

**MINUTES**  
**Administrative Board of Appeals**  
**May 20, 2013**

**MEMBERS PRESENT:**

Ann O'Connor, Chair  
Bode Labode  
Steve Simmonds, Alternate

**MEMBERS ABSENT:**

David Levy, Vice Chair  
Jose Lopez  
Jim Weaver  
Jama Samiev, Alternate

**OTHERS PRESENT:**

RoseMarie Horvath, Law Department  
Kevin Denker, Planning Department  
Andrea Wisniewski, Recording Secretary

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**ROLL CALL:**

Ms. O'Connor called the meeting to order at 1:02 pm. The Board received as Exhibit 1 in each of this meeting's cases the contents of the City's file on each case.

**CASES:**

13-4-21 *From 4/29/2013*

Michael S Brookins  
5001 N 24<sup>th</sup> St  
Omaha NE 68111

REQUEST: Appeal Omaha Police Department denial of  
firearm registration

**4/29/2013:**

Mr. Brookins was not present. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Brookins' application was denied due to a conviction for marijuana less than one ounce dating from September 12, 2006. He was fined \$100.00 for this offense.

Motion to deny by Mr. Labode. Second by Mr. Weaver.

AYES: Lopez, Labode, Weaver, O'Connor.

Motion carried 4-0. Appeal denied.

**5/20/2013:**

Michael Brookins appeared before the Board.

Motion to reopen case number 13-4-21 for reconsideration by Mr. Labode. Second by Mr. Simmonds.

AYES: Labode, Simmonds, O'Connor.

Motion carried 3-0. Case reopened.

Sgt. Eric Nordby, Omaha Police Department, stated that Mr. Brookins' application was denied due to a conviction for marijuana less than one ounce dating from September 12, 2006. This was the only reason for denial.

Mr. Brookins stated that he was young at the time of his conviction and has since made changes in his life. In regards to the marijuana conviction, Mr. Brookins stated that he was driving someone else's vehicle at the time of his offense. In response to Mr. Simmonds' question, Mr. Brookins stated that he is employed at The Old Mattress Factory Bar & Grill.

Motion to approve by Mr. Simmonds. Second by Mr. Labode.

AYES: Simmonds, Labode

NAYS: O'Connor

Motion carried 2-1. Appeal granted.

12-10-77 *From 10/29/2012 and 11/26/2012*

Peter J Townsend  
12804 Hamilton St  
Omaha NE 68154

REQUEST: Appeal Omaha Police Department notice of  
nuisance re: 1336 South 30<sup>th</sup> St, 68105

**10/29/2012:**

Mr. Townsend was not present. Mr. Denker stated that the Code Enforcement Division inspected the property this morning; he submitted photos of a crushed rock parking area behind the property. Mr. Denker stated that he has not yet had a chance to pull aerial maps of the area; he suggested that the Board hold this case over to their November meeting in order to allow the City to further research the history of this property.

Motion to hold this case over to the November 26, 2012 meeting of the Administrative Board of Appeals by Mr. Lopez. Second by Mr. Labode.

AYES: Lopez, Labode, Weaver, Levy

Motion carried 4-0.

**11/26/2012:**

Peter J. Townsend appeared before the Board. Mr. Townsend stated that the parking area behind his property has grandfather rights, and is appropriately segmented from the property by a retaining wall and a fence.

Kevin Denker, Planning Department, stated that crushed rock parking was discontinued by Omaha code in 1977; in order to have "grandfather rights", such parking areas had to be in place as of that time. Crushed rock parking areas with grandfather rights must be maintained and cannot be enlarged or altered in any size or shape. Mr. Denker reported that in looking at aerial photos of the property, and in inspecting the property, this parking area appears to have been altered in size and does not currently appear to be maintained, as there is grass growing within the parking area. Mr. Denker concluded by stating that the City's position is that any potential grandfather rights that this parking area may have had have been forfeited through alteration and lack of maintenance.

Mr. Townsend asked the Board members to allow his tenants to continue to park in this area while he makes arrangements to have the area paved. Mr. Denker suggested that the Board deny this appeal, but grant Mr. Townsend six months to comply with City regulations.

Motion by Mr. Simmonds to deny the appeal with six months to comply. Second by Mr. Lopez.

AYES: Lopez, Simmonds, Levy, O'Connor

Motion carried 4-0. Appeal denied with six months to comply.

**5/20/2013:**

Mr. Townsend was not present. The Board Secretary stated that Mr. Townsend was given six months to bring his property up to code. Mr. Townsend's six months are nearly at an end, and he has run into difficulties with the Public Works Department, which is currently planning improvements in the alley behind his property. Mr. Townsend would like the Board to grant him more time to work with the Public Works Department and complete repairs to the parking area behind his building. Mr. Denker confirmed the above statements, adding that he has spoken with Mr. Townsend regarding this issue. An extension would prevent the Police Department from towing vehicles from the property while repairs are underway.

