1, appealing the determination of the Milwaukee Chief of Police that the premises located at the above-referenced address is a nuisance pursuant to MCO § 80-10.

Should you have any questions or concerns, please feel free to reach out to our office.

Very Truly Yours,

OVB Law & Consulting, S.C.

/s/

Samantha H. Baker, JD
Attorney

SHB/*jo*
Encls.

839 N. Jefferson St.
414. 585. 0588 (office)

Suite 502
ovblaw.com

Milwaukee, WI 53202
414. 255. 3031 (fax)

**ADMINISTRATIVE REVIEW BOARD OF APPEALS
CITY OF MILWAUKEE**

NOTICE OF APPEAL

To: Administrative Review Board
City Hall, 200 E. Wells Street, Room 200
Milwaukee, WI 53202

PLEASE TAKE NOTICE that Talwinder Singh Gill and 4295 N Teutonia Inc. c/o Gurinder Nagra submit this Notice of Appeal pursuant to Milwaukee Code of Ordinance ("MCO") §§ 80-10-5 and 320-11 to appeal the determination of the Milwaukee Chief of Police that the premises located at 4295 N Teutonia Ave, Milwaukee, WI ("Premises") is a nuisance pursuant to MCO § 80-10.

Mr. Talwinder Singh Gill is the property owner of the Premises and leases the Premises to 4295 N Teutonia Inc. for the operation of a motor fuel filling station and convenience store. 4295 N Teutonia Inc. is licensed by the City of Milwaukee to operate the Premises for such business purposes. The parties received the Notice of Nuisance Premise dated March 12, 2023 on March 27, 2023. (See Baker Aff., Ex. A-B).

For the reasons set forth below, the property owner and operator jointly request that the Administrative Review Board of Appeals dismiss the Milwaukee Chief of Police's determination that the Premises is a nuisance pursuant to MCO § 80-10. The basis for this appeal is as follows:

I. The Nuisance Activities

Milwaukee County Ordinance § 80-10.3. permits the Chief of Police to notify the responsible party of a premises that the premises is a nuisance when the department has "responded to 3 or more nuisance activities that have occurred at the premises during a 30-day period or that the police department has responded to 2 or more nuisances of the types defined in sub. 2-c-1-e, i to L that have occurred on the premises within one year."

The March 12, 2023 Notice of Nuisance Premises cites two events upon which it argues the premises may be qualified as a nuisance, to wit:

1. On Friday, November 11th, 2022 at 10:25 AM, a call was placed to the Milwaukee Police Department for a Subject with Gun Complaint at the address of 4295 N Teutonia Ave. The caller stated that a male subject was shooting a gun in the air at the location and entered the store and remained there. Casings were recovered near the entrance of the building. Staff did not report incident to police. (Illegal Use of Firearm: MCO 80-10-2-c-1-L)

2. On Tuesday, February 8th, 2023 at 11:09 AM, a call was placed to the Milwaukee Police Department for an Armed Robbery at the address of 4295 N Teutonia Ave. The caller stated that a male subject approached him while he was pumping gas, pressed what was believed to be a gun to the victim's side and demanded property and ultimately obtained \$300 from the victim. (Robbery: MCO 80-10-2-c-1-gg)

The first incident cites sub. 2-c-1-L. The second incident cites 2-c-1-gg. These are the only two incidents cited as a basis by the department for declaring the Premises a nuisance property under the City ordinances.

