

**MINUTES**  
**BUILDING BOARD OF REVIEW**  
**1:00 P.M., August 9, 2010**  
**Third Floor, Jesse Lowe Conference Room**  
**Omaha Civic Center - 1819 Farnam Street**

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**MEMBERS PRESENT:** Jack Ryan, Chairman  
Ronald Epstein, Vice Chair  
James Kucks  
Nicholas Limpach  
Thomas Thibodeau  
Martin Wiedenman

**MEMBER NOT PRESENT:** Troy Meyerson

**OTHERS PRESENT:** Greg Hauptman, Plans Examiner  
Jim Harper, Civil Engineer III  
Tom Phipps, Chief Mechanical Inspector  
Kevin Denker, Chief Housing Inspector  
Jim Oetter, HVAC Inspector  
Mike Johnson, Housing Inspector

Mr. Ryan, Chairman, called the meeting to order at 1:00 P.M., introduced the board members, as well as the staff, and explained the procedures for hearing the cases. Roll call was taken with one member not present.

Mr. Ryan informed those present that a copy of The Open Meetings Law is available in the board room for anyone to review. He noted that only those items on today's agenda could be discussed at today's public hearing.

Mr. Ryan explained that this Board does not have the authority to waive any requirements of the Americans with Disabilities Act, Federal Fair Housing Act, or NFPA Life Safety Code. This Board does have the authority to hear appeals of the International Fire Code, Nebraska Accessibility Guidelines, and the Nebraska Fair Housing Act. Life Safety Regulations are administered by the State Fire Marshal.

Mr. Ryan requested that speakers limit their presentation to 10 minutes.

Mr. Epstein moved to APPROVE the minutes of the July 12, 2010 meeting, as amended. Mr. Thibodeau seconded the motion.

AYES: Kucks, Limpach, Thibodeau, Wiedenman, Epstein, Ryan

MOTION CARRIED: 6-0

**NEW CASES:**

Case No. 10-45  
Slaggie Architects, Inc.  
Attn: Patrick Morgan  
606 N. 164 Street  
Omaha, NE 68118

LOCATION: 2110 S. 67 Street  
REQUEST: Waiver to the ventilation requirements for a  
projection room in a movie theater

Mr. Patrick Morgan, Slaggie Architects, Inc., and Ms. Andrea Phillips, Engineer, Henderson Engineers, Inc., 8325 Lenexa Drive, Lenexa, KS, appeared before the board in support of this request.

Mr. Morgan stated that upon receipt of a permit, an on-site inspection led a City mechanical inspector to question the ventilation process for their digital theater. Morgan explained that the digital theater does not use film in the room. He stated that the heat generated from the digital cinema is transferred out of the room. He maintained that the term "room" does not fall under the definition of a projector room in the IBC code due to the area and size.

Ms. Phillips stated that the digital cinema would reject the heat from the device. She explained that the mechanical specification for the equipment uses the term "exhaust" because it needs the additional boost of a fan to remove heat from the device. Phillips stated that the manufacturer does not specify where the exhaust must go. She stated that this is similar to a source capture system. Phillips stated that the heat exhausted by this system does not necessarily pose a health or safety risk to the general public. She added that the exhaust terminated within the building space would be over 18' above the occupied zone. She presented binders which provided information on the difference between movie projectors and digital cinema along with other data provided by the manufacturer. Phillips concluded that they would run the unit in its cooling cycle and thoroughly dehumidify the air as it tempers the space.

Mr. Jim Harper, City Plans Examiner, referenced both the IBC and IMC. He stated that in the IMC under Chapter 5, the exhaust must be taken to the outside. The inspector noticed that the exhaust was not being taken to the outside. Mr. Thibodeau inquired if the intent of the code is to remove heat or potentially dangerous particles in the air. Harper stated that heat is considered a contaminant according to the IMC.

Mr. Limpach felt that an issue exists with the interpretation of "exhaust" and "transfer air." He stated that this process transfers heat from one room to another. Limpach felt the code was written based on film. He stated that from an energy standpoint, it is better to go through the return plenum rather than exhaust the heat out of the building and have to make it up.

