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Administrative Review Appeals Board Office of the City of Clerk 200 E. Wells Street Room 205 Milwaukee, WI 53202

RE: Nuisance Determination against Berrada Properties 34, LLC

4102-4114 N. 27th Street

Administrative Review Appeal Board:

Pursuant to the Board's request for a written submission on the issues in this matter, this letter will serve as Berrada Properties 34, LLC's written submission.

Determination and Standard

On December 31, 2024, the Milwaukee Police Department issued a letter to Berrada Properties 34, LLC (hereinafter, "Berrada"), that it had determined that 4102-4114 N. 27th St. was a Chronic Nuisance Premises pursuant to MCO § 80-10. As a result of this determination, Berrada is subject to special charges for any future enforcement at its property.

MCO 80-10-3 allows a premise to be designated as a chronic nuisance premise if police responded to particular "nuisance activity" which occurred at the premise within a year. "Nuisance activity" is a defined term, which itself incorporates defined terms. The definitions necessary to understand what a "nuisance activity" is are as follows:

MCO 80-10-2-c-c-1 "Nuisance activity" means any of the following activities, behaviors or conduct whenever engaged in by persons associated with a premises. (emphasis added)

MCO 80-10-2-e "Person associated with a premises" means the premises owner, operator, manager, resident, occupant, guest, visitor, patron or employee or agent of any of these persons.

Therefore, to properly issue a chronic nuisance determination against a premises, the City must present sufficient evidence that an owner, operator, manager, resident, occupant, guest, visitor, or patron engaged in the prohibited conduct. The City fails to meet this burden if it can not identify the person who engaged in the conduct, or if the person engaged in the conduct was a trespasser.

October 26, 2024 Incident

The first "nuisance activity" alleged by the City occurred on October 26, 2024. The City's determination alleged that there was a violation of MCO-80-10-2-C-1-L, "Crimes involving illegal possession or use of firearms" and MCO-80-10-2-c-1-k "Crimes against life and bodily security as enumerated in ss. 940.01 to 940.32" The City must then show that an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises illegally possessed or used a firearm, or shot someone.

This incident was a drive-by shooting directed at the property. The shell casings were found the in street, and the identity of the shooters is unknown. There was a party occurring at the residence at the time of the drive-by but there is no indication whatsoever that the shooters were guests or visitors of the party. The shooters have not been identified. If the identity of the shooter is unknown, then certainly it can not be said that the unknown person was an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises.

While the report indicates that people at the party did possess firearms, it is not illegal to do so. And there is no indication that those present at the party used the firearms in an illegal manner. All of the ballistic evidence collected at the scene indicates the shooting occurred from a car in the street.

December 30, 2024 Incident

The second "nuisance activity" alleged by the City occurred on December 30, 2024. The City's determination alleged that there was a violation of MCO-80-10-2-C-1-L, "Crimes involving illegal possession or use of firearms" and MCO-80-10-2-c-1-k "Crimes against life and bodily security as enumerated in ss. 940.01 to 940.32", specifically a homicide in this case. <u>The City must then show that an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises illegally possessed or used a firearm, or committed a homicide.</u>

According to the criminal complaint, Eddie Ivy had a personal grudge against the father of a resident of the premises. As the father of the resident was on a bus to visit his daughter at 4102-4114 N. 27th St., Ivy spotted him. Ivy got off the bus at the same stop as the father, followed him, and then shot him while the father was entering the premises.

It is crystal clear from the criminal complaint that Ivy was not an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises.

Conclusion

To succeed on its determination, the City must demonstrate that in <u>both</u> of the above instances, that the person who did the shooting was <u>an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises committed the crime. Here, the City fails in both instances.</u>

Very truly yours,

/s/Michael A. Pflughoeft Jr.

Michael A. Pflughoeft Jr.