In order to declare the property a nuisance, there must be either 3 Nuisance Activities within a three-month period, or 2 incidents of the types defined in sub. 2-c-1-e, i to L within a year. The incidents cited in the Notice fail to satisfy either burden. It is clear that there are only two alleged instances, so the first prong does not apply. And a chronological read of the ordinance shows 2-c-1-gg is not contemplated within the types of nuisance activities indicated in the second prong:

c. c-1. "Nuisance activity" means any of the following activities, behaviors or conduct whenever engaged in by persons associated with a premises:

c-1-a. An act of harassment as defined in s. 947.013, Wis. Stats.

c-1-b. Disorderly conduct as defined in s. 106-1 of the code or s. 947.01, Wis. Stats.

c-1-c. Cruelty to animals or any other violation of s. 78-31.

c-1-d. Indecent exposure as defined in s. 106-5 of the code or s. 944.20(1)(b), Wis. Stats.

c-1-e. Keeping a place of prostitution as defined in s. 106-3 of the code or s. 944.34, Wis. Stats., or leasing a building for the purposes of prostitution as defined in s. 106-4 of the code.

c-1-f. Littering of premises as defined in s. 79-12.

c-1-g. Theft as defined in s. 110-16 of the code or s. 943.20, Wis. Stats.

c-1-h. Arson as defined in s. 943.02, Wis. Stats.

c-1-i. Possession, manufacture or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.

c-1-j. Gambling as defined in ss. 107-1 and 2 of the code or s. 945.02, Wis. Stats.

c-1-k. Crimes against life and bodily security as enumerated in ss. 940.01 to 940.32, Wis. Stats., except as provided in subd. 2.

c-1-L. Crimes involving illegal possession or use of firearms as defined in ch. 941 and s. 948.60, Wis. Stats.

c-1-m. Keeping a prohibited dangerous animal as defined in s. 78-25.

c-1-n. Trespass to land as defined in s. 943.13, Wis. Stats., or criminal trespass to dwelling as defined in s. 943.14, Wis. Stats.

c-1-o. Any act of aiding and abetting, as defined in s. 50-18 or s. 939.05, Wis. Stats., of any of the activities, behaviors or conduct enumerated in subpars. a to L.

c-1-p. Any conspiracy to commit, as defined in s. 939.31, Wis. Stats., or attempt to commit, as defined in s. 939.32, Wis. Stats., any of the activities, behaviors or conduct enumerated in subpars. a to n.

c-1-q. Discharge of a firearm as defined in s. 105-35.

c-1-r. The production or creation of excessive noise as defined in s. 80-63.

c-1-s. Loitering as defined in s. 106-31.

c-1-t. Public drinking as defined in s. 106-1.8.

c-1-u. The sale, offering for sale, bartering or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in s. 90-3-1 of the code or s. 125.04(1), Wis. Stats.

c-1-v. The operation of a convenience store in violation of any provision of s. 68-55.

c-1-w. The possession of counterfeit items as defined by s. 132.02, Wis. Stats.

c-1-x. Selling or giving away tobacco products to persons under the age of 18 as defined in s. 106-30-2.

c-1-y. The possession, possession with intent to sell or deliver, or delivery of drug paraphernalia as defined in s. 106-36.

c-1-z. Owning, keeping, having or harboring any bird or animal that causes a disturbance of the peace as defined in s. 78-29.

c-1-aa. Misuse of emergency telephone numbers as defined in s. 105-77.

c-1-bb. Illegal sale, discharge and use of fireworks as defined in s. 105-47-1.

c-1-cc. Loitering-illegal drug activity as defined in s. 106-35.6.

c-1-dd. Truancy and contributing to truancy as defined in ss. 106-23.1 and 106-23.3.

c-1-ee. Underage alcohol activities, as defined in s. 90-18.

c-1-ff. Adult contributing, allowing, providing alcohol to underage persons activities, as defined in s. 90-18.

c-1-gg. Robbery as enumerated in s. 943.32, Wis. Stats.

c-1-hh. Receiving or concealing stolen property as enumerated in s. 943.34, Wis. Stats.

c-1-ii. The sale of cigarettes in a form other than as a package or container on which a stamp is affixed under s. 139.32(1), Wis. Stats., as provided in s. 106-30-3-c.

