



Request for City Council Committee Action from the Department of Regulatory Services

Date: August 19, 2014

To: Council Member Lisa Goodman, Chair – Community Development & Regulatory Services Committee

Subject: Rental License Revocation – 3526 Lyndale Ave. N.
Owner Eng Tat Ng – MN Realty & Management, LLC

Recommendation: Revocation of the Rental License at 3526 Lyndale Ave. N.
Owner Eng Tat Ng – MN Realty & Management, LLC

Department Information

Prepared by: Kathy Zierke, Admin Analyst II – (612) 673-5846

Approved by:

Nuria P. Rivera-Vandermyde, Director of Regulatory Services

Presenters in Committee: Christina Dowling, Legal Process Coordinator – (612) 673-2449

Community Impact

- City Goals

Supporting Information

On May 20th, 2014, notice was sent to the owner, Eng Tat Ng indicating that a recommendation to revoke the rental license for the property listed above would be sent to the City Council. The owner, Eng Tat Ng appealed this recommendation. A hearing was held before Administrative Hearing Officer James Gurovitsch, who found the property has failed to meet the licensing standard under Minneapolis Code of Ordinance 244.1910 subd. 3.

(See enclosed Evidence Packet and Findings of Fact)

CITY OF MINNEAPOLIS
FOR THE DEPARTMENT OF
REGULATORY SERVICES

ADMINISTRATIVE HEARING OFFICER

In the matter of the Property

Located at 3526 Lyndale Ave. N.

Located in Minneapolis, MN and owned by
MN Realty & Management, LLC and Eng Tat Ng

FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION

The above entitled matter came on for hearing before Administrative Hearing Officer James Gurovitsch on July 22, 2013, at 9:00 a.m. at Room 310, Minneapolis City Hall, Minneapolis, Minnesota. The City of Minneapolis was represented by Lee C. Wolf, Assistant City Attorney and JoAnn Velde, Deputy Director Housing Inspections of the Department of Regulatory Services. Eng Tat Ng, owner of the property appeared prose.

FINDINGS OF FACT

Eng Tat Ng and MN Realty & Management, LLC own the property. MN Realty & Management, LLC's address, as listed on the Hennepin County property information records, is 14136 White Rock Road, Burnsville, MN 55337.

A rental license application was completed for the property at 3536 Lyndale Avenue North (the "property") On the rental license application, the applicant was listed as MN Realty & Management, LLC with Eng Tat Ng listed as the Owner or Chief Operating Officer of MN Realty & Management, LLC. The rental license application also listed Eng Tat Ng as the person responsible for the maintenance and management of the property. The address listed for Mr. Ng, as the property manager, was 613 Jessamine Avenue E., St. Paul, MN.

On January 10, 2011, an inspection of the property was conducted by Housing Inspector Joy Parizek. Inspector Parizek discovered, during the inspection, that rooms on the

second floor of the property were being used as bedrooms. There is one bedroom on the first floor.

The two second floor rooms, being used as bedrooms, were illegal due to the fact that the ceiling height in both rooms measured six feet six inches; well below the seven foot minimum ceiling height required by Minneapolis Code of Ordinances(M.C.O.) § 244.800.

On January 25, 2011, Inspector Parizek issued written orders to Eng Tat Ng, at the listed address of 613 Jessamine Avenue E., St. Paul, MN. The written orders informed Mr. Ng that the second floor rooms could not be used as bedrooms due to the low ceiling height. Mr. Ng was given until February 4, 2011, to come into compliance by ceasing to use or renting the bedrooms on the second floor.

On January 25, 2011, Inspector Parizek issued a Notice of Director's Determination of Non-Compliance, informing Eng Tat Ng, that illegal occupancy found in the property violated the rental licensing standards set out in M.C.O. § 244.1910. The notice also informed the owner that any future violations involving illegal occupancy or over-occupancy may result in the City Council taking action to revoke the rental license for the property.

