

CITY OF MINNEAPOLIS

RENTAL DWELLING LICENSE BOARD OF APPEALS

**In the matter of the Rental  
Dwelling License held by  
Randolph Anderson & Urban Choice  
Apartments LLC for the  
Premises at 2510 4<sup>th</sup> Street North,  
Minneapolis, Minnesota**

**FINDINGS OF FACT,  
CONCLUSIONS, AND  
RECOMMENDATION**

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This matter came on for hearing before the Rental Dwelling License Board of Appeals at 1:30 p.m. on August 29, 2006 in Room 220 of the Minneapolis City Hall located at 350 South 5<sup>th</sup> Street. Board Chair Brian Bushay presided. Other board members present included Daisy Barton, Steven Schachtman and Clint Blaiser. Assistant City Attorney Joel Fussy was present as *ex officio* counsel to the board. Lee Wolf, Assistant City Attorney, represented the Department of Inspections. The rental dwelling license holder, Randolph Anderson, was present at the hearing and was not represented by counsel.

**FINDINGS OF FACT**

1. Randolph Anderson holds a current rental dwelling license for a multi-unit residential building located at 2510 4<sup>th</sup> Street North, in the City of Minneapolis. The rental license application personally filed and executed by Mr. Anderson lists himself as the owner of the building as well as the property manager responsible for the maintenance and management of the rental property. The executed rental dwelling license application lists his preferred address as 2510 4<sup>th</sup> Street North #104, Minneapolis,

Minnesota, 55411. Applicable City of Minneapolis and Hennepin County property records admitted at the hearing in this matter list Urban Choice Apartments, LLC as the owner and taxpayer of record for the property. Urban Choice Apartments, LLC is a corporation controlled by Randolph Anderson for which he is the listed agent.

2. This matter was commenced by the SAFE unit of the Minneapolis Police Department and the Department of Inspections to revoke the rental dwelling license held by Mr. Anderson and Urban Choice Apartments, LLC for the property at 2510 4<sup>th</sup> Street North, under Minneapolis Code of Ordinances (M.C.O.) § 244.2020. Section 244.2020, “Conduct on Licensed Premises,” requires a rental licensee to take appropriate affirmative action following conduct on the premises defined as disorderly under Section 244.2020(a). Specifically included within the ambit of disorderly use is “conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of [provisions] ... which prohibit the unlawful sale or possession of controlled substances [and provisions] which prohibit the unlawful possession, transportation, sale or use of a weapon.”

3. Notice of the recommendation to revoke the rental dwelling license was mailed to Randolph Anderson and Urban Choice Apartments, LLC on June 30, 2006. This notice was mailed to the contact address that Mr. Anderson personally supplied on his rental license application—2510 4<sup>th</sup> Street North, Minneapolis, MN 55411. An additional copy of the notice was mailed to the listed corporate address of Urban Choice Apartments, LLC at 4816 12<sup>th</sup> Avenue South, Minneapolis, MN 55417.

4. On September 30, 2005, Minneapolis Police officers responded to a 911 call reporting that two gunshots had been fired within the premises of 2510 4<sup>th</sup> Street

North, unit #204. Upon arrival the officers were told by two people on the sidewalk outside the premises that they had also heard the shots fired inside the building. The officers observed a tenant of unit #204 from the entrance to the building—later identified as Shannon Hudson—retreat into her apartment. Officers were granted entry to unit #204 by an occupant named James Smith. Two individuals were within the living room area of the apartment and tenant Johntez Randle was in the bedroom with Ms. Hudson. Officers discovered a .38 caliber shell casing and a .20 gauge shotgun slug within the living room. A double-barreled sawed-off shotgun was discovered under a mattress. The barrel and stock of the shotgun had been shortened. An empty .20 gauge slug box was also discovered. A loaded .38 caliber Colt revolver was recovered from the living room with a single spent shell casing in the cylinder. Along with the spent casing recovered from the living room this was consistent with the report of two fired shots. Hudson and Randle were each arrested on probable cause weapons violations of M.C.O. Chapter 393, based on the illegal shotgun possession and the illegal firearm discharge. Charges were subsequently filed by the Hennepin County Attorney for one count of possession of a short-barreled shotgun in violation of Minn. Stat. § 609.67.