Mr. Harper stated that the City is concerned about the load calculations. Ms. Phillips explained that the fan in the equipment is to get the air out and their role would be to get the air away from the box and discharge it. She stated that they will make a connection directly to the projector with a piece of rigid ductwork and run it to an inline fan that gets the heat out of the enclosure. Mr. Morgan stated that the calculations prove that they can handle the load of the heat being transferred out of the room into the large volume of space.

Limpach inquired if life safety concerns were involved. Mr. Harper stated that the City wants to ensure that all concerns are addressed. He noted a section of the code that referenced cellulose nitrate film and felt that since very little is in use, interprets the code to mean other types of projectors as well.

Mr. Jim Oetter, mechanical inspector, stated that upon inspecting other digital movie theaters that were vented to the outside, he saw no reason to make concessions for this theater.

Mr. Morgan stated that one of the company's goals is to continue to move forward with technology. He requested that the board consider this design though other digital theaters may not choose to use this ventilation process. He added that digital theaters choose ventilation based on matters of architecture, space, and volume.

Mr. Tom Phipps, Chief Mechanical Inspector, inquired if anything else would be in the space that could create contamination in the return air plenum. Mr. Morgan stated that from an architectural standpoint, no other equipment would be used that could generate something that may be harmful. He stated that the digital cinema equipment is designed for the building. Phipps referred to Section 502.11.1 and inquired about the manufacturer's installation recommendation for the exhausting of the equipment. Phillips responded that the manufacturer states that a certain air stream, air velocity, and volume across the enclosure be maintained. She stated that the manufacturer makes no reference to the termination of the exhaust.

Mr. Hauptman stated that the digital technology is fairly new in the movie market. He felt that the equipment should be exhausted to the outdoors until the code is specific in addressing digital cinema equipment. Mr. Harper had concerns about discharging the exhaust directly into a plenum. Mr. Morgan stated that the equipment is not exhausting anything harmful. He stated that heat would be exhausted and they have shown the plenum space capable of handling the load. Morgan stated that this system is better by transferring heat away from the device into the plenum space.

Mr. Limpach moved to APPROVE the waiver based on the fact that the equipment does not contain, nor have the ability to contain, film and to allow the air to be transferred to the plenum. Mr. Wiedenman seconded the motion.

AYES: Limpach, Thibodeau, Wiedenman, Kucks, Ryan

ABSTAIN: Epstein

MOTION CARRIED: 5-0-1

Case No. 10-39

Douglas & LuAnne Gnuse  
7902 N. 279 Street  
Valley, NE 68064

LOCATION: 24503 King Lakeside Drive, Vacate

REQUEST: Appeal International Property Maintenance Code  
Notice of Violation dated June 28, 2010

Mr. Douglas Gnuse appeared before the board in support of this appeal.

Mr. Kevin Denker, Chief Housing Inspector, presented this case due to Mr. Kurt Holmstrom's absence.

Mr. Denker stated that after the flooding along the Elkhorn River, Code Enforcement provided preliminary first-response inspections to the properties that were affected. He stated that they canvassed the properties to determine which properties were habitable and uninhabitable. Denker stated that the City's concern were the effects after water exposure. He explained that material exposed to water for more than 48 hours becomes a concern for mold growth. Notices were sent to 37 property owners stating that their house had been affected by the flood and there could be unfit/unsafe issues with it. Denker stated that an inspector needed to go through Mr. Gnuse's property to identify any mold growth before releasing the property.

Mr. Gnuse stated that the flood water did not get high enough to inundate his property. He presented pictures pointing out the water level. Gnuse stated that attempts were made to contact Mr. Holmstrom by telephone. He stated that the garage had 1" of water and is 18" lower than the bottom of the floor joists. Gnuse stated that there was seepage in the crawl space. He stated that pressure ventilation was run for days to ensure that the space was dry. He stated that the wood structure was not inundated. Gnuse was unable to proceed with the City's recommendation to consult with a structural engineer for soundness and have a mold inspection done due to economics. He agreed to an inspection of the crawl space.

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Mr. Denker stated that his staff canvassed the area to see what was affected by the flood at the request of Douglas County Emergency Management. He commented that this property's exposure to the flood is the reason than an inspection was requested by the City. He stated that notices of a structural review went to all the residents affected. Denker stated that the housing inspector was more concerned with the safety issue than other violations at the property.

