

CITY OF MINNEAPOLIS
RENTAL DWELLING LICENSE BOARD OF APPEALS

**In the matter of the Rental
Dwelling License held by
Chowdhury Ahsan for the
Premises at 3648 Cedar Avenue South,
Minneapolis, Minnesota**

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

This matter came on for hearing before the Rental Dwelling License Board of Appeals at 3:00 p.m. on November 13, 2007 in Room 14 of the Minneapolis Public Service Center. Board chair Brian Bushay presided. Other board members present, constituting a quorum, included Clinton T. Blaiser, Daisy Barton, Steve Schachtman and Wayne Jensen. Assistant City Attorney Joel M. Fussy was present as *ex officio* counsel to the board. Lee Wolf, Assistant City Attorney, represented the Division of Inspections. The Licensee, Mr. Chowdhury Ahsan, appeared at the hearing without legal counsel.

FINDINGS OF FACT

1. Chowdhury Ahsan holds a rental dwelling license for the building at 3648 Cedar Avenue South, in the City of Minneapolis. The rental license application filed by Mr. Ahsan lists himself as the owner of the building as well as the property manager responsible for the maintenance and management of the rental property. The executed rental dwelling license application filed by Mr. Ahsan originally listed his contact address as Unit #3 of the subject rental property. However, testimony at hearing established that Mr. Ahsan changed his preferred contact address subsequent to the original filing of his rental license application to 7821 Rimbly Road, Woodbury, MN 55125. All notices sent pursuant to this action were

duly and properly served upon Mr. Ahsan at this Woodbury address and Mr. Ahsan admitted to receiving all referenced notices.

2. 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 rental dwelling license held by Mr. Ahsan for the property at 3648 Cedar Avenue South, 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 [provisions] which prohibit the unlawful sale or possession of controlled substances.”

3. On May 15, 2007, Minneapolis police officers executed a narcotics search warrant on the subject rental property. Specifically, a search warrant was obtained after police successfully obtained two separate controlled purchases of crack cocaine by utilizing a confidential reliable informant. The purchases and related surveillance indicated that narcotics were being sold from the subject property, and specifically from Unit #4. Upon serving the warrant, five individuals were arrested or cited from within the rental unit. Crack cocaine and marijuana were recovered from within the unit along with a digital scale and suspected narcotics paraphernalia including two crack pipes and steel wool. The primary resident, Joseph Pruitt, admitted to the arresting officers that he was a resident of the unit and that he sold crack cocaine from within the unit and that he is addicted to cocaine and heroin. Such possession and sale of controlled substances by residents of the property or their guests

violates provisions of 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).

4. On May 30, 2007, Crime Prevention Specialist (CPS) Karen Notsch of the Minneapolis Police Department mailed a First Notice of Conduct on Licensed Premises to Mr. Ahsan, pursuant to M.C.O. § 244.2020. This notice informed Mr. Ahsan that there had been an instance of disorderly use at the premises of 3648 Cedar Avenue South on May 15th, involving possession and sale of narcotics. The notice was recorded as a first notice of disorderly use of the premises, informed Mr. Ahsan 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 his rental dwelling license. The notice cited M.C.O. § 244.2020(a), informing Mr. Ahsan that it is a licensee's affirmative responsibility to take appropriate action following disorderly use by persons occupying the premises.

5. The first notice was mailed via certified mail to the contact address supplied by Mr. Ahsan at 7821 Rimbly Road, Woodbury, MN 55125 and a certified mail receipt was returned confirming the delivery and receipt of the notice.

6. On June 19, 2007 Minneapolis Police officers served three additional narcotics search warrants at 3648 Cedar Avenue South. The warrants covered three separate units from the subject property, including Unit #4 which was the subject of the May 15th warrant. Upon execution of the search warrants, officers arrested or cited three individuals from Unit #3, five individuals from Unit #3 and three individuals from Unit #4 (including Mr. Pruitt and two others who had been arrested and cited during the May 15th search warrant execution). Suspected narcotics were recovered from the premises which tested positive as crack cocaine. Such possession of controlled substances by residents of the property or their guests violates

provisions of 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). The building was boarded-up as a result of this narcotics raid on June 19, 2007, and has remained boarded and vacant through the date of hearing. The following day, June 20, 2007, officers discovered and arrested four individuals who forced entry into the boarded building and recovered a syringe with a substance that tested positive as heroin. On June 21st officers arrested two more individuals for trespassing after they were found illegally living in storage lockers in the basement of the building. Officers had also been informed on June 20th that individuals were allegedly paying the license holder rent in order to illegally reside in the basement storage units. The licensee, in a telephone conversation with CPS Notsch on June 20th, confirmed receipt of the First Notice of Conduct on Licensed Premises but claimed he was unaware of anyone living in the storage units.