Further, on March 31, 2023, my office submitted an open records request seeking call reports and incident reports for the above-referenced dates. No reports or information was provided for February 8, 2023. Upon further inquiry to the Milwaukee Police Department, it was confirmed

that there were no calls for service to the Premises between February 1, 2023 and February 20, 2023. (Baker Aff., Ex. C).

The determination must be vacated. First, because it fails to comport with the requirements set forth in MCO § 80-10-2 and second, because there is no record of any call for service on February 8, 2023 as indicated in the determination. Therefore, there is no legal basis on which the nuisance determination can stand, and it must be vacated.

Wherefore, the parties respectfully request that this Administrative Review Board of Appeals vacate the Milwaukee Chief of Police's determination.

OVBLaw & Consulting, S.C.
Attorneys for Appellant

Electronically signed by:
s/Samantha H. Baker
State Bar No. 1101385

839 Jefferson St, Suite 502
Milwaukee, WI 53202
(414) 585-0588 (office)
(414) 255-3031 (fax)
samantha@ovblaw.com

**ADMINISTRATIVE REVIEW BOARD OF APPEALS
CITY OF MILWAUKEE**


AFFIDAVIT OF SAMANTHA H. BAKER

STATE OF WISCONSIN)
) ss.
MILWAUKEE COUNTY)

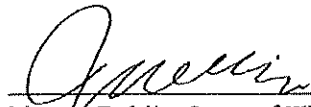
I, Samantha H. Baker, being sworn, states as follows:

1. I am a Wisconsin licensed attorney and make this affidavit as counsel of record for 4295 N Teutonia Inc. c/o Gurinder Nagra the operator of the Clark gas station located at 4295 N Teutonia Ave, Milwaukee, WI 53209.
2. Attached as Exhibit A is a true and correct copy of the Notice of Nuisance Premises dated March 12, 2023 for 4295 N Teutonia Ave, Milwaukee, WI 53209.
3. Attached as Exhibit B is a true and correct copy of the certified mailing receipt evidencing the receipt of the March 12, 2023 Notice of Nuisance Premises by the property owner on March 27, 2023.
4. Attached as Exhibit C is a true and correct copy of the electronic mail correspondence between by office and the Milwaukee Police Department's open records division.

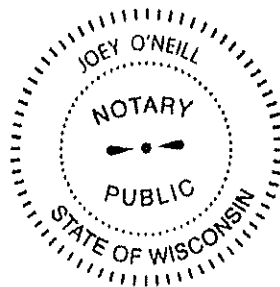
Dated this 6th day of April 2023.


Samantha H. Baker
SBN 1101385

Signed and sworn to before me
on this 6th day of April 2023.



Notary Public, State of Wisconsin
My commission: 8/16/2026





Milwaukee Police Department
Police Administration Building
749 West State Street
Milwaukee, Wisconsin 53233
<http://www.milwaukee.gov/police>

Jeffrey B. Norman
Chief of Police

(414) 933-4444

Sunday, March 12th, 2023

**Talwinder Singh Gill
19315 Compton Ln
Brookfield, WI 53045-5812**

Re: Notice of Nuisance Premises

Dear Talwinder Singh Gill:

This letter is notice to you that the Milwaukee Chief of Police, by the chief's designee, the district commander, has determined that the premises located at **4295 N Teutonia Ave.** ("the premises") is a nuisance pursuant to Milwaukee Code of Ordinances ("MCO") § 80-10, Chronic Nuisance Premises.