Mr. Ryan recommended that both Mr. Gnuse and a City inspector meet for an inspection. Mr. Denker stated that Mr. Gnuse's permit prior to this case is valid.

Mr. Greg Peterson, Housing Inspector, agreed to schedule a time to meet with Mr. Gnuse tomorrow to complete an interior inspection. Mr. Gnuse was agreeable as well.

Mr. Epstein moved to LAYOVER this case until the September 13, 2010 meeting pending an inspection by the City housing inspector. Mr. Limpach seconded the motion.

AYES: Thibodeau, Wiedenman, Epstein, Kucks, Limpach, Ryan

MOTION CARRIED: 6-0

Case No. 10-40  
Vivian J. Ingraham  
2623 N. 60<sup>th</sup> Street  
Omaha, NE 68104

LOCATION: 2623-25 N. 60<sup>th</sup> Street, Duplex Entire Structure  
and Garage Exterior  
REQUEST: Appeal International Property Maintenance Code  
Notice of Violation dated June 1, 2010

Mr. John C. Chatelain, Attorney, 12111 Anne Street, Ms. Vivian J. Ingraham, and Mr. John Ingraham appeared before the board in support of this appeal.

Mr. Scott Benson, Housing Inspector, stated that he responded to a complaint on May 10, 2010 regarding exterior violations at this property. He presented photographs of the structure. Mr. Benson stated that Ms. Ingraham was contacted and discussed removal of the cars, furniture, etc. At that time, he observed a window on the north side of the duplex which seemed to be blocked by an item pressing against the window from the inside. Mr. Benson felt there was a safety concern. He discussed the storage of items on the north side of the duplex with Ms. Ingraham. He stated that Ms. Ingraham informed him of a door between the units which became an issue of use. Benson advised Ms. Ingraham of the safety concern created when the north side of the duplex is used for storage. He requested an interior inspection of the north side.

Mr. Chatelain stated that the County Assessor's records refer to the property as a single family home. He stated that the property was originally built as a duplex. Chatelain stated that Ms. Ingraham has indicated that she occupies both sides and she is not willing to allow an interior inspection without a warrant. He suggested that Mr. Benson and Ms. Ingraham's son, John Ingraham confer on any work remaining prior to release of the property. Mr. Ryan recommended that Mr. Benson and Mr. Ingraham meet at the property for an inspection in order for the property to be released. Mr. Chatelain declined. He stated that the work in progress is near completion. Mr. Benson stated that the interior inspection of the north side of the dwelling is requested due to a concern that items are being hoarded. Benson added that the property is not licensed as a single family dwelling. The property has separate addresses for each side of the structure. He stated that there is no record of a permit dealing with a doorway between units for this structure. Mr. Benson reiterated that the dwelling needed to have an interior inspection done.

Mr. Denker stated that the property would be released and a warrant sought in order to perform an interior inspection of the north side of the duplex.

Mr. Thibodeau moved to take NO ACTION due to the fact that the City intends to release the property from enforcement based on information presented today. Mr. Kucks seconded the motion.

AYES: Wiedenman, Epstein, Kucks, Limpach, Thibodeau, Ryan

MOTION CARRIED: 6-0

<u>Case No. 10-42</u> Wallstreet Tower Omaha, LLC Attn: Chet Clark 12635 Hemlock Overland Park, KS 66213	LOCATION: 1441 Capitol Avenue, Excavation REQUEST: Hole/Excavation Site Appeal International Property Maintenance Code Notice of Violation dated June 25, 2010
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Mr. Chet Clark and Mr. Jason Townsend, 12635 Hemlock, Overland Park, KS, appeared before the board in support of this appeal.

Mr. Ryan referred to the letter dated July 13, 2010 from Mr. Clark and inquired if funding had been secured. Jason stated that the legal framework from the lenders was being worked out.

Mr. Kevin Denker, Chief Housing Inspector, stated that complaints have come from surrounding businesses regarding the undeveloped site. He stated that a notice was issued pursuant to Chapter 43 which states, "When a building has been wrecked or removed from its site for the purpose of erecting another building, the superintendent of Permits & Inspection Division may permit the owner of the property to maintain for a period not to exceed six months any remaining hole or depression provided the hole is kept clean, sanitary and a sturdy 4-foot high fence is maintained around the hole."