On May 6, 2014, Housing Inspector Sheila Rawski conducted an inspection of the property based upon a tenant complaint. While conducting the inspection of the property, Inspector Rawski discovered that the rooms on the second floor of the property were again being used as bedrooms. A violation notice was sent to Eng Tat Ng, informing him of the violation at the property.

On May 20, 2014, a Notice of Revocation was sent to MN Realty & Management LLC and Eng Tat Ng, at the listed address of 14136 White Rock Road, Burnsville, MN. The notice informed the owners that the Housing Inspections' Division was recommending that

the rental license for the property be revoked for a second incidence of illegal occupancy, in violation of M.C.O. § 244.1910(3). An inspection was done on May 27, 2014. The beds had been removed from the two rooms. On that date, the tenant signed a letter prepared by Mr. Ng in which the tenant acknowledged her understanding that the two rooms could not be used as bedrooms and agreed to comply.

On June 2, 2014, Eng Tat Ng filed an appeal of the license revocation action. On the appeal Mr. Ng stated that he had "given the tenant a final signed compliance letter, and also the tenant is looking for another place to live".

The appeal hearing was set for July 22, 2014, during which Mr. Ng admitted that the incidents of illegal occupancy occurred on both January 10, 2011 and on May 19, 2014. Mr. Ng argued that although the incidents had occurred that he and the owners have taken action to correct the illegal occupancy by removing all the bedding from the second floor and by having the tenant sign the "compliance letter" referred to above.

The hearing officer inquired about whether there are other steps that could be taken to assure that the illegal occupancy would not re-occur without revoking the rental license. Ms. Velde stated that locking the doors to the bedrooms would present a fire safety hazard. Also, the ceiling height cannot be increased without reconstruction of the roof which would be cost-prohibitive. No other potential solutions were presented.

CONCLUSIONS

M.C.O. § 244.1910. states: Licensing standards. (a) The following minimum standards and conditions shall be met in order to hold a rental dwelling license under this article. Failure to comply with any of these standards and conditions shall be adequate

grounds for the denial, refusal to renew, revocation, or suspension of a rental dwelling license or provisional license.

Subdivision 3 of M.C.O. § 244.1910 states: No rental dwelling or rental dwelling unit shall be over-occupied or illegally occupied in violation of the Zoning Code or the Housing Maintenance Code.

The first incidence of illegal occupancy at the property occurred on January 10, 2011.

On January 25, 2011, inspector Parizek issued a valid Notice of Director's Determination of Non-Compliance for violations of M.C.O. § 244.1910(3) for having had an instance of illegal occupancy.

On May 19, 2014, there was a second instance of illegal occupancy at the property.

M.C.O. § 244.1940 states: Denial; non-renewal; revocation; suspension. (a) If after any period for compliance under section 244.1930 has expired, the director determines that the dwelling fails to comply with any of the licensing standards in sections 244.1910 or 244.1920, or the director has initiated an action to deny, revoke, suspend, or not renew a license pursuant to section 244.2020, or if the director determines that a building or dwelling unit fails to meet licensing standards 244.1910(2), (3), (4), (13)(a), (18) or (21), for a second time, under the same owner/licensee, the director shall mail the owner and the person designated by the owner as the person responsible for the maintenance and management of the building or dwelling unit, a notice of denial, non-renewal, revocation, or suspension of the license or provisional license.

The City of Minneapolis Department of Housing Inspections issued a valid Notice of Revocation, Denial, Non-Renewal, or Suspension order, for violations of M.C.O. § 244.1910 (3), for having had multiple instances illegal occupancy at 3526 Lyndale Avenue N.

RECOMMENDATION

That the rental license for the property located at 3526 Lyndale Avenue N., Minneapolis, MN., held by MN Realty & Management LLC and Eng Tat Ng be revoked.

Dated July 31 2014



J. MES GUROVITSCH
ADMINISTRATIVE HEARING OFFICER