

February 27, 2006

To the Honorable Common Council
Of the City of Milwaukee
Room 205 – City Hall

Re: Communication from attorney Paul Beard
On behalf of Will Sherard, d/b/a WJ Sherard Realty Co.
C.I. File No. 05-L-145

Dear Council Members:

We return the enclosed document which has been filed with the City Clerk and ask that it be introduced and referred to the Committee on Judiciary & Legislation with the following recommendation.

Claimant Will Sherard, d/b/a WJ Sherard Realty Co., 2233 West Capitol Drive, Milwaukee WI 53206 alleges through their attorney Paul Beard, P.O. Box 904, Waukesha, WI 53187- 0904 that because of the actions by the City of Milwaukee beginning June, 2005 he has been deprived of income from his rental property located at 2935 North 16th Street. They claim damages in the amount of \$7,844.00.

Our investigation reveals the Department of Neighborhood Services (DNS) received the two most recent complaints relative to this property in May, 2005. These complaints generated an interior and exterior review of the property on May 27, 2005. The review revealed a serious structural defect in the basement caused by fire, various electrical fire hazards, two defective toilets and structurally unsound floors. This led to a placard order citing a total of 161 violations.

The placard order deemed the property unfit for habitation. The tenants and the claimant were provided orders dated May 27, 2005 relative to this situation. The claimant's and tenants' copies were mailed on June 3, 2005 and the tenants were also informed personally. On June 6, 2005, DNS spoke with the claimant and explained the reasons that led to the placard order.

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The claimant appealed these orders to the Standards and Appeals Commission (SAC) on June 9, 2005. The DNS re-inspected the property on June 10, 2005 and found it to be vacant. The DNS had no knowledge prior to this the time that claimant planned to appeal the orders or that the appeal had been filed. The SAC heard the claimants appeal on June 21, 2005. The SAC directed DNS to re-inspect the property pursuant to the claimant's request for a "second opinion." The SAC did not dismiss the orders, but directed DNS to report back to them at their August 18, 2005 meeting. This re-inspection not only verified the placard order, but also showed the property to be condemnable and a raze file was set-up. These findings were reported to SAC at their August 18, 2005 meeting. The raze order was appealed to SAC and they upheld its findings at their November 17, 2005 meeting.

The DNS reviewed their records relative to the board-up charges and they allowed the claimants' contractor into the building to view and begin some repairs prior to the building being deemed condemnable. The DNS will rescind the charges of \$413.00 and \$204.00. Regarding the building board-up of \$177.00, Department of Public Works records indicate that on or about June 15, 1005 a Special Charge notice was mailed to Will J. Sherard at 2233 West Capitol Drive pursuant to Section 309-72-1, Milwaukee Code of Ordinances. This indicated that he had 30 days from the date of the notice to appeal the necessity and /or the amount of the charge to the Administrative Review Appeals Board accompanied by a \$25.00 payment for the processing fee. The ordinance does not provide for extensions of this time limit or further appeal. The City Clerks records indicate that he did not file a timely appeal and payment. Therefore, based upon the claimant's failure to file a timely appeal and payment, the DNS did not consider this part of the claim any further.

The City departments involved in this matter followed their standard procedures; therefore, we recommend denial of this claim.

Very truly yours,

GRANT F. LANGLEY
City Attorney

JAN A. SMOKOWICZ
Assistant City Attorney

JAS:beg
Enclosure
1053-2005-2765:99753