The Milwaukee Police Department has responded to the following described nuisance activities at the premises on the corresponding dates, which qualify the premises as a nuisance:

1. On Friday, November 11th, 2022 at 10:25 AM, a call was placed to the Milwaukee Police Department for a Subject with Gun Complaint at the address of 4295 N Teutonia Ave. The caller stated that a male subject was shooting a gun in the air at the location and entered the store and remained there. Casings were recovered near the entrance of the building. Staff did not report incident to police. (Illegal Use of Firearm: MCO 80-10-2-c-1-L)
2. On Tuesday, February 8th, 2023 at 11:09 AM, a call was placed to the Milwaukee Police Department for an Armed Robbery at the address of 4295 N Teutonia Ave. The caller stated that a male subject approached him while he was pumping gas, pressed what was believed to be a gun to the victim's side and demanded property and ultimately obtained \$300 from the victim. (Robbery: MCO 80-10-2-c-1-gg)

As a consequence, the premises may be subject to a special charge for the cost of future enforcement for any of the nuisance activities listed in MCO § 80-10-2-c that occur at the premises. Residential rental properties may be subject to an inspection by the Department of Neighborhood Services for compliance with the building maintenance and zoning code pursuant to MCO § 200-53.

You are directed to respond to my office within 10 days of receipt of this notice with an acceptable, written course of action that you will undertake to abate the nuisance activities

EXHIBIT A

occurring at the premises, or file an appeal. You may appeal this nuisance determination to the Administrative Review Appeals Board. Any appeal must be in writing and a processing fee will be charged. Please contact the Office of the City Clerk at (414) 286-2231 for additional information.

If you elect to provide a written course of action, I shall evaluate it to determine if it is a reasonable attempt at abating the nuisance activity.

Prior to responding with a written course of action, it is highly recommended that you obtain records relating to police responses regarding the premises. You may obtain these records from the Computer Aided Dispatch System (CADS) at the Open Records Section of the Milwaukee Police Department (District Three Station, 2333 North 49th Street, Second Floor) Monday, Wednesday and Friday between 8:00 AM and 3:30 PM. There is a cost of 25 cents per page for these records.

Please review the following examples of nuisance abatement measures that you may include in your written course of action to abate the nuisance activity. These suggestions are not exclusive, may not apply to the issues at your particular premises, and you may propose other nuisance abatement measures that would be appropriate under your particular circumstances.

- Participate in the Department of Neighborhood Services' Landlord Training Program and make a good faith effort to apply the knowledge from the course and attend refresher classes. Information on this training program may be obtained by calling (414) 286-2954.
- Exchange names and telephone numbers with the owners and operators of neighboring premises.
- Participate in a local block watch, neighborhood association, landlord compact and property management association.
- Attend the monthly crime prevention meetings conducted by the local Milwaukee Police District Community Liaison Officer who can be contacted at (414)935-7258.
- Institute the use of written screening criteria that are provided to each applicant at the time each proposed adult resident receives a written application; and, conduct background checks of all prospective adult tenants and residents.
- Institute the use of a written lease for each adult tenant that include provisions relating to disorderly behavior, noise, garbage disposal, use of common areas, illegal activity, tenant responsibility for guest conduct, and the prohibition of sub-leasing and long-term guests. Timely enforce any lease violations.
- Review the tenancies of all the current residents in the property. This may include the termination of tenancies and reapplication by existing tenants for new tenancy.
- Regularly inspect the interior of the property to confirm that the residents are your tenants, confirm that the premises are actually used as a residence, and to determine if the doors and windows have been fortified or the premises outfitted with surveillance or delivery mechanisms.
- Monitor the property for evidence of drug activity. This may include observation of clear corner cuts of baggies strewn about, excessive quantities of plastic sandwich baggies found in odd places, presence of numerous weight scales or communication devices and drug paraphernalia such as unusual pipes, empty cigar wrappers, burned hollow tubes, etc.

- Install "No Loitering" signs in the front and rear of the exterior of the property. This signage permits police to cite loitering individuals in the yard and sidewalk area.
- Install "No Trespassing" signs in the front and rear of the exterior of the property. This signage permits police to cite trespassers in commercial properties.
- Install a sign with your name and contact information in a common area requesting law enforcement contact you if they are responding to a call for service at the premises.
- Record all rental properties owned by you with the Department of Neighborhood Services as required by local ordinance.
- Participate in the E-Notify system for email updates regarding the premises.
- Regularly file open records requests for Milwaukee Police Department Computer Aided Dispatch System (CADS) reports regarding the property.
- Institute a standing complaint with the local Milwaukee Police district station that will allow the police department to remove any individuals loitering on the property.
- Draft and serve a no trespassing order against identified nuisance persons and provide the local police district station a copy of the served order.
- Provide the local police district station with an updated current tenant list.

