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 six members were present.

Motion by Mr. Schaefer to APPROVE the minutes for the February 10, 2014 meeting as amended. Ms. Kiel seconded the motion.

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

MOTION CARRIED: 6-0
At the Building Board of Review meeting held on March 10, 2014, Mark Chalkley and Mike Moylan appeared before the Board in support of the request.

Mr. Chalkley explained that the project contains a hotel, office space, apartment space, and an underground garage located in the center which serves the entire property. The spaces are designed to work together. He stated that one of the issues is that there are property lines that separate each entity from the other. The code does not allow windows within a certain distance of the property line which results in a hardship since the hotel, office, and apartments need windows on all sides. The other issue is that the parking garage has several openings in the party wall that are not allowed. He stated that there were no safety issues and that the problems are caused by the property lines.

Mr. Moylan stated that there would be an Operating and Easement Agreement (OEA) in place which would allow easements and also guarantee that nothing could be built above the plaza level. Mr. Chalkley also proposed providing 2-hour separation between the parking garage and other entities.

Greg Hauptman, Plans Examiner – Permits and Inspections, stated that he had previously suggested that the issues be resolved with the addition of easements or some other legal solution, since the problems are caused by the addition of property lines. He added that there was also discussion about using Type 1-B construction and sprinklering throughout which would allow unlimited areas and would eliminate the occupancy separation requirement. Mr. Hauptman stated that the biggest objection to the request is that waivers are being requested for a new project. He added that there is no hardship involved and that the code clearly does not allow the openings. Mr. Moylan responded that each of the entities was being financed separately by lenders that require a definite legal description and who preferred not to deal with a condominium situation. He stated that originally he was not aware of the issues that would result from the addition of property lines. He stressed that the project would not work without them.

Will Acosta-Trejo, Attorney - City Law, stated that it would be difficult for the applicant to obtain financing for the project without there being clear boundaries of the individual parcels being financed. He felt that the main issue before the Board was whether to approve the request for the space from the lot line which, if granted, would be added into the easement agreement. There was a lengthy discussion about the impact of property lines on this project and future developments.

Jay Davis, Assistant Director – Permits & Inspections, addressed the party wall issue. Referring to the code, he stated that, if the property lines are allowed, any party walls should be constructed without openings. He added that some latitude is allowed for existing buildings but not for new construction. Mr. Chalkley stated that party walls are being proposed for the areas between the garage and other adjacent buildings.

Mr. Schaefer noted that both issues would be resolved with a condominium arrangement, which would allow the applicant building without the need for waivers. He felt that, although this was
not a situation preferred by the Banks, all avenues should be explored. Mr. Moylan responded that based on his experience with financing other projects, banks are not inclined to finance projects based on condominium arrangements.

There was discussion about the applicant pulling the property line 3’ into the common area, which would require a waiver of the 15% protected opening requirement instead of the waiver to allow openings 3’ from the property line. In response to Ms. Kiel, Mr. Moylan stated that easements have been proposed for the property and submitted to the Law Department. He added that the final draft of the agreement has been put on hold pending the Board’s decision.

Mr. Standerford felt that approval of the request would not create safety issues. Mr. Hauptman noted that there will be many future cases with similar requests that will come before the Board. He was concerned that approval of this request would set a precedent that may be regretted in the future. He noted that all future requests would be handled on a case-by-case basis.

Mr. Wiedenman commented on the intent of the code. He mentioned that as long as the owners were aware of the easements, there should be no safety issues. He added that since the City has encouraged these types of developments, some flexibility would be required. Ms. Kiel agreed that an exception should be made for this case.

Mr. Schaefer moved to DENY the request. Mr. Santo seconded the motion.

AYES: Santo, Schaefer

NAYES: Wiedenman, Standerford, Kiel, Ryan

MOTION FAILED: 2-4

Mr. Moyland noted that one of the easements is a drive easement, similar to a bank drive-through, for access to the parking garage. Ms. Kiel responded that a 2-hour separation would need to be put in place for the entire tunnel enclosure.

Mr. Wiedenman moved to APPROVE subject to 20’ easements being put in place in order to provide “no-build” zones, to allow 0’ lot line openings, and to allow the openings with a 2-hour door separation through party walls along the property lines for the four locations as requested. Ms. Kiel seconded the motion.