5. On October 17, 2006, Crime Prevention Specialist Mary Etzioni of the Minneapolis Police Department's SAFE unit mailed a First Notice of Conduct on Licensed Premises to Mr. Anderson, pursuant to M.C.O. § 244.2020. This notice informed Mr. Anderson that there had been an instance of disorderly use at the premises of 2510 4<sup>th</sup> Street North on September 30<sup>th</sup> involving weapons violations. The notice was recorded as a first notice of disorderly use of the premises, informed Mr. Anderson that steps should be taken to prevent further violations, and noted that further disorderly

use could result in the denial, revocation, non-renewal or suspension of the rental dwelling license. The notice cited M.C.O. § 244.2020, informing the license holder that it is a licensee's affirmative responsibility to take appropriate action following disorderly use by persons occupying the premises.

6. The first notice was mailed via certified mail to the applicable contact address personally listed by Mr. Anderson at 2510 4<sup>th</sup> Street North #104, Minneapolis, Minnesota, 55411. A signed certified mail receipt was obtained confirming the delivery and service of the notice.

7. On April 21, 2006 Minneapolis Police officers responded to the premises at 2510 4<sup>th</sup> Street North on a report of a large group of young males allegedly in possession of multiple handguns. Officers confronted a Raphael Murphy near the broken door to apartment #102. Officers noted a distinct smell of marijuana in the air and Mr. Murphy fled into unit #102 upon seeing the officers. Nine occupants were in unit #102 and a loaded .40 caliber handgun was recovered in plain view from the floor of the living room. A juvenile male occupant of the apartment was found to have an outstanding felony warrant and was arrested. None of the occupants of the apartment, inclusive of the tenant Tashawna Jones, had a permit for the handgun. The loaded handgun was deemed to be accessible to Ms. Jones' four year-old child. The case was submitted for consideration of criminal weapons and child endangerment charges for violations of M.C.O. Ch. 393 and Minn. Stat. §§ 609.378 and 609.666.

8. On May 4, 2006, Crime Prevention Specialist Mary Etzioni of the Minneapolis Police Department's SAFE unit mailed a Second Notice of Conduct on Licensed Premises to Mr. Anderson, pursuant to M.C.O. § 244.2020. This notice was

sent via certified mail to the applicable contact address personally listed by Mr. Anderson at 2510 4<sup>th</sup> Street North #104, Minneapolis, Minnesota, 55411. A signed certified mail receipt was obtained confirming the delivery and service of the notice. An additional copy of the notice was sent to Urban Choice Apartments, LLC at its corporate address of 4816 12<sup>th</sup> Avenue South, Minneapolis, MN 55417.

9. The second notice advised Mr. Anderson that a second incident of disorderly use had occurred at the subject property and that he was *required* to respond to the Minneapolis Police Department within ten (10) days with a written management plan detailing all actions taken to respond to disorderly use and to prevent further disorderly use of the premises. M.C.O. § 244.2020(d) & (e) provides:

(d) If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) distinct and separate residential units, of an incident for which a notice in subsection (c) was given, the responsible SAFE team shall notify the licensee by mail of the violation. The licensee shall submit a written management plan to the SAFE team within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding twelve (12) months. The written management plan shall also detail all actions taken and proposed to be taken by the licensee to prevent further disorderly use of the premises. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform the licensee that failure to submit a written management plan may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license. The licensee or the listed agent/contact person for the licensee shall also successfully complete a property owner's workshop at the direction of and in accordance with a schedule set forth by the SAFE team. Any costs associated with that workshop will be the sole responsibility of the licensee.

(e) When required by paragraph (d), the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed if the licensee fails to submit a written management plan that satisfies the requirements set forth in paragraph (d).

10. Mr. Anderson did not submit a written management plan in response to the Second Notice of Conduct on Licensed Premises. Mr. Anderson conceded at hearing that he failed to provide a written management plan and testified that “*I was informed in writing I guess in the second notice that a management plan was needed... I did not fully read the notice at the time, and I did not know of this.*” (Hearing Transcript page 57, lines 11-14). Mr. Anderson did not submit any written management plan until the date of the hearing in this matter and has not attended a property owner’s workshop as required by the ordinance.

11. On June 7, 2006 Minneapolis Police officers served a no-knock search warrant on the premises at 2510 4<sup>th</sup> Street North, unit #204. A confidential Reliable Informant (CRI) under the control and direction of Minneapolis Police Officers successfully conducted a controlled purchase of crack cocaine from apartment #204. The search warrant was obtained based on this purchase and related surveillance of the unit. Upon serving the search warrant on unit #204 five suspects were present, including tenant Frank Walls and his fellow tenant and/or invited guest Darrel “Sweets” Johnson. Crack cocaine was recovered from the hallway outside the apartment. The crack cocaine tested positive as cocaine and weighed 0.2 grams. From inside of the apartment baggies of marijuana were recovered from the kitchen and living room. Several suspected crack pipes were recovered from the bedroom and small plastic baggies were discovered in the kitchen. Possession and sale of crack cocaine and marijuana violates Minn. Stat. Ch. 152 and all occupants of the apartment were arrested on probable cause disorderly house charges based on the suspected narcotics violations.

