

**CITY OF MINNEAPOLIS  
CITY COUNCIL**

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In the matter of the Rental  
Dwelling License held by  
Dr. Chike Onyekaba for the  
Premises at 3420 Chicago Avenue,  
Minneapolis, Minnesota 55407

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**Motion for Stay of Revocation of the Rental  
Dwelling License held by Dr. Chike Onyekaba for the Premises at 3420  
Chicago Avenue, Minneapolis, Minnesota 55407**

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Rental Dwelling Licensee, Dr. Chike Onyekaba, through the undersigned attorney, P. Chinedu Nwaneri, move the Minneapolis City Council for the following:

1. To stay revocation of the Rental Dwelling License held by Dr. Chike Onyekaba for the premises at 3420 Chicago Avenue, in Minneapolis, Minnesota 55407, and
2. For such other orders as the City Council may deem necessary.

**Grounds for this Motion**

1. Rental Dwelling Licensee, Dr. Chike Onyekaba (hereinafter “Dr. Onyekaba”), together with his wife, Joyce Onyekaba, M.D., purchased 3420 Chicago Avenue, Minneapolis, Minnesota 55407 (hereinafter “the Premises”) about 2004.
2. Dr. Onyekaba is the property manager of the Premises.

3. On 1/9/2007, the Public Safety & Regulatory Services Committee of the Minneapolis City Council, acting on the recommendation of the Rental Dwelling License Board of Appeals, revoked the rental dwelling license held by Dr. Onyekaba.
4. On 1/18/2008, the Minneapolis City Council affirmed the purported revocation of Dr. Onyekaba's license.
5. Dr. Onyekaba has filed a Petition for Writ of Certiorari with the Minnesota Court of Appeals. The petition is pending and in the interest of justice it is proper to stay the revocation of the rental dwelling license held by Dr. Chike Onyekaba pending the determination of the petition for writ of certiorari by the Court of Appeals.

**Rental Dwelling Licensee is Eligible for Stay of Revocation**

The City Council may grant stay of revocation of rental dwelling license when licensee can show that:

- a) he is likely to succeed on the merits of the case;
- b) he would suffer irreparable harm if the stay were not granted;
- c) the potential harm to him if the stay is not granted exceeds the potential harm to the City if the stay is granted; and
- d) the stay would serve the public interest.

The Licensee can demonstrate all these.

**a) Licensee is likely to Succeed on the Merits of the Case**

**(i) The Statutorily Mandatory Second Notice of Disorderly Use was not Served on Dr. Onyekaba:**

The SAFE team of the Minneapolis Police Department did not serve Dr. Onyekaba with the statutorily mandated second notice of disorderly use pursuant M.C.O. § 244.2020(d).

**1<sup>st</sup> Incident**

On 4/23/2007, the Minneapolis Police Department allegedly executed a narcotics search warrant on Apartment #2 of the Property. The Police alleged that it found some quantity of marijuana and cash. Possession and sale of narcotics by resident(s) of a Property or their guests violates the provisions of Minn. Stat. Ch. 152 and qualifies as an incident of disorderly use of a Property per Minneapolis City Ordinance (M.C.O.) § 244.2020(a)(3).

M.C.O. § 244.2020(d) provides that if another instance of disorderly use occurs within eighteen (18) months on a licensed premises, such as Dr. Onyekaba's Property, the responsible SAFE team of the Minneapolis Police Department *shall* notify the licensee by mail of the notice of disorderly use of the premises. Section 244.2020(d) further provides that 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 section also states that notice provided to the licensee of the violation *shall* 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 SAFE team sent out two notices (same contents) via certified mails to inform Dr. Onyekaba of this first incident. The first certified mail was addressed to Dr. Onyekaba at his home address. Copy of the certified mail receipt is annexed herewith and marked Exhibit 1; the United States Postal Service Confirmation of Delivery is annexed herewith and marked Exhibit 2.

The second copy of the same notice of the first incident was addressed to Dr. Onyekaba at the Property's address. Copy of the certified mail receipt is annexed herewith and marked Exhibit 3; while the United States Postal Service Confirmation of Delivery is annexed herewith and marked Exhibit 4.

### **2<sup>nd</sup> Incident**

On 7/19/2007, Minneapolis Police Officers executed a second narcotics search warrant on the property, this time on Apartment 5.

The Police alleged that they made some arrests and recovered some narcotics.

This second instance of disorderly use of the Property required the responsible SAFE team of the Minneapolis Police Department to issue to licensee, Dr. Onyekaba, a statutorily mandated second notice i.e. "Second Notice of Conduct on Licensed Premises" pursuant to M.C.O. § 244.2020(d). Issuance of this notice to Dr. Onyekaba would notify Dr. Onyekaba of the requirement of a management plan and the adverse consequences of failure to provide a management plan.

The responsible SAFE team of the Minneapolis Police Department did not serve Dr. Onyekaba with this mandatory statutory second notice.

### **3<sup>rd</sup> Incident**

On or about 9/5/2007, the Minneapolis Police Department alleged that it purchased, through a CRI, some quantity of narcotics from the tenant occupying Apartment 4 of the Property. The police arrested the tenant. This incident appeared to be the third incident of disorderly use of the Property.

M.C.O. § 244.2020(f) provides that if a third incident of disorderly conduct within eighteen (18) after the second of any two

(2) previous instances, *for which notices were sent to the licensee*, the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed. The foregoing shows that the penal consequences of M.C.O. § 244.2020(f) will apply if and only if the SAFE team served notices of the 1<sup>st</sup> and 2<sup>nd</sup> incidents, respectively, to the licensee.

