

CITY OF MINNEAPOLIS
RENTAL DWELLING LICENSE BOARD OF APPEALS

**In the matter of the Rental
Dwelling License held by
Sam Owens & William Champion for the
Premises at 1210 Irving Avenue North,
in Minneapolis, Minnesota**

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

This matter came on for hearing before the Rental Dwelling License Board of Appeals at 1:30 p.m. on August 26, 2008 in Room 14 of the Minneapolis Public Service Center. Board chair Brian Bushay presided. Other board members present, constituting a quorum, included Daisy Barton, Genevieve Gaboriault, Kerry Hinze and Cecelia Rodriguez-Melendez. Assistant City Attorney Joel Fussy was present as *ex officio* counsel to the board. Lee Wolf, Assistant City Attorney, represented the Division of Inspections. The owner of the licensed premises, Sam Owens, was present at the hearing along with the manager/tenant of the licensed premises, William Champion. Bobby Champion, attorney at law, represented the license holders.

FINDINGS OF FACT

1. Sam Owens and William Champion each hold an interest in a rental dwelling license (No. 536838) issued on July 31, 2007 for the single-family residence located at 1210 Irving Avenue North in the City of Minneapolis, Minnesota. Mr. Owens is the owner of the property and Mr. Champion is both the tenant and the duly-appointed manager of the property pursuant to the Minneapolis Code of Ordinances (hereinafter "M.C.O.") which provide as follows:

[T]he owner of each such rental dwelling ... shall make written application to the director of inspections for a license as herein provided prior to initial occupancy. Such application shall be made on a form furnished by the director of inspections for such purpose and shall set forth the following information:

- (2) If the owner has appointed an agent authorized to accept service of process and to receive and give receipt for notices, the name, business or residence address, telephone number, and date of birth of such agent.

- (3) Every applicant, whether an individual, partnership, or corporation, shall identify in the application, by name, residence or business street address, telephone number, and date of birth, a natural person who is actively involved in, and responsible for, the maintenance and management of the premises. Said natural person shall, if other than the owner, affix his or her notarized signature to the application, **thereby accepting joint and several responsibility with the owner (including any potential criminal, civil, or administrative liability) for the maintenance and management of the premises.** A post office box or commercial mail receiving service are not acceptable as an address for such person.

See M.C.O. § 244.1840, Subds. 2-3 (emphasis added).

2. On the rental license application personally completed, executed and filed by Owens and Champion, Mr. Owens lists himself as owner of the property and lists his address as "145 Broadway St P.O. #46" with no corresponding city listed and the county listed as "ANK" with a state and zip code of "MN 55005." At hearing Mr. Owens testified that his correct address is actually 146 Broadway (and not 145 Broadway) and that his city of residence which he omitted from the application is Bethel, Minnesota. Although the rental licensing ordinance referenced above does allow a property owner to also act as the responsible manager and agent for the property it specifically does not permit such a property manager to utilize a post office box as a mailing address. See M.C.O. § 244.1840(3). However, Mr. Champion personally completed the application form listing himself as the "person responsible for maintenance & management of the property." Mr. Champion listed the address of the rental property as his mailing address. His signature on the application as property manager was notarized. The application clearly informed all parties thereto in section 3 that Mr. Champion, by voluntarily assuming the responsibility of property manager, "may also be the appointed agent/contact person for the property." Additionally, section 4 of the application contained a clear statement in bold lettering signed by both Owens and Champion informing them that "ALL MAILINGS FROM INSPECTIONS DIVISION ... WILL BE MAILED TO THE APPOINTED AGENT/CONTACT PERSON UNLESS INSPECTIONS DIVISION IS NOTIFIED OF ANY CHANGES." Furthermore, Mr. Champion's notarized signature on the application contains the following cautionary language, reflecting the joint and several liabilities imposed upon rental property owners and their appointed property managers by the ordinance: "Your signature as Property Manager on this form will make you responsible for the maintenance and management of this rental property." See M.C.O. § 244 1840(3).

3. This matter was commenced by the Community Crime Prevention/SAFE Unit of the Minneapolis Police Department in conjunction with the Division of Inspections to revoke the referenced rental dwelling license for the property at 1210 Irving Avenue North, under Minneapolis Code of Ordinances (M.C.O.) § 244.2020. Section 244.2020, "Conduct on Licensed Premises," requires a rental licensee to take appropriate action following conduct on the premises defined as disorderly under Section 244.2020(a) to prevent reoccurrences of such conduct. Specifically included within the ambit of disorderly use is "conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of [provisions] which prohibit the unlawful sale or possession of controlled substances ... [and a provision] which prohibits noisy assemblies."

4. On May 7, 2007 police officers from the Metropolitan Gang Strike Force served a narcotics search warrant on 1210 Irving Avenue North. The search warrant was obtained after officers successfully completed a controlled purchase of narcotics from within the residence. Upon service of the warrant, officers discovered approximately a quarter ounce of a substance that field-tested positive as crack cocaine in the kitchen area and an additional quantity of crack cocaine in the stairwell. Three individuals within the residence—including the tenant/property manager William Champion—were arrested on narcotics charges. Such possession of crack cocaine by residents of the property or their guests violates Minn. Stat. Ch. 152 and thereby qualifies as an incident of disorderly use of the premises of rental property per M.C.O. § 244.2020(a)(3).

