Minutes
Administrative Board of Appeals
January 31, 2011

MEMBERS PRESENT: Ann O’Connor, Chair
Jose Lopez
Steve Simmonds, Alternate
Jama Samiev, Alternate

MEMBERS ABSENT: David Levy, Vice Chair
Jim Weaver
Bode Labode

OTHERS PRESENT: Alan Thelen, Law Department
Kevin Denker, Planning Department
Debbie Hightower, Recording Secretary

I. Roll Call

Mr. Simmonds, Acting Chair, called the meeting to order at 1:10 pm. Ms. O’Connor, Chair, arrived shortly thereafter.

Mr. Denker asked that the board receive as Exhibit 1 in each of this meeting’s cases the contents of the City’s file on each case.

Ms. O’Connor acknowledged the contents of the City’s file as Exhibit 1 in each case.

II. Cases

10-12-101 (over from 12/27/10)
Appeal Omaha Police Department notice of nuisance: Rafiu Braimah, 4904 Curtis Avenue 68104 for Alasa Braimah d/b/a Brama Auto, 4200 Redman, Omaha, NE 68111

Mr. Denker submitted photos (Exhibit 2) that were taken by Officer Debra Prososki and Kenton Duncan, City Inspector approximately three weeks previously. He stated there is presently no certificate of occupancy.

Rafiu Braimah appeared before the board. Mr. Braimah indicated he still has questions on the use of the facility but the vehicles that were parked in the lot have been moved. He stated he has taken out a general construction permit and is in the process of renovating and moving the vehicles except for one van. All other vehicles have current plates therefore the initial problem has been resolved.

Mr. Denker suggested laying over the case to allow more time and keep the appeal in place. He stated it could take as long as six weeks to get a certificate of occupancy. Regarding the zoning, the business is not allowed to store vehicles outside that are owned by others.

Motion to lay this case over for 60 days until the March 28, 2011 meeting by Mr. Simmonds. Seconded by Mr. Samiev.

AYES: Lopez, Samiev, Simmonds, O’Connor

Motion carried 4-0. Appeal laid over for 60 days until the March 28, 2011 meeting to allow time to obtain a certificate of occupancy.
10-12-107 (over from 12/27/10)
Appeal Omaha Police Department notice of nuisance: Suzanne M. Edgerton, 3007 North 75 Avenue 68134

Suzanne Edgerton did not appear before the board.

Mr. Denker stated Ms. Edgerton left a long voice mail and has issues with being outside. She indicated in her voice mail that she believes there is a plot against her from the City of Omaha and she is being targeted.

Officer James V. Stokes, Omaha Police Department, stated the complaint was received from the Mayor’s office. The license plates on the Subaru were expired in May of 2010. The license plate is no longer a valid license plate but the VIN# indicates that it is still registered to Suzanne Edgerton but as of today, the vehicle is not parked in her driveway. An affidavit for storage and non-use is a DMV affidavit that was submitted but only applies to a person who lives outside the city limits.

Motion to deny appeal by Mr. Samiev. Seconded by Mr. Simmonds.

AYES: Samiev, Simmonds, Lopez, O’Connor

Motion carried 4-0. Appeal denied.

11-1-001
Appeal Omaha Police Department notice of nuisance: Chris P. Matt, 2211 South 8th Street 68105

Chris Matt did not appear before the board.

Mr. Denker stated Mr. Matt was in contact and indicated he would be unable to attend because of the inclement weather.

Motion to lay this case over until the February 28, 2011 meeting by Mr. Simmonds. Seconded by Mr. Samiev.

AYES: Simmonds, Lopez, Samiev, O’Connor

Motion carried 4-0. Appeal laid over until the February 28, 2011 meeting.

Photos were submitted by the Omaha Police Department (Exhibit 2).

11-1-002
Appeal suspension of electrical license: Tommie Adams, Sr., PO Box 11527 68111

Tommie Adams, Sr., 6017 Country Club Road, appeared before the board. Mr. Adams submitted a copy of his Nebraska State Electrical Board License issued on February 19, 2009 and expired on December 31, 2010; his Nebraska driver’s license; a continued education certificate dated December 18, 2010; receipt dated December 22, 2010 for $130.00 to the State Electrical Division for the state registration fee; and a copy of his application for registration with the City of Omaha dated December 19, 2010 (Exhibit 2). He stated the reason for the appeal is that the conditions of his license suspension are unfair and he feels there is a conflict of interest for David Reed, Gatchell Electric to rule the examining Electrical Board. Mr. Adams stated Mr. Reed has approached him in the past and requested that he belong to the union. He indicated that he was in a truck accident and asked a friend to meet the inspector at 4424 North 40th Street. Mr. Adams stated he has never lent his license to anyone and has always taken out a permit for all jobs that are in process. He indicated that if his license is suspended it would cost him his livelihood and he has a 14 year old to support along with medication costs.
Dennis Small, Chief Electrical Inspector, City of Omaha, submitted police reports (Exhibit 3) and affidavits (Exhibit 4) filed by electrical inspectors with regard to threats made by Mr. Adams to city employees. He stated the objective is to demonstrate that Mr. Adams has been before the electrical board in the past and the most recent hearing minutes, as submitted to the board, are full of contradictions. Mr. Adams was not in compliance with the requirements of the Nebraska Department of Labor and there are violations and city ordinances to back those up. Walt Zyla, the individual that is not employed by Mr. Adams but called for the inspections on permits that were issued to Mr. Adams, did or did not do the work. Mr. Adams is in violation of Section 44-136 (rough-in inspections), which says that an electrical contractor, master electrician or his authorized representative shall notify the electrical official of permits and inspections that they are ready. Mr. Adams is also in violation of Section 44-52 which states that a person so licensed or registered shall not let anyone use his name directly or indirectly. Mr. Adams installed electrical work incorrectly and multiple repair items were generated on a correction order. Mr. Adams did not complete the correction order items and did not follow through to successful completion with the permit issued by the city which is in violation of city ordinance Section 44-129, responsibility of owners and agents for compliance that states neither the owner nor the electrical contractor shall be relieved of responsibility for compliance with the terms of this chapter. Also, Section 44-171, the correction orders that were never performed in those minutes, show that any additional wiring, alterations or repairs/renovations shall meet the requirements for new electrical systems. Mr. Adams is held responsible for all correction orders. Lastly, Mr. Adams was not registered with the Nebraska Department of Labor, which is a minimum requirement to do business in the State of Nebraska. The city is asking for a suspension of Mr. Adams’ electrical registration within the city. The suspension would not reduce the ability for Mr. Adams to generate income outside of the city limits.

