Mr. Jack 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 and six members were present.

Mr. Ryan informed the public that a copy of The Open Meetings Law is available in this board room on the north wall 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 11, 2011 meeting, as amended. Mr. Wiedenman seconded the motion.

AYES: Limpach, Wiedenman, Makinster, Epstein, Ryan

ABSTAIN: Thibodeau

MOTION CARRIED: 5-0-1
NEW CASE:

Case No. 11-40
Gerald H. Novak
3621 Leavenworth Ct.
Omaha, NE 68105

LOCATION: 101-103 S. 49 Ave. – Basement Commons & Laundry Room Interior
REQUEST: Appeal International Property Maintenance Code
Notice of Violation dated July 1, 2011

At the Building Board of Review meeting held on Monday, August 8, 2011, Mr. Gerald Novak appeared before the board in support of this appeal.

Mr. Kevin Denker, Chief Housing Inspector, stated that this property has been in and out of the City’s inventory for years. He stated that Mr. Novak has remedied quite a few of the problems that have existed from the previous owner. Denker stated that Novak is arguing that the City did not give him proper notice of an inspection. He circulated a form stating that the inspection date (6/8/11) predates the registration date (7/11/11). He stated that the City received a complaint from a tenant who allowed them to enter the property. Denker stated that Novak was sent notice of code violations found in the tenant’s unit, the laundry room, and a bathroom. Mr. Mike Johnson, Housing Inspector, stated that Novak felt that the City did not give notice. He stated that the applicant is not appealing the violations.

Mr. Novak presented photos of the current property and a previously owned property. He felt that this case should be dismissed. Novak referenced the IPMC stating that Section 104-3 has been the model for the City ordinance since 2003. His concern was that the eight-year-old ordinance references “City Housing Division” as the department that the property owner must communicate with in order to register property and/or resolve housing issues. He felt that the term “City Housing Division” needs to be modified and updated. Novak stated that he had contacted his councilman regarding this matter. He referenced the property owner registration form that he completed and returned to “Code Enforcement,” not “City Housing Division.” He felt that there should be more of a willingness to help property owners identify actual code violations. Novak referenced the code stating that he should have been notified upon inspecting the laundry room interior. He stated that he will schedule another inspection with the inspector. He stated that most of the violations have been repaired.

Mr. Denker stated that the property owner registration form was drawn up in 2003 and is available online or in the office. He reiterated that at the time of the violations and upon inspection, Mr. Novak was not registered. Denker explained that Code Enforcement is a section of the Housing & Community Development Division which is representative of the “City Housing Division.” He stated that the inspector was allowed entry by the tenant. Denker stated that the tenant has access to the commons area in which he allowed the inspector to access.

Mr. Epstein suggested that Mr. Novak and the housing inspector arrange to meet again at the property to discuss the violations. He stated that being registered does not remove the violations. In response to Mr. Epstein, Ms. RoseMarie Horvath, Law Department, stated that the City and the landlords worked together to formulate the wording in the code. Mr. Epstein recalled that the Department’s notice letters invite property owners to meet with the inspector for clarification of any violations. Mr. Wiedenman acknowledged Mr. Novak’s efforts to change the terminology in the code. He suggested that flyers regarding the property registration forms could possibly be distributed at the assessor’s office, through realtors, or title companies. In response to Mr. Wiedenman, Mr. Denker stated that the registration process was advertised in the newspaper, conveyed at neighborhood associations, presented at Omaha Property Owners Association meetings, and forms have been passed out. He added that there are a significant amount of properties that are registered. Mr. Novak felt that the registration form is obscure, having to go to the extended City ordinances online to find it. He again took issue with the terminology used in the ordinance and will work to get “City Housing Division” wording changed to “City of Omaha Planning Department Code Enforcement.” Novak stated that the housekeeping issues were taken care of. Denker explained that Housing & Community Development receives federal funds. He stated that in order to receive those funds, the City municipality needs to have a code enforcement division in place to
grade whether homes are eligible or ineligible, which is why Code Enforcement is a section of Housing & Community Development.

Mr. Limpach stated that this board is not a court of law and felt that this case is going toward that direction. He felt that the policies and procedures are legal and that Code Enforcement was following procedure. Mr. Epstein stated that dismissing the write-ups would only prolong the situation. He felt that the Mr. Novak should meet with the housing inspector and go over the violations which he felt needed clarification. Mr. Epstein stated that Mr. Novak could then get an extension to complete the repairs. Mr. Novak stated that his main concern was that of "City Housing Division" in which the wording should be changed. Mr. Limpach stated that it is not possible to write every code to the exact situation. Limpach stated that, in addition, the mechanical code, for example, forms a review committee every six years. Therefore, the 2006 mechanical code is in use until 2012. Mr. Epstein stated that the changes to the code that Mr. Novak is requesting must be addressed with the City Council and the Law Department.

Mr. Epstein moved to DENY the request to dismiss the code violations and granted a 60-day extension (October 7, 2011) to allow the applicant time to complete the repairs. Mr. Limpach seconded the motion.

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

MOTION CARRIED: 6-0

LAYOVER CASE:

Case No. 11-35
James Severa
(Over from June 13, 2011)
P.O. Box 31009
Omaha, NE  68131

REQUEST: Appeal International Property Maintenance Code
Notice of Violation dated May 5, 2011

At the Building Board of Review meeting held on August 8, 2011, Mr. Sean Cuddigan appeared as a representative for the property owner in support of this appeal.

Mr. Kevin Denker, Chief Housing Inspector, stated that previously there was a buyer for this property. He stated that the sell did not go through. Denker stated that Mr. Cuddigan submitted a construction schedule which details a 35-week process. He recommended that the case be laid over for two months to allow the applicant to begin Phase 1 as indicated on the construction schedule to ensure that they can hit their landmarks. Denker stated that if the applicant does well in meeting each stage of the work in Phase 1, it would prove a good faith effort for approval of the remainder of the 35 weeks requested.

Mr. Cuddigan stated that there was vandalism loss regarding this property. He stated that they are in discussion with the insurance company in order to secure the financing to remedy the issues. Cuddigan projected that by the end of the month they could be close to starting the work. Mr. Denker stated that the two-month trial period will be the first step in measuring the progress of the work and whether more time would be needed at that point. Mr. Epstein suggested that the applicant be considerate of the exterior work, due to the winter months coming. Ms. Makinster inquired about the estimated time before the proceeds would be available. She was concerned about a realistic starting time. Denker stated that as long as the applicant has some work underway in that 60-day period that he would work with them.
Mr. Limpach moved to LAYOVER the case for 60 days and re-visit the construction schedule at the October 3, 2011 meeting. Ms. Makinster seconded the motion.

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

MOTION CARRIED: 6-0

ADJOURNMENT:

Mr. Epstein moved to ADJOURN the meeting at 1:40 pm. Mr. Wiedenman seconded the motion.

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

MOTION CARRIED: 6-0

Claudia Moore, Secretary

Jack Ryan, Chairman