5. On August 23, 2007, Crime Prevention Specialist (CPS) Tim Hammett of the Minneapolis Police Department mailed a First Notice of Conduct on Licensed Premises to Msrs. Owens and Champion, pursuant to M.C.O. § 244.2020. This notice stated that there had been an instance of disorderly use at the premises of 1210 Irving Avenue North on May 7th, involving unlawful possession of narcotics. The notice was recorded as a first notice of disorderly use of the premises, informed the license holders that steps should be taken to prevent further violations, and noted that further disorderly use could result in the denial, revocation, non-renewal or suspension of the rental dwelling license. The notice cited M.C.O. § 244.2020(a), informing the license holders that it is a licensee's affirmative responsibility to take appropriate action following disorderly use by persons occupying the premises.

6. The first notice was sent via certified mail to the contact address supplied by the property's designated manager Mr. Champion at 1210 Irving Avenue North, Minneapolis,

Minnesota 55411 and a certified mail receipt was returned confirming the delivery and receipt of the notice by Mr. Champion. The notice was addressed to "William E. Champlin" as that is how Mr. Champion's name appeared to read on the portion of the rental license application he completed. Nonetheless, the notice was received and signed for by Mr. Champion in his role as designated manager of the rental property. Although CPS Hammett was required to serve the notice solely upon Mr. Champion as he was the designated property manager and contact agent pursuant to the application jointly filed by Mssrs. Champion and Owens, CPS Hammett also attempted to send the notice to Mr. Owens. CPS Hammett utilized the Parcel Data property records maintained by Hennepin County to discover that Mr. Owens was listed as owner and taxpayer of the property with a mailing address at the property. The notice sent by CPS Hammett to Mr. Owens was returned as undeliverable. Mr. Champion, although he was designated by Mr. Owens to act as manager of the property, conceded at hearing that he failed to forward any information regarding this notice to Mr. Owens.

7. On December 10, 2007, January 26, 2008, and March 22, 2008, Minneapolis police officers were dispatched to the premises in response to complaints regarding noisy and unruly assemblies occurring at the property:

- On December 10, 2007 officers responded to a 911 call placed at 2:23 a.m. from a man who had been attending a party inside 1210 Irving Avenue North when other party attendees began assaulting the man's brother.
- On January 26, 2008 officers responded to a 911 call placed at 2:29 a.m. from a neighbor reporting a very loud party at 1210 Irving Avenue North. Numerous officers responded and confirmed the existence of a noisy assembly involving multiple guests prior to ordering the resident to end the party.
- On March 22, 2008, officers again responded to a report of a loud party occurring at 1210 Irving Avenue North at approximately 2:55 a.m. The dispatch information indicated that the address had an ongoing problem with such noisy and unruly assemblies. Upon arrival officers noted that they could hear loud screaming and music from at least 60 feet away and observed approximately 75 party-goers at the premises. Mr. Champion was cited for permitting a noisy assembly. Officers were forced to return to the residence at 4:24 a.m. on reports that the loud party was continuing. At this time, responding officers observed numerous people back at the party and loud music again playing. Mr. Champion, who stated he was the resident in charge of the party, was arrested on the noisy assembly charge and eventually pled guilty to the citation. Additionally, a stolen mini-bike was recovered from the residence.

8. The Minneapolis Code of Ordinances prohibits "Participating in, conducting, visiting, or remaining at a gathering knowing or having reason to know that the gathering is a

noisy or unruly assembly, as defined in section 389.30..." The term "noisy or unruly assembly" is defined as:

a gathering of more than one person in a residentially zoned or used area or building between the hours of 10:00 p.m. and 6:00 a.m. whose noisy or illegal conduct would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area considering the time of day and the residential character of the area. Noisy or unruly assemblies may include, but are not limited to, those involving **excessive noise**, obstruction of public ways by crowds or vehicles, consumption of alcohol by minors, provision of alcohol to minors, **fighting**, disturbing the peace, disorderly conduct, littering, and public urination or defecation.

See M.C.O. § 389.30 (emphasis added).

9. Each of the three incidents described in Finding #7 qualifies as a noisy and unruly assembly and thereby each qualifies as an incident of disorderly use of the premises of rental property per M.C.O. § 244.2020(a)(5). Independently, any of the three occurrences could have triggered a Second Notice of Conduct on Licensed Premises for the subject property, however the Community Crime Prevention/SAFE Unit of the Minneapolis Police Department has chosen through internal policy not to issue a notice of conduct on licensed premises based on a noisy and unruly assembly until three such illicit assemblies have occurred.

10. On March 26, 2008, Crime Prevention Specialist Tim Hammett of the Minneapolis Police Department mailed a Second Notice of Conduct on Licensed Premises addressed to "Sam Owens and/or William Champlin," via certified mail and pursuant to M.C.O. § 244.2020. A certified mail receipt signed by Mr. Champion was returned confirming that delivery of the notice occurred on March 28, 2008. Again, Mr. Champion, although designated by Mr. Owens to act as manager of the property, conceded at hearing that he failed to forward any information regarding this notice to Mr. Owens.