AYES: Wiedenman, Standerford, Kiel, Ryan

NAYES: Santo, Schaefer

MOTION CARRIED: 4-2
Case No. 14-08
Mark Wiesman
Wiesman Development, LLC
1000 North 90th Street, Suite 100
Omaha, NE 68114

LOCATION: 1000 North 90th Street, Suite #500
REQUEST: Waiver to allow raised floor areas for judges in three courtrooms to remain inaccessible.

At the Building Board of Review meeting held on March 10, 2014, Mark Wiesman and Randy Meyer (Architect) appeared before the Board in support of the request.

Mr. Meyer explained that there are three hearing rooms within the space where judges will hear cases. The judges sit on a bench atop a 6” high platform. One of the benches is currently handicapped accessible; however, Permits and Inspections feels that all three areas should be accessible. He noted that government offices operate under a separate ADA code that allows judges to sit on a platform that is not accessible. He added that an exception would be provided if the case falls under the 2012 International Building Code (IBC).

Mr. Wiesman explained that the government abides by the Architectural Barriers Act Accessibility Standard (ABAAS), which combines the Uniform Federal Accessibility Standards (UFAS) and the Americans with Disabilities Act (ADA) standards. These standards are required in the lease. He explained that the platforms are raised so an attorney or client who is standing will be at eye level with the judge. He added that, although judges are present, the rooms are not court rooms but hearing rooms where citizen claims or complaints can be heard. He noted that both the 2009 and 2012 IBC indicates that the judge’s platform needs to be on an accessible route and that vertical access is not required at the time of initial construction; however, the platforms must be easily adapted if requested by an employee. The waiver would allow the applicant to complete the project in accordance with what the U.S. government requires. He concluded that a hardship is caused by attempting to comply with the standards set by the City of Omaha and those of the U.S. government.

In response to Mr. Ryan, Mr. Meyer stated that the government would prefer not to install ramps at a later time due to the small size of the rooms and since it is not required by their guidelines and the 2012 IBC. There was some discussion about the layout of the rooms and the proposed locations of the ramps. In response to Mr. Wiedenman, Mr. Meyer explained that only the judge has access to the raised bench.

Greg Hauptman, Plans Examiner – Permits and Inspections, referred to the 2006 International Building Code Commentary, Section 1108.4.1 which states: “Every courtroom must be fully accessible, including any raised areas, such as the judge’s bench, clerk’s station, jury boxes, witness stands and any audience seating”. Jay Davis, Assistant Director – Permits and Inspections, explained that government rules apply to any building that is owned by the federal government; however, for privately owned facilities that are renovated for government use, local jurisdictional rules would apply. He also advised that the City of Omaha is under a Consent Decree with the Department of Justice and that all private facilities in the city’s jurisdiction must abide by the code.

Mr. Schaefer suggested a temporary, adaptable ramp that could be installed when needed that would not permanently reduce the square footage. Mr. Davis responded that although he was not fully in support of the idea, it could provide a reasonable compromise.
Mr. Schaefer moved to APPROVE subject to applicant providing one portable ramp for each room (2 total) to be used as needed. Ms. Kiel seconded the motion.

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

MOTION CARRIED: 6-0
At the Building Board of Review meeting held on March 10, 2014, Elizabeth Culhane appeared before the Board in support of the request.

Kevin Denker, Chief Housing Inspector, stated that the owners of the property have removed some buildings. They have also met with the City about Tax Increment Financing and having the area designated as blighted. Mr. Denker submitted a document showing the area that is being targeted for the blighted designation along with recent photographs of the property (Exhibit B). He noted that the property has remained secure and is continually monitored. Due to the process of receiving the blighted designation, Mr. Denker was in support of a 9-month layover.

Ms. Culhane was in agreement with Mr. Denker's statement and requested additional time to address the ongoing issues.

Mr. Wiedenman moved to LAYOVER for 9 months until the December 8, 2014 meeting of the Board. Mr. Santo seconded the motion.

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

MOTION CARRIED: 6-0
Case No. 14-02
(from 2-10-14)
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 March 10, 2014, Carol Cosgrove appeared before the Board.

Mike Johnson, Housing Inspector, stated that he met with the applicant and that she wished to convert the structure back to a single-family home. This would eliminate the fire separation and shared return air issues. He added that he would meet with the Ms. Cosgrove and her contractors to discuss other repairs. He was agreeable to a 90-day layover to give the applicant the time necessary to complete all repairs. Ms. Cosgrove requested an extension of 120 days to ensure that all repairs are made.

Mr. Schaefer moved to APPROVE an extension for 120 days until the July 2014 meeting. Mr. Wiedenman seconded the motion.

