Mr. Ryan, 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. 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 the agenda could be discussed at the public hearing.

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

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.

Roll call was taken and seven members were present.

Motion by Mr. Schaefer to APPROVE the minutes for the December 9, 2013 meeting. Mr. Feuerbach seconded the motion.

AYES: Feuerbach, Wiedenman, Standerford, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 7-0
CASES:

Case No. 14-01

Steve Kuzelka
119 South 49th Avenue
Omaha, NE 68132

LOCATION: 3220 Farnam Street
REQUEST: Waiver to allow a non-accessible mezzanine to be located within a multiple tenant facility with Group M occupancies containing five or more tenant spaces.

At the Building Board of Review meeting held on February 10, 2014, Steve Kuzelka (HBA), Brian Akert (HBA) and Emily Koesters (Lund Company) appeared before the Board in support of the request.

Mr. Kuzelka explained that his client was attempting to develop an empty tenant bay at Midtown Crossing that contains a mezzanine. He felt that the mezzanine did not need to be handicap accessible since the facility is a Group B occupancy and not Group M, which requires accessibility. He submitted Section 1104.4, Exception 1.1 of the 2006 International Building Code Commentary (Exhibit #2) which states that an exception is made for “multiple tenant facilities of Group M occupancies containing five or more tenant spaces”. He stated that the City’s interpretation is that, for a facility with five or more Group M occupancies, they all must comply with the code with no exceptions. Mr. Kuzelka stated that Fair Housing, ADA and International Code Council (ICC) were all contacted about the issue, and that all three entities concurred with the applicant’s interpretation of the code.

Jay Davis, Assistant Director – Permits & Inspections, clarified that the space would be used for business/office purposes and not retail. Mr. Kuzelka explained that lifts have been provided for the other mercantile occupancies; however, it was understood that if the business/office left the property, a lift would need to be provided if a mercantile business took its place. He stated that the first floor would include restrooms, a club space, and an office space. In response to Mr. Davis, Mr. Kuzelka stated that if a person with disabilities was hired they would have access to offices on the first level. Mr. Davis stated that a 5th exception was added to Section 1104.4 of the International Building Code which supports the applicant’s request, which reads: “As allowed in the Nebraska Administrative Code, an elevator is not required in facilities less than 3 stories in height, or in facilities having less than 3,000 square feet per story. This exception does not apply to shopping centers or malls, spaces containing professional health care providers, or buildings used for public transportation or airport passenger terminals.” Based on the ICC and Code interpretations provided, Mr. Davis agreed that an elevator was not required in this instance.

Ms. Kiel moved to APPROVE as requested. Mr. Wiedenman seconded the motion.

AYES: Wiedenman, Standerford, Santo, Kiel, Schaefer, Ryan

ABSTAIN: Feuerbach

MOTION CARRIED: 6-0-1
(Case 13-022 & 13-023 were heard together)
Case No. 13-022
(from 10/7/13 & 11/4/13)
John C. Chatelain
14707 California Street
Suite 1
Omaha, NE 68154

LOCATION: 3023 Leavenworth Street – Multi-Family
REQUEST: Exterior

Case No. 13-023
(from 10/7/13 & 11/4/13)
John C. Chatelain
14707 California Street
Suite 1
Omaha, NE 68154

LOCATION: 3025 Leavenworth Street, Apt. 3025 – Apartment Interior
REQUEST: Appeal International Property Maintenance Code
Notice of Violation dated January 22, 2013

Mike Johnson, Housing Inspector – City of Omaha, stated that the property had been released since all repairs had been made.

John Chatelain submitted the letter from the Planning Department (Exhibit #2) which stated that violations on the property had been remedied. He stated that the appeal was being withdrawn.

Mr. Feuerbach moved to ACCEPT the withdrawal of the request. Ms. Kiel seconded the motion.

AYES: Feuerbach, Wiedenmam, Standerford, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 7-0
Case No. 14-02
Carol Cosgrove
114 South 93rd Avenue
Omaha, NE 68114

LOCATION 701 South 37th Street – Multi-Family Interior

At the Building Board of Review meeting held on February 10, 2014, no one appeared before the Board in support of the request.

Mike Johnson, Housing Inspector – Permits & Inspections, stated that he had been informed by the Board Secretary that the applicant called the day of the meeting to request a continuance. He explained that the applicant had previously requested a continuance, and suggested a denial.

The Board felt that another layover would be best in order to give the applicant another opportunity to appear.

Mr. Wiedenman moved to LAYOVER. Mr. Schaefer seconded the motion.

AYES: Feuerbach, Wiedenman, Standerford, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 7-0
Case No. 14-03
Jeff Grasso
Grasso Florist
1903 South 7th Street
Omaha, NE 68108

LOCATION: 1903 South 7th Street – Commercial Building Entire Structure
REQUEST: Appeal Order to Vacate dated December 9, 2013

At the Building Board of Review meeting held on February 10, 2014, no one appeared before the Board in support of the request.

Kevin Denker, Chief Housing Inspector, stated that he had not met with the applicant and that he was not opposed to a layover.

Mr. Feuerbach moved to LAYOVER. Mr. Wiedenman seconded the motion.