7. On June 28, 2007, Crime Prevention Specialist Karen Notsch of the Minneapolis Police Department mailed a Second Notice of Conduct on Licensed Premises to Mr. Ahsan, via certified mail and pursuant to M.C.O. § 244.2020.

8. The second notice advised Mr. Ahsan that a second incident of disorderly use had occurred at the subject property and that he was **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 specifically informed Mr. Ahsan 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.

9. Mr. Ahsan did not submit a written management plan in response to the Second Notice of Conduct on Licensed Premises in a timely manner. No management plan

had been submitted when CPS Notsch met with the licensee on July 17, 2007. The licensee was informed that he had failed to submit the requisite management plan in conformance with the ten-day requirement of the second notice. CPS Notsch informed the licensee that she would extend the already-expired deadline for submission of the plan to August 1, 2007. As of August 20, 2007 no management plan had been received by CPS Notsch nor had the licensee contacted her in any manner. On August 20th CPS Notsch left a telephone message with the licensee informing him that no management plan had been received. The Licensee responded to this phone message by submitting a purported management plan via email on August 21st. CPS Notsch determined that this plan was deficient in that it was very vague and did not address the required topics. Mr. Ahsan was informed of the deficiencies in his submitted plan on August 22nd but never submitted an updated or compliant management plan.

10. On September 10, 2007 a Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License was sent to Mr. Ahsan. The notice advised Mr. Ahsan that the Inspections Division would recommend to the City Council that his rental dwelling license for 3648 Cedar Avenue South be revoked. The recommendation was made pursuant to M.C.O. § 244.2020(d), which requires 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. The notice was served via certified mail and a receipt was returned confirming the delivery and receipt of the notice at 7821 Rimbly Road, Woodbury, Minnesota, 55125.

11. On September 25, 2007 Mr. Ahsan filed a proper appeal of the revocation recommendation. The Licensee, in his appeal and in his testimony at hearing, conceded that

the referenced problems occurred at his building but claimed that the problems only existed briefly relative to the six years he has owned the property. He also conceded that he did not pursue immediate evictions of the problem tenants because of their existing leases.

CONCLUSIONS

1. The incidents of disorderly use that occurred on and about May 15, 2007, and June 20-22, 2007 are instances of disorderly use within the meaning of M.C.O. § 244.2020(a). Furthermore, the licensee failed to submit a timely or acceptable written management plan at any time in relation to these incidents, as required by M.C.O. § 244.2020(d)-(e):

If another instance of disorderly use of the licensed premises occurs within eighteen (18) months... the responsible SAFE team shall notify the licensee by mail of the violation. The licensee shall submit a written management plan to the SAFE team within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding twelve (12) months. The written management plan shall also detail all actions taken and proposed to be taken by the licensee to prevent further disorderly use of the premises. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform the licensee that failure to submit a written management plan may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license...

When required by paragraph (d), the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed if the licensee fails to submit a written management plan that satisfies the requirements set forth in paragraph (d).

2. The licensee, Chowdhury Ahsan, failed to take timely, appropriate action in response to notices from Community Crime Prevention/SAFE concerning disorderly incidents on the premises of 3648 Cedar Avenue South by failing to submit any management plan whatsoever for nearly two full months after service of the Second Notice of Conduct on Licensed Premises. The second notice was sent on June 28, 2007 and included all required notifications to the license holder, including the requirement to submit a detailed management

plan within ten days. Mr. Ahsan failed to submit any proposed plan until August 21, 2007, which was only after repeated prompting from CPS Notsch. This submitted plan was substantially deficient and failed to meet the stated requirements of a management plan per M.C.O. § 244.2020(e). Although Mr. Ahsan was further notified of these deficiencies he has altogether failed to submit an acceptable plan to date. This failure constitutes sufficient and adequate cause for the imposition of adverse license action, inclusive of revocation.

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

4. The subject property has been the source of repeated criminal, disorderly and nuisance activity and has stood boarded and vacant for a substantial period of time. The activities at this property have had a substantial negative impact on the surrounding community.

RECOMMENDATION

That the rental dwelling license held by Chowdhury Ahsan for the premises at 3648 Cedar Avenue South, in Minneapolis, Minnesota be revoked.

Brian Bushay
Chair,
Rental Dwelling License Board of Appeals