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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 124, LLC
2850 W. Highland Blvd.

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 124, LLC's written submission.

Determination and Standard

On November 14, 2024, the Milwaukee Police Department issued a letter to Berrada Properties 124, LLC (hereinafter, "Berrada"), that it had determined that 2850 W. Highland Boulevard 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.

January 4, 2024 Incident

The first “nuisance activity” alleged by the City occurred on January 4, 2024. The City’s determination alleged that there was a violation of MCO-80-10-2-C-1-k, “Crimes against life and bodily security as enumerated in ss. 9401.01 to 940.32.” In this case, a homicide. The City must then show that an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises committed the homicide.

In this incident, the female victim of the homicide was a resident at 2850 W. Highland Blvd. According to the criminal complaint, she was murdered by Antonio Hazelwood. The relationship between Hazelwood and the victim is unknown. From the police report it appears that they knew each other prior to the murder.

However, just because the victim knew Hazelwood, does not mean that Hazelwood was granted a permanent status as a guest or visitor. In fact, according to the criminal complaint, it appears as if Hazelwood was forcing the victim into her apartment the last time she was seen alive. The video showed that, at the time Hazelwood entered the property with the victim, he was wearing a ski mask, covering his tattoos, and was in possession of the victims keys. This is not behavior typical of a guest or invitee. From the available evidence, it appears that the victim resident was forced into her building.

The City also seems to indicate that, because the victim was a resident, that a “person associated with the premises” “engaged” in nuisance behavior. We vehemently disagree that a murder victim, or a victim of any crime, was “engaging” in the crime.

Because there is no indication in the available evidence that Hazelwood was a guest or invitee, as opposed to a criminal forcing his way in, the City fails to show that the murder was committed by a “person associated with the premises.”

November 4, 2024 Incident

The second “nuisance activity” alleged by the City occurred on November 4, 2024. The City’s determination alleged that there was a violation of MCO-80-10-2-C-1-k, “Crimes against life and bodily security as enumerated in ss. 9401.01 to 940.32.” In this case, a homicide. The City must then show that an owner, operator, manager, resident, occupant, guest, visitor, or patron of the premises committed the homicide.

This incident also involves the murder of a resident of 2850 W. Highland Blvd. According to the criminal complaint, Javier McCants murdered the victim after a dispute over money. According to the complaint, McCants was previously an invitee to the property for the purposes of selling drugs to the resident. However, there was a dispute over money, and McCants left the premises. At this time, McCant’s status as guest or visitor was terminated.

Some time later, McCant’s returned, without invitation, and forced his way into the apartment, before shooting the victim. “A person on the premises without an invitation by an owner, either expressly or impliedly, and solely for his or her own pleasure, convenience, or purpose, is

a trespasser. Grossenbach v. Devonshire Realty Co., 218 Wis. 633, 638, 261 N.W. 742 (1935). From the available evidence, McCants returned for his own purpose, without invitation, and with the intent to harm the victims. Because he was a guest or visitor at one point, does not grant him that status in perpetuity.

It should also be noted that the City issued a determination identifying specific nuisance activities. The City may not now alter its determination to include any activity it wishes to include. This is especially true as the determination is tied specifically to a call for service. In this case, the call for service was due to a homicide, not because of narcotics.

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 committed a homicide. The City fails to do so for both properties.

Very truly yours,

/s/Michael A. Pflughoeft Jr.

Michael A. Pflughoeft Jr.