

**CITY OF MINNEAPOLIS
FOR THE DEPARTMENT OF
REGULATORY SERVICES**

ADMINISTRATIVE HEARING OFFICER

**In the matter of the Rental
Dwelling License held by
Ronald E. Folger
for the Premises at
1651/1653 Penn Avenue N. Minneapolis,
Minnesota**

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

The above entitled matter came on for hearing before Administrative Hearing Officer Edward Backstrom on November 1, 2010, at 1:00 p.m. at Room 310, Minneapolis City Hall, Minneapolis, Minnesota. The City of Minneapolis was represented by Lee C. Wolf, Assistant City Attorney, Janine Atchison, District Manager Department of Housing Inspections and Tim Hammett, Crime Prevention Specialist (CPS). Ronald Folger owner of the property located at 1651 Penn Avenue N. was present.

After considering all of the evidence presented at the hearing and the arguments presented by both parties before, during and after the hearing, the Administrative Hearing Officer makes the following:

FINDINGS OF FACT

Ronald Folger is the owner of the property located at 1651 Penn Avenue N. in the City of Minneapolis. Ronald Folger applied for and was awarded a rental dwelling license for the building, a duplex, at 1651/1653 Penn Avenue N. in the City of Minneapolis. The rental license application lists Ronald Folger as the owner and the property manager responsible for the

maintenance and management of the rental property. The application lists the contact address for Ronald Folger as 4634 Hamlet Ave. NE., Oakdale, MN. Applicable property records admitted at the hearing in this matter list Ronald E. Folger as the owner and taxpayer of record for the property with a mailing address of 4634 Hamlet Ave. NE., St. Paul, MN.

This matter was commenced by the SAFE unit of the Minneapolis Police Department and the Department of Inspections to revoke the rental dwelling license for the property at 1651 Penn Avenue N. 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). 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 Minnesota Statutes §§ 152.01 through 152.025 and § 152.027 subdivisions 1 and 2 which prohibit the unlawful sale or possession of controlled substances.

On March 10, 2010, a high risk search warrant was executed at 1651 Penn Avenue N. The search of the residence at 1651 Penn Avenue N. found 5.9 grams of suspected crack cocaine on the premises. This was field tested by police officers on the scene and the suspected crack cocaine tested positive for cocaine.

As part of his duties CPS Tim Hammett reviewed the police reports concerning the execution of the search warrant. He determined that drug related activity at 1651 Penn Avenue N. constituted disorderly conduct as defined by M.C.O, § 244.2020(a). As a result First Notice of the conduct on the licensed property was mailed to Ronald Folger at 4634 Hamlet Avenue NE, Oakdale, MN., on March 18, 2010. This letter informed Mr. Folger of the requirement set forth in M.C.O. § 244.2020 (c) that the owner submit a written management plan within 10 days

of the receipt of the notice. At the hearing Mr. Folger did not dispute the receipt of the notice which was sent by certified mail.

In June or July CPS Hammett met with Janelle Roth, the property manager for 1651 Penn Avenue N., and the owner, Mr. Folger. Ms. Roth was told that a property management plan must be submitted to the city.

On August 5, 2010 CPS Hammett again talked with Ms. Roth and told her that a property management plan for 1651 Penn Avenue N. had not been submitted to the city. He gave her until August 15, 2010 to submit the management plan to the city. On August 15, 2010 CPS Hammett talked to Ms. Roth again. She stated she would not be able to submit the requested property management plan.

Mr. Folger maintains that he had two property managers from the time of the execution of the search warrant to the present. He stated that the first property manager rented to the tenant whose residence was the subject of the search warrant for drugs contrary to guidelines he was given for the screening of proposed tenants. He fired this property manager and hired Ms. Roth. He stated he also fired Ms. Roth, apparently after the meetings with CPS Hammett, because she was stealing from him. After the second firing Mr. Folger acted as his own property manager. He states that he had the problem tenant evicted through an unlawful detainer action, although documentation supporting this was not presented at the hearing.

Mr. Folger maintains that he is not responsible for the actions that led to this dwelling license revocation hearing because the improper actions of his property managers created the problems at the property. He was aware that Ms. Roth did not take all the actions for which she was responsible, including the submission of the property management plan. Despite this he still

had failed to submit the property management plan required by M.C.O. §244.2020(c) at the time of the hearing.

On September 10, 2010, a Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License was sent to Ronald Folger as the owner and contact person for the property located at 1651 Penn Avenue N. The notice advised that both the Inspections Division and the Minneapolis Police Department would recommend to the City Council that the rental dwelling license for 1651 Penn Avenue N. be revoked. The recommendation was made pursuant to M.C.O. § 244.2020, based on the incident of conduct on licensed premises occurring and the owner's and/or contact/manager's failure to submit an acceptable management plan. The notice was served via certified mail and receipts were returned confirming the delivery and receipt of the notice by Ronald Folger. On September 24, 2010, Ronald Folger filed a proper appeal of the revocation recommendation.

CONCLUSIONS

One incident of conduct, determined to constitute a disorderly use and defined as disorderly in M.C.O. § 244.2020(a) by tenants and/or guests, occurred on the premises of 1651 Penn Avenue N. on March 10, 2010, for which proper notices of disorderly use were issued.

The owner and licensee failed to take timely, appropriate action in response to notices from the Minneapolis Police Department concerning the disorderly incident on the premises of 1651 Penn Avenue N.

The Minneapolis Police Department and the Inspections Division followed the appropriate procedural steps and provided the necessary notices as required under the Minneapolis Code of Ordinances.

The owner and licensee failed to comply with the requirement of M.C.O. § 244.2020(c) which requires submission of a written management plan within ten days of issuance of a notice of disorderly use involving narcotics. This failure provides a basis for adverse license action, specifically inclusive of revocation, against the rental dwelling license held by the licensee and any interest in the rental license held by the owner, at 1651 Penn Avenue N.

The rental dwelling license held by Ronald C. Folger as owner of the property, for 1651 Penn Avenue N. is subject to revocation or suspension under M.C.O. §§ 244.2020(c). Revocation of the referenced rental dwelling license is the appropriate adverse license sanction.

RECOMMENDATION

That the rental dwelling license held by Darrell B. Folger as owner of the property, for 1651 Penn Ave. N., in Minneapolis, Minnesota be revoked.

Dated April 3, 2010


EDWARD BACKSTROM
ADMINISTRATIVE HEARING
OFFICER