Mr. Clark stated that they are very close to concluding the financing and finalizing this matter. He stated that the new construction would essentially be the same type of building as the previous structure. Clark felt that it was important for the pile caps to remain exposed. He stated that to backfill the site would in cause delays and more disruption.

In response to Mr. Thibodeau, Mr. Clark stated that the weeds are cut down once a year and are due to be cleaned out. Jason stated that they are in contact with the direct neighbors. He stated that City staff are periodically updated on the progress as well. Jason stated that the TIF agreement was adhere to in its requirement to demolish the block within a certain period of time, not subject to financing. Clark stated that the entire block encompassing the excavation is protected by concrete barricades with a six-foot tall chain-link fence around the perimeter.

Jason stated that construction is expected to begin in November 2010. Mr. Epstein recommended an extension provided that the overgrowth and weeds at the site are completely maintained every two to four weeks.

Mr. Epstein moved to LAYOVER the case until the November 8, 2010 meeting to allow the appellant time to secure financing and begin construction. The property must be kept maintained. Mr. Wiedenman seconded the motion.

AYES: Epstein, Kucks, Limpach, Wiedenman, Thibodeau, Ryan

MOTION CARRIED: 6-0

<u>Case No. 10-41</u> Edward R. Kaczmarek 2139 S. 48 <sup>th</sup> Avenue Omaha, NE 68106	LOCATION: 564 S. 35th Street, Basement north side interior REQUEST: Appeal International Property Maintenance Code Notice of Violation dated June 15, 2010
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Mr. John Chatelain, Attorney, 12111 Anne Street, and Mr. Edward R. Kaczmarek, property owner, appeared before the board in support of this appeal.

Mr. Chatelain recommended a motion to layover to allow time to consult with City Attorney to suppress this case. He stated that the housing inspector entered the property without permission. In doing so, he observed an item that was non-compliant.

Mr. Wiedenman moved to LAYOVER this case to allow the City Attorney to review the request to suppress. Mr. Thibodeau seconded the motion.

AYES: Kucks, Limpach, Thibodeau, Wiedenman, Epstein

ABSTAIN: Ryan

MOTION CARRIED: 5-0-1

Case No. 10-43  
Sean D. Cuddigan  
10855 W. Dodge Road, Ste. 100  
Omaha, NE 68154

LOCATION: 507 S. 31<sup>st</sup> Street, Dwelling #1  
REQUEST: Appeal International Property Maintenance Code  
Notice of Violation dated June 25, 2010

Case No. 10-44  
Sean D. Cuddigan  
10855 W. Dodge Road, Ste. 100  
Omaha, NE 68154

LOCATION: 507 S. 31<sup>st</sup> Street, Dwelling #2  
REQUEST: Appeal International Property Maintenance Code  
Notice of Violation dated June 25, 2010

Cases 10-43 and 10-44 were heard concurrently.

Mr. Sean Cuddigan, Attorney, and Mr. Brian Hirschman appeared before the board in support of the appeals.

Mr. Mike Johnson, Housing Inspector, gave a history on this case. He stated that notice of violation was sent on September 10, 2008. Johnson stated that the repairs were not addressed. Johnson then cited Mr. Brian Hirschman who has previously informed him that he was in charge of the property. Johnson stated that at the court hearing, Mr. Hirschman testified that his ex-wife owned the property and recanted his statement that he was in charge of the property, so the charge was dismissed. He stated that Brian Hirschman began working on the property but the repairs were not in a workmanlike manner. Johnson stated that phone calls to Angela Hirschman were not returned and that she ignored the City's attempts to contact her. He felt it was necessary to issue a Vacate Order. Johnson stated that the Hirschmans also claims that the property is vacant. He observed that the first floor was occupied. Johnson commented that the property is an illegal conversion to a duplex.

Mr. Cuddigan stated that he represents Ms. Angela Hirschman, the owner of the property and Mr. Brian Hirschman as well. He stated that Brian Hirschman, Ms. Hirschman's ex-husband, made repairs and would provide firsthand knowledge of the progress.