AYES: Feuerbach, Wiedenman, Standerford, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 7-0
Case No. 14-04
Erin Redmond Claeys
4855 Blondo Street
Omaha, NE 68104

LOCATION: 4855 Blondo Street – Dwelling Entire Structure

This request was withdrawn at the request of the applicant.
At the Building Board of Review meeting held on February 10, 2014, John Chatelain and Ron Kendall appeared before the Board in support of the request.

Roger Carroll, Housing Inspector – City of Omaha, submitted pictures (Exhibit #2) of the home which he believed was a single-family dwelling at one time. He listed several of the violations that were found when an interior inspection was performed, which included a single furnace that was ducted into more than one apartment. He requested that the owner obtain permits, make the necessary repairs, and obtain a Certificate of Occupancy. Mr. Carroll noted that in an appeal that was made to the Building Board of Review in 1961, it stated that the residence was in a 6th Residence District which allowed only duplexes and single-family dwellings. At that time the applicant was requesting permission to convert the existing dwelling into a multi-family residence. It had four apartments and the owner wanted five; the appeal was denied.

Mr. Carroll stated that Mr. Chatelain had presented him with an agreement (Exhibit #3) from the owner, which stated that repairs would be made to Apartment 2 and offered a solution to the shared air issue. Mr. Carroll explained that the shared air issue would need to be referred to Tom Phipps, Chief Mechanical Inspector.

Jay Davis, Assistant Director – Permits & Inspections, stated that, in light of the building’s history, the Planning Department considers the residence to be an existing nonconforming use. Mr. Chatelain submitted a picture of the home (Exhibit #4). He stated that his client purchased the property in its current condition, and that is should be grandfathered. He agreed that his client would make all repairs, with the exception of converting the residence to a single-family home. He stated that the homeowner would use a Carrier product for the heating system with an ultra-violet light, which the Board has approved in the past to resolve issues with shared air. Todd Royal, a representative from Carrier, provided details of the filter process and submitted a brochure about the product (Exhibit #5). In response, Mr. Feuerbach noted that the system being proposed would be too powerful for the existing furnace. He suggested that Mr. Phipps be consulted before the product is installed. Mr. Davis noted that a waiver would still need to be requested for the furnace due to restrictions in the code.

Kevin Denker, Chief Housing Inspector, suggested a layover to give Mr. Phipps the opportunity to address the mechanical issues. He also stated that he was not comfortable signing the agreement submitted by Mr. Chatelain (Exhibit #3) without having enough time to review the document. Mr. Schaefer felt that the Board should also have time to review the document and compare it to the Notice of Violation. Mr. Chatelain withdrew the agreement (Exhibit #3). With regards to Mr. Chatelain’s request that the Board vote to allow the property to remain as a four-plex, Mr. Denker explained that the property is an existing nonconforming use and that Board cannot grant a waiver for the use. However, he added that if there was a fire or the property sat vacant for six months, it would lose its grandfather rights and would need to comply. Mr. Davis stated that any work on the property would need to conform to the current building codes.

Mr. Feuerbach moved to LAYOVER. Mr. Wiedenman seconded the motion.

AYES: Feuerbach, Wiedenman, Standerford, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 7-0
Case No. 14-06
John Chatelain
14707 California Street, Suite 1
Omaha, NE 68154

LOCATION: 127 North 34th Street – Dwelling Exterior
REQUEST: Appeal Notice of Violation dated January 6, 2014 (original date of notice March 21, 2006).

At the Building Board of Review meeting held on February 10, 2014, John Chatelain, Bryce Penke and Terry Penke appeared before the Board in support of the request.

Roger Carroll, Housing Inspector, stated that a notice was originally issued for the property in 2006 that listed several violations. He submitted pictures (Exhibit #2) of the property that had been taken on January 24, 2014.

Kevin Denker, Chief Housing Inspector, stated that there are new owners of the property who were sent a copy of the original Notice of Violation. The new owners were given 30 days to make the necessary repairs. Mr. Denker suggested a layover that would give Permits and Inspections an opportunity to meet the new owners at the property and decide which repairs have been made and what repairs remain. Due to the nature of the repairs, a 120-layover was suggested.

Mr. Wiedenman moved to LAYOVER until the June 9, 2014 meeting of the Board. Ms. Kiel seconded the motion.

AYES: Feuerbach, Wiedenmam, Standerford, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 7-0
Will Acosta-Trejo, City Law, discussed the Building Board Rules of Procedure that had been submitted to the Board for review. He stated that the Law Department found that the previous rules needed to be revised, including the relationship between the City and the Board.

Mr. Feuerbach questioned Rule 11 on page 4 of the document which states that “the Board may vote to reconsider a previously decided case any time within 30 days of its decision.” The decision was made to change the rule to “the next scheduled meeting of the Board.”

It was agreed that the Rules of Procedure would be further discussed at the March meeting.

**ELECTION OF OFFICERS:**

Mr. Wiedenman moved to NOMINATE Jack Ryan as Chairman of the Board. Ms. Kiel seconded the motion.

AYES: Feuerbach, Wiedenman, Makinster Standerford, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 7-0

Mr. Feuerbach moved to NOMINATE Brad Schaefer as Vice-Chair of the Board. Mr. Santo seconded the motion.

AYES: Feuerbach, Wiedenman, Makinster Standerford, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 7-0

**ADJOURNMENT:**

It was the consensus of the Board to adjourn the meeting at 2:26 p.m.