If you propose a course of action which is rejected by me or fail to timely respond to this request, and a subsequent nuisance activity occurs on or after 13 days after receipt of this notice, the premises will be subject to placement of a special charge as a lien on the property by the Commissioner of the Department of Neighborhood Services for the cost of any police services and enforcement.

Once you have been billed for the costs of police services and enforcement for three or more separate nuisance activities within one year of the date of this notice of nuisance premises, the premises may be designated a chronic nuisance, pursuant to MCO § 80-10-6, and each and every subsequent incident of nuisance activity at the premises may be deemed a separate violation and result in a citation being issued to you for failure to abate the nuisance activity. Each citation would subject you to a forfeiture of not less than \$1,000.00 or more than \$5,000.00. Upon default of payment of a chronic nuisance citation you would be subject to imprisonment in the county jail or house of correction for a period of not less than 40 days or more than 90 days for each violation.

Please contact P.O. Stephen Colwell at (414)935-7504 with any questions, and I look forward to hearing from you.

Best regards,

JEFFREY B. NORMAN
CHIEF OF POLICE


SHERONDA GRANT
DISTRICT COMMANDER

Attachment: Copy of Milwaukee City Ordinance 80-10
CC: Department of Neighborhood Service, Lake Tower 1st Floor - Pete Laritson
City Hall Common Council – 1st Aldermanic District

v. 8/19



Milwaukee Police Department
P.O. Box 531
Milwaukee, WI 53201-0531

IN REPLY REFER TO:

DS

CERTIFIED MAIL®



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EXHIBIT B

Samantha Huddleston Baker

From: Records, Open <mpdopenrecords@milwaukee.gov>
Sent: Wednesday, April 5, 2023 4:21 PM
To: Samantha Huddleston Baker
Subject: Re: 4295 N Teutonia Ave., Milwaukee, WI

I am not able to locate a CAD or an incident that used that address as an event location between 02/01/2023 to 02/20/2023.

Officer Gina Metz
Open Records Section
Milwaukee Police Department

From: Samantha Huddleston Baker <samantha@ovblaw.com>
Sent: Wednesday, April 5, 2023 3:57 PM
To: Austin Baldwin <Austin@ovblaw.com>; Records, Open <mpdopenrecords@milwaukee.gov>
Subject: RE: 4295 N Teutonia Ave., Milwaukee, WI

Good afternoon,

There are no CAD reports or incident reports for February 8, 2023. Can you please confirm there are no incident reports or calls to the premises for this date?

Samantha Huddleston Baker, JD
Attorney

OVB Law & Consulting S.C.
839 N. Jefferson St
Suite 502
Milwaukee, WI 53202
414. 585. 0588 (office)
414. 255. 3031 (fax)



LAW & CONSULTING, S.C.

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From: Austin Baldwin <austin@ovblaw.com>
Sent: Friday, March 31, 2023 3:39 PM
To: mpdopenrecords@milwaukee.gov
Cc: Samantha Huddleston Baker <samantha@ovblaw.com>
Subject: 4295 N Teutonia Ave., Milwaukee, WI

Good Afternoon,

Please see the attached open records request from Attorney Samantha Baker for the above-referenced address.

Please feel free to let me know if you have any questions.

Thank you,

Austin Baldwin
Firm Administrator/Paralegal

OVB Law & Consulting S.C.
839 N. Jefferson St
Suite 502
Milwaukee, WI 53202
414. 585. 0588 (office)
414. 255. 3031 (fax)



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