

Text of Legislative File RLH FCO 23-28

Appeal of Linda Kohl and Nick Geng for Bigos Management/On the Park condos to a Correction Order at 380 JACKSON STREET (198 SIXTH STREET EAST). (Public hearing continued to August 2, 2023)

AMENDED 7/12/2023

WHEREAS, in the matter of the Appeal of Linda Kohl and Nick Geng for Bigos Management/On the Park condos HOA to a Correction Order at 380 Jackson Street (198 Sixth Street East), the Legislative Hearing Officer has reviewed the appeal and considered the testimony of City staff and the appellant;

WHEREAS, the Legislative Hearing Officer finds that 1) the orders issued by the Fire Certificate of Occupancy Program are based on Fire Code provisions which also exist in the Building Code; and 2) the appellants indicate the condition in question has been in existence since the construction of the building and was approved under the Building Code in place at that time; 3) based on several meeting with the City's Building Official and the Supervisor for Commercial Building fire inspection; the Fire Certificate of Occupancy Orders are being re-issued to correctly include provisions from both the Fire Code and Building Code; and 4) the Legislative Hearing Officer is not allowed under the provisions of Saint Paul Legislative Code Chapter 18 to hear appeal of the Building Code; and

WHEREAS, the Legislative Hearing Officer's recommendation is ~~forthcoming~~ to refer the matter to the City's Building Official for a finding of fact and determination on the appealed matter, should the appellants wish to continue in an appeal process; Now, Therefore, Be It

RESOLVED, that the Saint Paul City Council hereby accepts and adopts the Legislative Hearing Officer's recommendation in this matter.



City of Saint Paul

City Hall and Court House
15 West Kellogg
Boulevard
Phone: 651-266-8560

Master

File Number: RLH FCO 23-28

File ID: RLH FCO 23-28

Type: Resolution LH Fire C of O
OR Correction Order

Status: Passed

Version: 3

**Contact
Number:**

In Control: City Council

File Created: 04/24/2023

File Name: 380 Jackson St (198 6th St E)

Final Action: 07/12/2023

Title: Appeal of Linda Kohl and Nick Geng for Bigos Management/On the Park condos to a Correction Order at 380 JACKSON STREET (198 SIXTH STREET EAST).
(Public hearing continued to August 2, 2023)

Notes: walk-in, teleconference, 5/2/23 from 2 to 4 pm

Linda Kohl, On the Park Home Owners Assoc, Assoc. Secretary: 651-771-6777
Stephanie Simmons, Bigos Mgmt: 763-317-7868
Nicholas Geng, Bldg Engineer: 763-234-5868
Larry Braun, Assoc President 651-260-4305

Agenda Date: 07/12/2023

Agenda Number: 48

Sponsors: Noecker

Enactment Date:

Attachments: 380 Jackson St.appeal.4-24-23.pdf, 198 6th St
E.Form 4 4-10-23.pdf, 380 Jackson St.Photos
3-14-23.pdf, 380 Jackson St.Aerial Map 4-27-23.pdf,
198 6th St E.Correction Notice 4-11-23.pdf, 380
Jackson St.Bigos - On the Park Ltr.5-5-23, 380
Jackson St.Bigos - On the Park Ltr.6-16-23, 380
Jackson St.Bigos - On the Park Ltr.7-7-23, 380
Jackson St.Zimny email.7-12-23, 380 Jackson
St.Bigos - On the Park Revised Ltr.7-14-23

Financials Included?:

Contact Name:

Hearing Date:

Entered by: jenna.mccullough@ci.stpaul.mn.us

Ord Effective Date:

Related Files:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Legislative Hearings	05/02/2023	Laid Over	Legislative Hearings	06/13/2023		
	Action Text: Laid Over to the Legislative Hearings due back on 6/13/2023						
	Notes: Layover to LH June 13, 2023 at 2 pm for further discussion.						

