

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
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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

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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 June 3, 2002 evidentiary hearing conducted relative to the complaint filed regarding the application for a licensed dwelling facility (rooming house) of David Larson for the premises located at 736 South Third Street, in the City and County of Milwaukee, Wisconsin.

FINDINGS OF FACT

1. David Larson of 711 Oak Creek Parkway, South Milwaukee, Wisconsin 53172 (hereinafter "the Licensee") is the holder of a rooming house license for the property located at 736 South Third Street, 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 736 South Third Street. The application was filed on March 5, 2002.
3. Two "complaints" were filed by citizens objecting to the renewal of a rooming house license for the property located at 736 South Third Street. The letters objecting to renewal were filed by Dain Maddox on March 14, 2002, and by Dave Martin of 828 South Third Street, on March 15, 2002. Both of these letters were filed with the City Clerk's office.
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, David Larson, informing him of the hearing to be held on Monday, June 3, 2002, at 9:00 a.m. in Room 301-B 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 736 South Third Street, in the City and County of Milwaukee, Wisconsin.

5. The Licensee was served with the notice to appear, acknowledged receipt of the notice and the possibility that his license could be renewed, suspended, or not renewed. (Transcript p. 43)
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 and manages the licensed dwelling facility (rooming house) located at 736 South Third Street, in the City and County of Milwaukee, Wisconsin.
 - b. The Licensee, by his own admission, has had trouble controlling and managing the property, and the property is currently for sale. (Transcript p. 35, p. 42)
 - c. Complainant introduced a map of the 12th Aldermanic District indicating a high density of rooming houses in the "Walker's Point" neighborhood.
 - d. There have been 9 police calls and responses regarding complaints at the property located at 736 South Third Street, within the last six months. The complaints and investigations have included problems with solicitation, problems with tenant's property, and a request to have a subject removed from the rooming house.
 - e. The Complainant also introduced evidence (photos) indicating that the outside of the property is kept in disrepair with a great deal of litter on the property.
 - f. The parties introduced a copy of a letter dated August 24, 2001 to Detective Valcarcel of the Milwaukee Police Department regarding the rooming house at 736 South Third Street. The letter was written by the owner David Larson and indicates that he has concerns of drug use in the building, crack cocaine use by tenants and a concern that a "new tenant appears to be dealing right out of the building." The letter goes on to express concern for the safety of tenants.
 - g. During the last year a tenant has been removed from the subject property for a drug violation that was a violation of his probation. (Transcript p. 37)
 - h. The owner of the property has had to call the police regarding his own tenants. (Transcript p. 42)
 - i. The owner of the property testified that at times the door to the property is left open and unlocked. There are not any doorbells on the property. This leads to the noise and nuisance of honking horns and people yelling upstairs to tenants. (Transcript p. 49)

- j. The owner has had nine (9) evictions in the last year. (Transcript p. 41)
- k. The following witnesses testified at the hearing:
 - 1. Dave Martin of 828 South Third Street
 - 2. Tracy Williams of 821 South Third Street
 - 3. Patricia Koehn of 640 South Third Street
 - 4. Mike Koehn of 640 South Third Street
 - 5. Susan Potts of 934 South Third Street
 - 6. Catalina Lopez of 713 South Fourth Street
- l. The testimony provided by the citizens was in the nature of nuisances and problems specific to the property located at 736 South Third Street. The witnesses were consistent in their testimony of observations regarding potential drug dealing and prostitution, loitering and other illegal activities. Specifically, witnesses have seen women (engaging in what appears to be prostitution) going in and out of the building. (Transcript pp. 16, 27-28)
- m. The Department of Neighborhood Services appeared by Pandora Bender. She indicated that there are not any pending work 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 p. 52)
- n. 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 a 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). The density of rooming houses in a particular neighborhood is not a reason for revocation, suspension and/or non-renewal according to the ordinances.
- 3. A license may be non-renewed if a licensed dwelling facility is operated in a such a manner that it generates complaints from neighbors or residents related to loud and raucous noise, undesirable activities of residents or guests of residents and has a substantial adverse effect upon the health, safety, convenience or property interest of the surrounding neighborhood. (MCO 275-20-9(q-2))

4. Based upon the above facts, the hearing examiner concludes that the licensed dwelling facility located at 736 South Third Street, has failed to operate in accordance with relevant ordinances. Specifically, this rooming house is operated in such a manner that it generates complaints from neighbors relating to undesirable activities of residents or guests of residents and it has a substantial adverse effect upon the health, safety and property interests of the surrounding neighborhood.

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 736 South Third Street, in the City and County of Milwaukee, Wisconsin should not be renewed at this time.

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

By: David Borowski
DAVID L. BOROWSKI
Attorney at Law and Hearing Examiner