

LAW OFFICES OF

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June 11, 2002

Ald. Jeff Pawlinski, Chairman
Utilities and Licenses Committee
Milwaukee Common Council
City Hall
200 East Wells Street
Milwaukee, Wisconsin 53202

Dear Alderman Pawlinski:

RE: Hearings Conducted Regarding
Licensed Dwelling Facilities
(Rooming Houses)

As you know, pursuant to Chapter 275 of the Milwaukee Code of Ordinances, I have, at your request, conducted hearings regarding the applications for renewal of rooming house licenses for the properties located at 2537 North Farwell Avenue, 736 South Third Street, and 902 South Third Street, in the City and County of Milwaukee, Wisconsin. Enclosed please find my Findings of Fact and Conclusions of Law in each of these cases.

I will appear before your committee on Friday, June 14 at 10:00 a.m. to testify and provide my recommendations. At that time, I will be happy to answer any questions you or the members of your committee may have regarding the hearings.

I have provided a copy of my Findings of Fact and Conclusions of Law and Recommendation to each of the applicants (property owners) and the principal complainant in each case. If you have any questions, please contact me. Thank you for retaining me in this matter.

Sincerely,



David L. Borowski
Attorney at Law

DLB:br
Enclosures

Ald. Jeff Pawlinski, Chairman
June 11, 2002
Page 2

cc: As to 2537 North Farwell Avenue:
Todd Farris, Esq. (Katz Properties)
Ald. Michael D'Amato

As to 736 South Third Street:
David Larson
Dain Maddox

As to 902 South Third Street:
Mark Sostarich, Esq. (Suzana Crumble)
Dain Maddox

Date: June 11, 2002

To: Utilities and Licenses Committee, of the Milwaukee Common Council

From: Attorney David L. Borowski, Hearing Examiner

Re: Report on the May 29, 2002 evidentiary hearing conducted relative to the complaint filed by Alderman Michael D'Amato requesting non-renewal of the rooming house license of Katz Children's Trust (Katz Properties) for the property located at 2537 North Farwell Avenue, in the City and County of Milwaukee, Wisconsin.

FINDINGS OF FACT

1. Katz Children's Trust/Katz Properties (hereinafter "the Licensee") is the holder of a rooming house license for the property located at 2537 North Farwell Avenue, in the City and County of Milwaukee, Wisconsin. The license is subject to annual renewal, and expires at midnight on June 30, 2002.
2. The Licensee filed an application with the City of Milwaukee Department of Neighborhood Services for a renewal of the rooming house license for the property located at 2537 North Farwell Avenue. The application was filed on March 15, 2002.
3. A sworn "complaint," dated and filed March 25, 2002 in the form of a letter from Ald. Michael D'Amato, was filed with the Office of the City Clerk. The complaint sought non-renewal of the rooming house license for the following reasons: An extensive history of violations and service requests, complaints from neighbors, and noise nuisance citations received by tenants of the property.
4. Pursuant to section 275-20(9)(b) of the Milwaukee Code of Ordinances (hereinafter "MCO"), on May 21, 2002, the Office of the City Clerk mailed a notice to appear to the Licensee, Katz Properties, informing of the hearing to be held on Wednesday, May 29, 2002, at 9:00 a.m. in Room 301-A of City Hall, said hearing to be heard by Attorney David Borowski, and to take testimony and render Findings of Fact and Conclusions of Law to the Utilities and Licenses Committee relative to the application for the property located at 2537 North Farwell Avenue, in the City and County of Milwaukee, Wisconsin.

5. The Licensee was served with the notice to appear, acknowledged receipt of the notice and complaint, and the Licensee appeared with counsel at the hearing. (Transcript pp. 38-39)
6. Based upon the sworn testimony of the parties and witnesses, along with the evidence received at the hearing, the hearing examiner finds the following:
 - a. The Licensee owns the rooming house property located at 2357 North Farwell Avenue, in the City and County of Milwaukee, Wisconsin.
 - b. The Licensee, through Katz Properties, owns several other properties in and around Milwaukee, Wisconsin and is experienced in the management of residential properties.
 - c. The complainant did introduce evidence of certain violations at the subject property, in the form of a printed list of various violations. However, it appears that only two of the violations occurred in the course of the last year of renewal of the rooming house license at this property.
 - d. There was not any testimony introduced at the hearing regarding whether any of the violations at the subject property, were more, less or about the same in number and nature of the violations as compared to similar properties, or other rooming houses, in the City of Milwaukee.
 - e. Three citizen witnesses testified at the hearing in this matter: Cathy Stone of 2230 East Bradford, Al Chapin of 2551 North Prospect Avenue, and Mr. Robin M. Wyman of 2542 North Farwell Avenue.
 - f. The testimony provided by the citizens was regarding general problems inherent in the neighborhood in which the property at 2537 North Farwell Avenue is located. The citizens indicated that they could not identify that problems in the neighborhood (parking, noise, litter, etc.) could be attributed to activities of residents, or guests of residents, of the property. (Transcript pp. 7, pp. 20-25, pp. 30-36)
 - g. Evidence was introduced at the hearing regarding the issuance of noise nuisance citations for violations of the noise nuisance ordinance Section 80-65(4), MCO. These citations were issued at the property. Evidence was also introduced by the Licensee that each of the persons given a noise nuisance citation that was a tenant of the property has been either evicted or no longer lives at the property. (Transcript pp. 48)
 - h. The Department of Neighborhood Services appeared by Karen Jacobs. She indicated that there are no open orders or code violations on the property at this time. As such, the Department of Neighborhood Services does not object to the renewal of the license. (Transcript pp. 49-50)

- i. The City of Milwaukee Police Department did not appear at the hearing and has not filed any notice of an objection regarding the renewal of the rooming house license for the subject property.

CONCLUSIONS OF LAW

1. The hearing examiner has jurisdiction to conduct evidentiary hearings and provide Findings of Fact, Conclusions of Law, and a recommendation to the Utilities and Licenses Committee of the Common Council for the City of Milwaukee pursuant to Section 275-20(9)(f) of the MCO.
2. The causes for revocation, suspension and/or non-renewal of rooming house licenses is set forth in the Milwaukee Code of Ordinances Chapter 275-20(7)(q).
3. Based upon the above facts, the hearing examiner concludes that the licensed dwelling facility has been operated in accordance with the relevant ordinances.

RECOMMENDATION

Based upon the above-stated Findings of Fact and Conclusions of Law, I hereby recommend that the rooming house license for the premises located at 2537 North Farwell Avenue, in the City and County of Milwaukee, Wisconsin should be renewed.

Dated at Milwaukee, Wisconsin this 11th day of June, 2002.

By:



DAVID L. BOROWSKI

Attorney at Law and Hearing Examiner