12. On June 26, 2006, Crime Prevention Specialist Mary Etzioni of the Minneapolis Police Department's SAFE unit mailed a Notice of Recommendation due to the Third Incident of Disorderly Use: Section 244.2020 Conduct on Licensed Premises to Mr. Anderson. This notice was sent via certified mail to the applicable contact address personally listed by Mr. Anderson at 2510 4<sup>th</sup> Street North #104, Minneapolis, Minnesota, 55411. A signed certified mail receipt was obtained confirming the delivery and service of the notice.

13. On June 30, 2006 a Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License was sent to Mr. Anderson and Urban Choice Apartments, LLC. The notice advised that both the Inspections Division and the Minneapolis Police Department would recommend to the City Council that his rental dwelling license for 2510 4<sup>th</sup> Street North be revoked. The recommendation was made pursuant to M.C.O. § 244.2020(d), based on the conduct on licensed premises incidents and the failure of the licensee to submit a written management plan.

14. On July 5, 2006 Mr. Anderson filed a proper appeal of the revocation recommendation. The Licensee, in his appeal and in testimony adduced and evidence submitted at the hearing in this matter, conceded that the disorderly uses of the premises had occurred but claimed that he had been in communication with SAFE staff and that he had served a notice to vacate upon Mr. Walls in apartment #204 on April 21, 2005 and had reached an agreement for him to vacate by June 15, 2006. M.C.O. § 244.2020(g) provides in pertinent part:

No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days after a notice is given by the licensee to a tenant to vacate the premises, where the disorderly

use was related to conduct by that tenant or his/her guests. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the SAFE team within ten (10) days of receipt of the violation notice.

15. No copy of a notice to vacate was submitted by Mr. Anderson to the SAFE unit at any point prior to the hearing in this matter on August 29, 2006. In addition, crack cocaine was recovered after being tossed from the window of apartment #204 on June 17, 2006 during a police response to a possible overdose call. During this response, Frank Walls was present in the apartment in contravention of Mr. Anderson's contention that he vacated the premises on or before June 15, 2006.

16. The incidents of disorderly use that occurred on and about September 30, 2005, April 21, 2006 and June 7, 2006 are instances of disorderly use within the meaning of M.C.O. § 244.2020(a). Furthermore, the licensee failed to submit a timely written management plan in relation to these incidents and failed to attend a property owner's workshop as required by M.C.O. § 244.2020(e) and failed to submit copies of any notices to vacate or court proceedings as required by M.C.O. § 244.2020(g).

## **CONCLUSIONS**

1. At least three (3) incidents of conduct determined to constitute a disorderly use and defined as disorderly in M.C.O. § 244.2020(a) by tenants and/or guests occurred on the premises of 2510 4<sup>th</sup> Street North for which proper notices of disorderly use were issued.

2. The Licensee failed to take timely, appropriate action in response to notices from the Minneapolis Police Department concerning disorderly incidents on the premises of 2510 4<sup>th</sup> Street North.

3. The Minneapolis Police Department and the Inspections Division followed the appropriate procedural steps and provided the necessary notices as required under the Minneapolis Code of Ordinances.

4. The Licensee failed to comply with the requirement of M.C.O. § 244.2020(d) & (e) which requires submission of a written management plan within ten days of issuance of a second notice of disorderly use. This failure provides an independent basis for adverse license action, specifically inclusive of revocation, against the rental dwelling license held by the Licensee at 2510 4<sup>th</sup> Street North.

6. The subject property has been the source of repeated and continuing criminal, disorderly and nuisance activity. The activities at this property have had a substantial negative impact on the surrounding community, as evidenced by the testimony and documentation admitted from police personnel and the occurrence of numerous police responses at the premises.

7. The rental dwelling license held by Randolph Anderson for 2510 4<sup>th</sup> Street North is subject to adverse license action pursuant to M.C.O. §§ 244.2020(e). Revocation of the referenced rental dwelling license is the appropriate adverse license sanction.

## **RECOMMENDATION**

That the rental dwelling license held by Randolph Anderson and Urban Choice Apartments, LLC for the premises at 2510 4<sup>th</sup> Street North, in Minneapolis, Minnesota be revoked.

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Brian Bushay  
Chair,  
Rental Dwelling License Board of Appeals