The SAFE team sent out two notices (same contents) via certified mails to inform Dr. Onyekaba of this third incident. The first certified mail was addressed to Dr. Onyekaba at his home address. Copy of the certified mail receipt is annexed herewith and marked Exhibit 5; the United States Postal Service Confirmation of Delivery is annexed herewith and marked Exhibit 6.

The second copy of the same notice of the third incident was addressed to Dr. Onyekaba at the Property's address. Copy of the certified mail receipt is annexed herewith and marked Exhibit 7; the United States Postal Service Confirmation of Delivery is annexed herewith and marked Exhibit 8.

**(ii) Effect of Failure to Serve Notice for Management Plan**

The SAFE team did not serve the statutorily mandated Second Notice of violation on Dr. Onyekaba. This second notice (i.e. notice of the 7/19/2007 narcotics search and arrests) is a very important notice because it is the notice that would have notified Dr. Onyekaba of the need for a compulsory management plan and the severe penal consequences of failure to comply. Since the SAFE team did not comply with a mandatory statutory provision, Dr. Onyekaba is likely to succeed in his petition to the Minnesota Court of Appeals for writ of certiorari.

**b) Respondent would Suffer Irreparable Harm if Stay is not Granted**

If stay is not granted and all the renters of Dr. Onyekaba's Property vacate the Property, prior to the Court of Appeals hearing of this matter on the merits, Dr. Onyekaba would suffer great financial loss and hardship.

Also, if the City of Minneapolis takes over Dr. Onyekaba's Property or takes other adverse action on the Property, prior to the determination of the matter pending in the Court of Appeals, Dr. Onyekaba may lose ownership of the Property and this would cause him irreparable harm.

**c) Respondent can show that the Potential Harm to him if Stay is not Granted Exceeds the Potential Harm to the City if Stay is Granted**

Granting stay of revocation while Dr. Onyekaba's petition for writ of certiorari is pending would cause little harm to the City. This is because Dr. Onyekaba has cleared the Property of all criminal elements or bad tenants. He has also substantially renovated the Property as well as installing security cameras, fences, motion-detector lights, etc. Dr. Onyekaba's improvements on the Property are well documented in the Petition for Writ of Certiorari served on the City together with this Motion for Stay.

So, granting stay in this matter is not a ploy to permit illegal transactions to continue on the Property since all the tenants causing that caused disorderly use of the Property have been evicted.

**d) The Licensee can show that the Stay would Serve the Public Interest**

Granting a stay of revocation in this case would be in everyone's best interest, including the public, because it would save taxpayers' the expense of the City continuing to act on a Property that is now completely crime free and has become the beauty of its neighborhood.

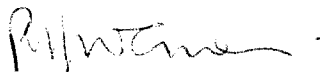
**RELIEF SOUGHT**

An order staying enforcement of the revocation of the Rental Dwelling License held by Dr. Chike Onyekaba for the Premises at 3420 Chicago Avenue, Minneapolis, Minnesota 55407.

Respectfully submitted,

NWANERI & ASSOCIATES, PLLC

Dated: 2-27-2008

By: 

P. Chinedu Nwaneri (# 0322003)  
2147 University Ave. West, Ste 105  
Saint Paul, Minnesota 55114-1326

*Tel.: (651) 917-0633*

*Fax: (651) 917-0691*

*Attorney for Petitioner*

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- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

CHIKE ONYEKABA  
12221 JAY CIR.  
COON RAPIDS MN 55448

2. Article Number (transfer from service label) **7003 0500 0004 2688 6968**

PS Form 3811, February 2004

**COMPLETE THIS SECTION ONLY BY RECIPIENT**

A. Signature: *[Signature]*  Agent  Addressee

X  Certified Mail  Registered Mail  Insured Mail  G.O.D.

B. Received by (Printed Name) **ONYEKABA 5-28**

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  Certified Mail  Express Mail  Registered Mail  Return Receipt for Merchandise  Insured Mail  G.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

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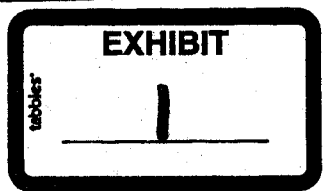
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PS Form 3800, June 2002



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3000 MINNEHAHA AVE  
MINNEAPOLIS MN 55406  
Minneapolis  
City of Lakes

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7003 0500 0004 2688 6593



02 1M \$05.38<sup>00</sup>  
0004226380 MAY 22 2007  
MAILED FROM ZIP CODE 55401

*Handwritten initials and number:*  
ANA  
718

CHIKE AND/OR JOYCE ONYEKABA  
3420 CHICAGO AVE  
MINNEAPOLIS MN 55407

BC: 55406193200 \*0678-01428-23-31  
RETURN TO SENDER  
ATTEMPTED - NOT KNOWN  
UNABLE TO FORWARD

55406193200  
55406193200

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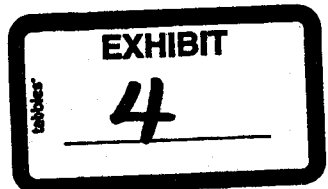
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 Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to

Chika O. Onyekaba  
 3420  
 Minneapolis, MN

**DELIVERY ATTEMPTED  
NOT KNOWN**

2. Article Number (Transfer from service label) **7007 1470 0002 1427 3540**

PG Form 3511, February 2004 Domestic Return Receipt 8889-004-1000

**EXHIBIT 7**

EXHIBIT  
7