When asked why Mr. Townsend was not present today, the Board Secretary stated that she received confirmation that Mr. Townsend was notified of today's hearing; however, she had not heard from him regarding his absence at the meeting. Mr. Denker suggested that the case be reopened and held over to the next meeting.

Motion to reopen case number 12-10-77 for reconsideration by Mr. Simmonds. Second by Mr. Labode.

AYES: Labode, Simmonds, O'Connor

Motion carried 3-0. Case reopened.

Motion to hold this case over to the June 24, 2013 meeting by Mr. Simmonds. Second by Mr. Labode.

AYES: Simmonds, Labode, O'Connor

Motion carried 3-0. Case held over to June 24, 2013.

13-5-32

Israel L Rodriguez  
1509 Z Street  
Omaha NE 68107

REQUEST: Appeal Omaha Police Department denial of a  
firearm registration

Israel Rodriguez appeared before the Board. Sgt. Eric Nordby, Omaha Police Department, stated that Mr. Rodriguez' application was denied due to a conviction for CCW dating from August 15, 1997. The weapon in question was a pair of brass knuckles.

Mr. Rodriguez stated that he recently registered another firearm with the Police Department and had no issues. He was surprised when he went into the Police Department to register a new firearm and was denied after being so recently successful. Mr. Rodriguez' application included a copy of his purchase permit, and a copy of his prior firearm registration which was issued by the Police Department on October 20, 2012.

In regards to the CCW charge, Mr. Rodriguez stated that the brass knuckles did not belong to him; they were found under the seat of his friend's car, and he claimed responsibility for them. He was the passenger in the vehicle at the time. He submitted for the Board's review six character reference letters (Exhibit 2-7).

Mr. Simmonds asked Sgt. Nordby whether it was possible for a passenger in a vehicle to be charged for carrying a concealed weapon belonging to the driver of the vehicle. In response to this statement, Sgt. Nordby stated that this scenario was possible in cases where the passenger admitted to having knowledge or possession of the weapon. He added that according to the police report, the brass knuckles were in Mr. Rodriguez' pocket. Mr. Rodriguez disputed this statement. Sgt. Nordby confirmed that there were no other items of concern on Mr. Rodriguez' record.

Motion to approve by Mr. Labode. Second by Mr. Simmonds.

AYES: Labode, Simmonds, O'Connor

Motion carried 3-0. Appeal granted.

13-5-33  
Ashton S Moore  
309 North 38<sup>th</sup> St #6  
Omaha NE 68131

REQUEST: Appeal Omaha Police Department denial of a  
firearm registration

Ashton Moore appeared before the Board. Sgt. Eric Nordby, Omaha Police Department, stated that Mr. Moore's application was denied due to a conviction for marijuana less than one ounce dating from November 23, 2009. Mr. Moore was fined for this offense.

Mr. Moore stated that he was young at the time of this offense. He stated that he informed the officer who pulled him over that he had a gram of marijuana in his vehicle; the officer wrote him a ticket and he went on his way. He stated that he is currently employed by Industrial Plating. In response to Mr. Simmonds' question, Mr. Moore stated that he has worked with this company for approximately eight months; he was employed elsewhere before that time.

Mr. Labode commented that Mr. Moore's offense occurred very recently. He added that he did not feel comfortable granting an appeal for such a recent offense.

Motion to deny by Mr. Labode. Second by Mr. Simmonds.

AYES: Labode, O'Connor.

NAYS: Simmonds

Motion carried 2-1. Appeal denied.

13-5-34  
Derrick E Jackson  
7319 Decatur St #5  
Omaha NE 68114

REQUEST: Appeal Omaha Police Department denial of a  
firearm registration

Derrick Jackson appeared before the Board. Sgt. Eric Nordby, Omaha Police Department, stated that Mr. Jackson's application was denied due to a conviction for CCW dating from 6/10/2011. The weapon in question was a handgun.

Mr. Jackson stated that he would like to have a handgun for the protection of his home and family, citing concerns with safety in his neighborhood. He added that he works six days per week as an assistant manager at The Pizza Shoppe in Benson. Mr. Jackson commented that he has been with this company for six months; he worked for UPS for three years prior to that time but had to quit due to back problems.