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

MOTION CARRIED: 6-0
Case No. 14-03 (from 2-10-14)  
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 March 10, 2014, no one appeared before the Board in support of the request.

Kevin Denker, Chief Housing Inspector, stated that there has been no contact with the applicant. He requested that the Board deny the request.

There was some discussion about the details of the case. In response to Mr. Ryan, Mr. Denker explained that if the case was denied, the inspector would attempt to again contact the applicant. In addition the greenhouses could be tagged and Permits and Inspections would begin the process of having them demolished. Joseph Adriano, Housing Inspector, stated that the applicant would not give him any information regarding the new owners of the property.

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

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

MOTION CARRIED: 6-0
At the Building Board of Review meeting held on March 10, 2014, John Chatelain and Ronald Kendall appeared before the Board in support of the request.

Kevin Denker, Chief Housing Inspector, stated that this case had been laid over to address the shared air issue. Tom Phipps, Chief Mechanical Inspector, stated that he had the opportunity to visit the property and to speak with Ronald Kendall, the owner of the property. He believed that there would be some difficulty installing the devices proposed for the heating system. After explaining the various issues associated with the installation of the proposed system, he concluded that he would not recommend that it be installed since it would cause harm to the existing system. He believed that this particular property would need to be grandfathered to allow the shared-air to remain, and that any equipment added would need to be equal to what is currently in place. After some discussion, it was agreed that the system would be allowed to remain as is.

Mr. Chatelain suggested a 60-day layover to allow time for the remainder of the work to be completed. Mr. Denker suggested a 90-day layover.

Mr. Wiedenman moved to LAYOVER for 90 days until the June 9, 2014 meeting. Ms. Kiel seconded the motion.

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

MOTION CARRIED: 6-0
At the Building Board of Review meeting held on March 10, 2014, John Chatelain appeared before the Board in support of the request.

Kevin Denker, Chief Housing Inspector, stated that Steve Andersen, Housing Inspector, had met with the applicant and agreed on a 90-day extension. Mr. Chatelain stated that his client had decided to destroy the garage. Mr. Denker advised Mr. Chatelain that the asbestos requirement could not be waived since it is regulated by the state.

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

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

MOTION CARRIED: 6-0
At the Building Board of Review meeting held on March 10, 2014, Mark Dickhute and Jerry Morgan appeared before the Board in support of the request.

Todd Shearer, Housing Inspector, provided details of the case. He stated that during his second visit to the property with another inspector, he found that there were very few repairs that were made. In addition, the utilities had been shut off and the property was tagged at that time.

Mr. Dickhute explained that the utilities were shut off because there were no tenants living there. He submitted letters from MUD and OPPD to support his statement (Exhibit 3). He also submitted photos of the property (Exhibit 4) to show that repairs had been made, which included patching of the roof and painting of the garage and windows. The applicant did not agree with the City regarding many of the repairs that needed to be made.

There was some discussion about Mr. Shearer and Yvonne Barna, Housing Inspector, meeting the property owner to review the items on the code violation list. Mr. Dickhute wished to have the Notice of Violation vacated which would allow the property owner to sell the property. He added that there are limited financial resources available to make repairs before it is sold. Kevin Denker, Chief Housing Inspector, recommended laying the case over to give the applicant and property owner time to meet with the inspectors about the necessary repairs. Jay Davis, Assistant Director – Permits & Inspections, inquired about the condition of the roof and added that he would possibly be accompanying Mr. Shearer and Ms. Barna to the home.

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

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

MOTION CARRIED: 6-0
BUILDING BOARD OF REVIEW RULES OF PROCEDURE (from 12-9-13 & 2-10-14)
City Law Department

Alan Thelen, City Law, stated that he and Will Acosta-Trejo have worked for the last couple of months to update the Building Board of Review Rules of Procedure. He advised that motions do require a second and that changes had been made to reflect that in Item 9E. He also added that, with regards to Item 11, State law restricts the amount of time to reconsider a case to 30 days. Mr. Thelen stated that the reconsideration could occur during the initial meeting so that it would be within the required 30 days. There was some discussion about reconsideration of cases and scheduling special meetings if needed.

Mr. Schaefer moved to ACCEPT the revised version of the Building Board of Review Rules of Procedure as submitted. Mr. Santo seconded the motion.

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

MOTION CARRIED: 6-0

ADJOURNMENT:

It was the consensus of the Board to adjourn the meeting at 4:15 p.m.