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May 30, 2025

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 125, LLC
4937 N. 39th Street

Administrative Review Appeal Board:

Pursuant to the Board's request of a written submission on the issues in this matter, this letter will serve as Berrada Properties 125, LLC's written submission.

Determination and Standard

On October 15, 2024, the Milwaukee Police Department issued a letter to Berrada Properties 125, LLC (hereinafter, "Berrada"), that it had determined that 4937 N. 39th Street 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.

August 18, 2024 Incident

The first “nuisance activity” alleged by the City occurred on August 18, 2024. The City’s determination alleged that there was a violation of MCO-80-10-2-C-1-Q, “Discharge of a firearm as defined in s. 105-35.” The City must then show that an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises discharged a firearm. The City fails to do so.

According to the police report, a resident from 4937 N. 39th Street, F.C., was supposed to have a black 2020 Ford F150 “transferred” to her. It is not clear from the report if she was purchasing the vehicle, but it appears that she was going to get it from her ex-boyfriend, J.S. However, J.S. did not give F.C. the vehicle, saying that it had a mechanical issue and that it was left at J.S.’s girlfriend’s uncle’s house.

On August 18, 2024, F.C., went to McDonalds with her fiancé, D.D., and her ex-boyfriend J.S. when they saw the vehicle in the parking lot. F.C. confronted the driver, an unknown male, who said “shut the f--- up. You ain’t getting your truck.” The truck then drove away.

F.C. then returned to 4937 N. 39th Street with her fiancé, D.D. She was not in her apartment, but in an empty apartment on the ground floor, when a different, white truck, pulled up with 3 armed males and S.L.W., the girlfriend of J.S. Apparently, the males were looking for F.C., but did not find her because she was not in her apartment.

Approximately 30 minutes later, the Black Ford truck appeared at the residence, three unknown males exited, and fired at F.C. and D.D. while they were in the doorway.

No arrest has been made.

The facts provided by the City are insufficient to support its burden that an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises discharged a firearm. To begin with, 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.

The City appears to rely upon the information that S.L.W., F.C.’s ex-boyfriend’s new girlfriend, may have been in the truck that shot at the premises to demonstrate that the shooting was done by a “person associated with a premises.” If that term was used in common parlance, the three degrees of separation would make it insufficient. Even more so then, when “person associated with a premises” is a defined term is it insufficient. There is no mention, whatsoever, in the police report that 1) S.L.W. shot a firearm or 2) that S.L.W. was an invited guest or visitor at the property.

October 12, 2024 Incident

The second “nuisance activity” alleged by the City occurred on August 18, 2024. The City’s determination alleged that there was a violation of MCO-80-10-2-C-1-Q, “Discharge of a firearm

as defined in s. 105-35.” The City must then show that an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises discharged a firearm.

The allegation in this matter is that a fight occurred in the street, not on the property, between two women. At some point during the fight, two men got involved, one of which shot the other. The person who did the shooting is not identified in the police records. Without the identity of the shooter, it can not be determinatively stated that he was an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises.

Further, the police report and CAD notes indicate that this incident occurred in the street, on public property. Certainly, a landowner can not be held responsible for the actions of tenants, guests, or patrons the moment that those people leave their property.

Conclusion

To succeed on its determination, the City must demonstrate that in both of the above instances, that the person who did the shooting was an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises discharged a firearm. The City fails to do so for both properties.

Very truly yours,

/s/Michael A. Pflughoeft Jr.

Michael A. Pflughoeft Jr.