11. The second notice advised the license holders that a second incident of disorderly use had occurred at the subject property and that they were **required** to respond within ten (10) days with a written management plan detailing all actions taken to respond to disorderly use and to prevent further disorderly use of the premises. The notice also informed the license holders of the requirement to attend a rental property workshop. The notice specifically stated that failure to submit an acceptable management plan within ten days would constitute independent grounds for the imposition of adverse license action, inclusive of revocation. Because the second notice was successfully delivered on March 28th and signed for by Mr. Champion as designated

manager of the rental property, the required written management plan was due on or before April 7, 2008.

12. Neither the property owner Mr. Owens nor his designated property manager Mr. Champion submitted any management plan within the required timeframe. Furthermore, in the nearly five months since the receipt of the second notice no management plan whatsoever has been submitted for the rental property and no evidence whatsoever has been produced indicating that a rental property workshop has been attended by any individual with an interest in the subject rental dwelling license.

13. Mr. Owens claimed at hearing that he was unaware of the notices of disorderly use issued in relation to his rental property at 1210 Irving Avenue North. However, it is uncontested that Mr. Owens personally designated Mr. Champion as his property manager. Mr. Champion personally signed the rental license application in such capacity although the application and relevant ordinances state that the property manager will be responsible for the maintenance and management of the rental property and that all mailings from the Inspections Division will be mailed to such agent/contact person. Furthermore, CPS Hammett did attempt to exceed the minimum notice requirements of the code by sending copies of each notice addressed to Mr. Owens at his mailing address as listed on the Hennepin County Parcel Data property records. Mr. Owens also admitted that he maintained no affirmative contact or communication with the Inspections Division or the Minneapolis Police Department regarding his rental property and also testified that he owns or owned other properties within the city which have been foreclosed upon. It appears that Mr. Owens may have made a poor selection of manager for his rental property when he designated Mr. Champion, as his tenant, to such an important position. Mr. Champion testified that he did not think it to be important to inform Mr. Owens of police raids at the property or related notices regarding ongoing criminal and nuisance behavior that occurred at the property, oftentimes involving him. However, Mr. Champion did concede that in his role as property manager he had received various other notices from the Inspections Division ordering repairs or maintenance to the property which he did address. Therefore, it appears that Mr. Champion, in his designated role as property manager, selectively decided to ignore some notices regarding the property while attending to others.

14. On June 3, 2008 a Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License was sent to Sam Owens as owner of the property and to William Champion as manager/contact person of the property. The notice advised the men that

the Inspections Division would recommend to the City Council that the rental dwelling license for 1210 Irving Avenue North be revoked. The notice further advised the men of their right to appeal the revocation recommendation to the Rental Dwelling License Board of Appeals and of their right to be represented by an attorney. The recommendation was made pursuant to M.C.O. § 244.2020(d) and (e), which require that a license holder submit an acceptable and compliant written management plan within ten days of receipt of a second notice of conduct on licensed premises and to attend an approved rental property workshop. The notices were served via certified mail and receipts were returned confirming the delivery of the notices to both Mr. Champion and Mr. Owens.

15. On June 18, 2008 attorney Bobby Champion (brother of William Champion) filed a proper appeal of the revocation recommendation on behalf of Mr. Owens. The required \$100 appeal fee was received at that same time from William Champion.

CONCLUSIONS

1. The incidents of disorderly use that occurred on and about May 7, 2007, December 10, 2007, January 26, 2008 and March 22, 2008 are qualifying instances of disorderly use within the meaning of M.C.O. § 244.2020(a). The Licensees—property owner Sam Owens and his designated property manager William Champion—failed to submit a timely written management plan in relation to these incidents and failed to attend an approved rental property workshop, as required by M.C.O. § 244.2020(d) and (e). To date no written management plan has been submitted and no evidence of attendance at any rental property workshop has been offered.

2. The Licensees failed to take timely, appropriate action in response to notices from Community Crime Prevention/SAFE concerning disorderly incidents on the premises of 1210 Irving Avenue North by (1) failing to submit an approved management plan and (2) failing to attend an approved rental property workshop after proper service of a Second Notice of Conduct on Licensed Premises. Therefore, pursuant to M.C.O. § 244.1950(d) the rental property fails to meet to licensing standards of Section 244.2020.

3. The Community Crime Prevention/SAFE Unit and the Inspections Division followed the appropriate procedural steps and provided the minimum necessary notices as required under the Minneapolis Code of Ordinances.

4. The subject rental property has been the source of repeated criminal, disorderly and nuisance activity. The criminal, disorderly and nuisance activity at this property has had a substantial and ongoing negative impact on the surrounding community.

RECOMMENDATION

That the rental dwelling license held by Sam Owens as property owner and William Champion as his designated property manager for the premises at 1210 Irving Avenue North, in Minneapolis, Minnesota be subject to adverse license action as deemed appropriate by the Minneapolis City Council



Brian Bushay
Chair,
Rental Dwelling License Board of Appeals