Mr. Johnson felt that neither Brian Hirschman or Angela Hirschman would take responsibility for the code violations. He stated that an inspection was made on June 24, 2010 in which the noted repairs were not made. Johnson detailed some of the violations: a bad porch ceiling, rotted porch flooring (no effort seen to screw the floor boards down or fix them), deteriorated guardrail at front porch, non-code stairs to the second floor. He stated that the property should be vacated until the repairs are properly done.

Mr Cuddigan stated that the applicant is seeking release of the property. He stated that the applicant wants to work with the inspector on the code violations. He questioned the interpretation of the code violations. Cuddigan claimed that the violations in 2008 were repaired prior to the City issuing an Order

to Vacate. He stated that "porch flooring rotted, clutter, etc." is in addition to the 2008 notice; not an imminent danger, and not a basis for vacating the premise. Cuddigan presented recent pictures of the property and requested dismissal of the Order to Vacate. He stated that Mr. Hirschman finished the repairs and received a permit in March 2010 prior to the Order to Vacate. He stated that if the Order to Vacate is for new violations, the applicant should have proper reason and notice of the order.

Mr. Kevin Denker, Chief Housing Inspector, stated that the Order to Vacate was issued in accordance with Section 48-74 Placarding. He stated that repairs were not made within a reasonable timeframe given by the City. Denker reiterated that Angela Hirschman has not contacted their office and they attempted to deal with Brian Hirschman who is technically not the property owner. Denker stated that the notice is two years old and the violations were never completely remedied. He stated that staff will inspect and check off repairs that are properly completed.

Mr. Epstein suggested that the parties meet at the site and review the violations list. He explained to the applicant that the City would inspect the repairs that are completed and dismiss the order if the repairs are done in a workmanlike manner. Epstein felt that the inspectors have been cooperative and will make the determination to dismiss the Order to Vacate.

In response to Mr. Cuddigan, Mr. Denker stated that the City used one of three options: 1) citation, 2) demolition order, or 3) vacate. He stated that when Brian Hirschman was cited and the charge was dismissed, the City decided against further contact with Brian and issued the vacate order to get a direct response from Angela Hirschman. He stated that today Brian Hirschman retracted his declaration of being an agent for Angela Hirschman. In response to Mr. Kucks, Mr. Denker stated that nothing has been added to the original 2008 repair list. He stated that time given to make repairs was far exceeded.

In response to Mr. Limpach, Mr. Cuddigan agreed to act as an authorized agent for Angela Hirschman. Cuddigan stated that he would meet with the City at the property to discuss the issues and advise Brian Hirschman on what action to take on making the repairs in a timely and workmanlike manner.

Mr. Epstein moved for a LAYOVER until the September 13, 2010 meeting to allow the appellant time to meet with the City inspector at the property to discuss proper completion of the repairs. Mr. Wiedenman seconded the motion.

AYES: Limpach, Thibodeau, Wiedenman, Epstein, Kucks, Ryan

MOTION CARRIED: 6-0

**LAYOVER CASES:**

Case No. 10-33  
*(over from July 12, 2010)*  
CFF Enterprises  
Attn: Linda Fox  
16325 C Street  
Omaha, NE 68137

LOCATION: 2514 Sahler Street., Commercial Structure &  
REQUEST: Demolition  
Appeal International Property Maintenance Code  
Notice of Violation dated June 1, 2010

Mr. John C. Chatelain, Attorney, 12111 Anne Street, appeared before the board on behalf of the property owner in support of this appeal.

Mr. Greg Peterson, Housing Inspector, stated that he met with the parties and discussed some options that would be considered in order to prepare the property for a potential buyer. Peterson agreed to a 30-day extension. He stated that they would inform him of the specific use of the dry storage. Peterson stated that the engineer would provide a report identifying the structural issues.

Mr. Chatelain stated that the owner wants to salvage the building. He stated that the owner is negotiating with a potential buyer who plans to purchase and renovate the building.

Mr. Wiedenman moved to LAYOVER the case until the October 4, 2010 meeting to allow time for building use to be identified by the potential buyer. Mr. Kucks seconded the motion.

AYES: Wiedenman, Epstein, Kucks, Limpach, Thibodeau, Ryan

MOTION CARRIED: 6-0

**ADJOURNMENT:**

It was the consensus of the board to ADJOURN the meeting at 3:25 p.m.

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Claudia Moore, Secretary

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Jack Ryan, Chairman