Mr. Simmonds asked Mr. Jackson to describe the circumstances surrounding his CCW charge. Mr. Jackson stated that his conviction stems from a large fight involving several people, including some relatives. When he arrived on the scene, Mr. Jackson stated that he found a handgun on the ground; he picked it up and removed both the gun and himself a safe distance away from the altercation taking place, with the idea of keeping someone else from using the weapon. At no time did he shoot the gun. Mr. Jackson stated that he later gave the gun to an adult on the scene (he was under 21 years of age at the time). This adult threw it underneath a car, and once the police arrived, Mr. Jackson was charged with CCW and received twelve months' probation. Mr. Labode asked the applicant if he knew who the handgun belonged to. Mr. Jackson stated that he later learned that the handgun belonged to his uncle, who had been involved in the fight. His uncle was jailed as a result of this incident. Sgt. Nordby stated that the police report from this incident was consistent with Mr. Jackson's statements.

Motion to approve by Mr. Simmonds. Second by Mr. Labode.

AYES: Simmonds, Labode

NAYS: O'Connor

Motion carried 2-1. Appeal granted.

13-5-35

Jacob A Mullins  
4912 Cass St  
Omaha NE 68132

REQUEST: Appeal Omaha Police Department denial of a  
firearm registration

Mr. Mullins was not present. The Board Secretary commented that notice of today's meeting had been sent; however, the applicant had so far neglected to pick up the notice from the Post Office.

Motion to deny by Mr. Labode. Second by Mr. Simmonds.

AYES: Simmonds, Labode, O'Connor.

Motion carried 3-0. Appeal denied.

13-5-36

Anita M Brown  
6003 Laurel Av #206  
Omaha NE 68104

REQUEST: Appeal Omaha Police Department revocation of  
a firearm registration

Anita Brown appeared before the Board. Sgt. Eric Nordby, Omaha Police Department, stated that Ms. Brown's handgun registration was revoked due to a conviction for marijuana less than one ounce dating from October 18, 2006.

Ms. Brown stated that she would like to have a firearm for home protection, citing recent break-ins to her home and vehicle. In regards to her conviction, Ms. Brown stated that the marijuana found in her vehicle had not belonged to her; however, no one else in the car was willing to accept responsibility for it. She continued by stating that her registered firearm had recently been stolen and was later found by the police. When she went down to the station to retrieve her property, Ms. Brown was told that she could not pick up her gun due to her marijuana conviction.

In response to Mr. Simmonds' question, Ms. Brown stated that she had purchased and registered her handgun in March of 2012 following a home invasion. Mr. Simmonds asked Sgt. Nordby whether there were any other items of concern on Ms. Brown's record. Sgt. Nordby stated that the marijuana conviction was the only reason for Ms. Brown's registration revocation.

Motion to approve by Mr. Simmonds. Second by Mr. Labode.

AYES: Labode, Simmonds, O'Connor

Motion carried 3-0. Appeal granted.

13-5-37  
William Steiner  
6255 Northern Hills Dr  
Omaha NE 68152

REQUEST: Appeal Omaha Police Department revocation of  
a firearm registration

William Steiner appeared before the Board with his legal representation, Daniel J. Pfeffer. Sgt. Eric Nordby stated that Mr. Steiner's firearm registration had been revoked due to a protection order. Sgt. Nordby confirmed that this protection order has since been dismissed, adding that there is no longer any reason to deny Mr. Steiner's firearm registration. The Board Secretary confirmed that the file contains a copy of said protection order dismissal (Exhibit B).

Motion to place case on file by Mr. Simmonds. Second by Mr. Labode.

AYES: Labode, Simmonds, O'Connor

Motion carried 3-0. Case placed on file.

**APPROVAL OF MINUTES:**

Not enough members were present who could vote to approve the minutes from April 29, 2013. These minutes will be approved at the June 24<sup>th</sup>, 2013 meeting.

**ADJOURN:**

Motion to adjourn by Mr. Labode. Second by Mr. Simmonds.

AYES: Labode, Simmonds, O'Connor.

Motion carried 3-0. Meeting adjourned at 1:34 pm.

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The Administrative Board of Appeals agenda and other information regarding the Administrative Board of Appeals and the Planning Department are available on the Internet at <http://www.ci.omaha.ne.us/planning>. The agendas available on the Internet are subject to change and are for convenience purposes only. The agenda may be altered no later than 24 hours before the scheduled commencement of the meeting. A copy of the official agenda, kept continually current, shall be available for public inspection at the City of Omaha Planning Department, 1819 Farnam Street, Suite 1100, Omaha, Nebraska, during normal business hours.

Prior to the hearing, the applicant may schedule a time to review the City's case file during normal business hours by contacting the Board Secretary at (402) 444-5203. If an alternative (audio version) to this agenda is necessary, please notify the Board Secretary at (402) 444-5203, 72 hours in advance.

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**CERTIFICATION OF PUBLICATION**

The Secretary to the Administrative Board of Appeals certifies publication in The Daily Record, the official newspaper of the City of Omaha, on May 13<sup>th</sup>, 2013.