Mr. Adams stated that 98% of his work is done within the City of Omaha. In response to Ms. O’Connor, Mr. Adams stated he did register with the Nebraska Department of Labor after the hearing.

Mr. Samiev stated there was a lot of contradiction involving an accident and when the inspections were done. Mr. Adams stated he was involved in the truck accident on November 3, 2010. Mr. Samiev asked Mr. Adams if he got confirmation of the seven items and who completed the seven items that needed to be completed for inspection. Mr. Adams answered that he did the job but he asked Mr. Zyla to call for an inspection because he could not meet the inspector at the time. Mr. Adams stated he had a contract with the owner to do the work. He stated that in 31 years he has not had any problems with his jobs. Mr. Samiev pointed out to Mr. Adams that he was not certified by the labor department or registered at the time of the inspection. Mr. Adams admitted he was not registered but he did not have the information to do so at that time.

Ms. O’Connor asked Mr. Adams if he corrected the seven items then why did he say that he did not know about the seven items in the meeting minutes. Mr. Adams stated he corrected the seven items but it was two months between getting the work done and approved on November 11, 2010.

Mr. Small stated that this is a persistent problem with Mr. Adams and he stated that he believes Mr. Adams “brokers” his license, which is stated well in the contradictions that exist in the minutes. He suggested that the board could consider the suspension of Mr. Adams license for less than 180 days, possibly 90 days. Mr. Denker reminded the board that Mr. Adams would still be allowed to do work outside of the Omaha area and would not be completely limited.

Mr. Adams indicated that he would have to get a license and bond for each little town outside of the city. He stated, “I do feel that, well I don’t know what I would do if my license was suspended for any amount of time. That is my whole livelihood and if this happens, I will be out in the street doing illegal work without a permit. I promise that will happen because I’m not going to jeopardize my wife and son because of less than $400 job that I am being blamed for.” He stated, “But if my license gets suspended, I still got to work, I got to do something. I have a $450 medical bill I got to pay every month-diabetes medicine, high blood pressure medicine. I’m not going to sit around and let that happen because I will have a bad attitude if I couldn’t take my medication.”
Mr. Simmonds recommended focusing on the violations that the city has uncovered that gives reason to warrant the denial of the registration.

Motion to deny appeal by Mr. Simmonds. Seconded by Mr. Samiev.

Mr. Samiev asked Mr. Simmonds to possibly decrease the amount of time for the suspension.

Motion was amended to deny the appeal with the suggestion that the suspension of the registration be 90 days as opposed to 180 days by Mr. Simmonds. Seconded by Mr. Samiev.

Ms. O'Connor stated she is very concerned about the contradictions in the meeting minutes and the police reports where there is evidence of threats.

AYES: Samiev, Simmonds

NAYS: Lopez, O’Connor

Motion failed 2-2.

Motion to deny appeal by Mr. Simmonds. Seconded by Mr. Lopez.

AYES: Lopez, Simmonds, O’Connor

NAYS: Samiev

Motion carried 3-1. Appeal denied.

11-1-003
Appeal denial of renewal for First Grade Stationary Engineer certificate: John L. Gaughan, 2458 East Lake Drive, Union, NE  68455

Tom Phipps, Chief Mechanical Inspector for the City of Omaha, stated that Mr. Gaughan’s license no longer exists because the license was not renewed due to failure to pay the fee before March 1, 2010. The annual renewal period is January 1st through March 1st therefore a license becomes void when it is not renewed on time. The 2010 and 2011 fees would need to be paid if the appeal is granted before the license can be reinstated.

John Gaughan appeared before the Board. Mr. Gaughan stated the reason for his appeal is that he recently moved and the license renewal paperwork was never forwarded to his new address. He stated he has renewed his license for the past 24 years. Mr. Gaughan agreed to pay for 2010 and 2011 license renewal and any other fees that are required.

Mr. Simmonds made a motion to grant the appeal. Second by Mr. Samiev.

AYES: Samiev, Simmonds, Lopez, O’Connor

Motion carried 4-0. Appeal granted.

III. Election of Officers

Mr. Simmonds made a motion to layover the election of officers until the next meeting on February 28, 2011. Second by Mr. Samiev.

AYES: Lopez, Samiev, Simmonds, O’Connor

Motion carried 4-0. Laid over until the next meeting on February 28, 2011.
IV. Approval of Minutes from December 27, 2010

Minutes from the December 27, 2010 meeting laid over until the next meeting on February 28, 2011.

V. Adjournment

Motion to adjourn meeting by Mr. Simmonds. Second by Mr. Lopez.

AYES: Simmonds, Lopez, Samiev, O’Connor

Motion carried 4-0. Meeting adjourned at 2:10 PM.

Debbie Hightower, Planning Department
Recording Secretary

Visit the Planning Department’s Site on the Internet at
http://co.douglas.ne.us/omaha/planning/boards/administrative-board-of-appeals