Linda Kohl, association secretary for On the Park, appeared via phone
Nick Geng, Bigos Building engineer, appeared via phone
Stephanie Simmons, Bigos Regional Management, appeared via phone
Larry Braun, association president of On the Park, appeared via phone

[Moermond gives background of appeals process]

Moermond: Ms. Kohl is the appellant in the paperwork, are you speaking on behalf of the association, and I assume Bigos Management is Ms. Simmons?

Kohl: either Larry or I could speak on behalf of the association.

Simmons: either me or Mr. Geng can speak for Bigos.

Staff report by Supervisor Leanna Shaff: this is Galtier Plaza. The Northeast corner of the building has On the Park Condominiums. The lowest three levels below ground are parking garage. On the Park has 16 units. There is a north stairwell that services both the parking area and the condominiums. Code requires that at ground floor people have an exit out of the stair tower. There is a door there that between the lobby of the condominium and the staircase that is locked so that it prohibits people from exiting the staircase to the lobby. People coming down from the condominiums have to exit through a parking garage. That can't happen in an emergency. People coming up from the parking garage couldn't exit at all. In that case we're requiring that door be unlocked from the stair tower and the lobby so that exiting can be achieved. It has been said these doors unlocked upon activation of a fire alarm. The alarm goes off for fire, my question would be if there are other incidents like a shooter or an evacuation for another reason, these doors won't unlock and you'll have people trapped and not able to exit.

Moermond: so this is an emergency egress. It doesn't say fire egress in the code, it says emergency. Shaff: it says egress basically.

Moermond: egress alone. One of the means of egress from the garage and required means of egress from the tower.

Shaff: we can't design, it has been brought up to Inspector Niemeyer they want to change things. This is a big building, it isn't as simple as putting in a door. They'd have to have an analysis done to see if it can be exited differently. That would be up to the property owners to do that Code analysis. People are worried the unsheltered would get into the elevator access. That could possibly be a key fob so not just anyone could call the elevator. I'm not sure where that is at other than it may be cost prohibitive. It is paramount in a fire in an emergency people are able to exit and not be trapped.

Moermond: you've suggested a couple alternative options for dealing with the unsheltered, but that is up to the building folks to design.

Braun: as far as the condominiums are concerned, there is a south stairway accessible to the four floors. If you are at the south end of the condos it is the most immediate stairway. North end of the building it is half a block away. There is another escape route besides that stairway. From the garage that exit is one of six or 7. This is the way it was done when the building was built. Since the first of December we have had 7 times emergency services called, six were not false alarms because unsheltered people started fires in the stairway. The 7th time they started a fire on the roof and caused \$7,000 worth of damage. If that door is unlocked they have access to the lobby and all the common areas of the building. So the front door of my unit becomes a front door on the street. I would think the City itself would be getting tired of coming here every two weeks because someone started a fire in the stairway. I assume it met code when it was built, and converted to condos in the late 80's. Is it necessary to retrofit to a newer code?

Moermond: I gather he believes the door was a locked door at time of construction and it was an allowable way of the building to be set up. I also heard he believes the south stairway is sufficient to

meet egress requirements of the code.

Shaff: if they are looking for something different that would be for their architect or designer to come up with a code analysis to present to the City. That we can give up this exit or stairway or anything like that.

Moermond: so it is required egress and that would have been the expectation at time of construction.

Shaff: that is my understanding, yes.

Moermond: egress codes in general are pretty unchanged over the decades. They are a stable section of the code. This is a knowable kind of thing whether or not it was required egress. With respect to the lock and the idea that this was locked at this level.

Shaff: I have difficulty it would be allowable to be locked at this exit being as it is a marked exit as you come down those stairs. It is identified as an exit. In an emergency this is an exit. If we are looking to change that then we can't just say go ahead, we have to see the analysis that says this is changeable.

Moermond: Mr. Braun, any other comments? Anyone else?

Kohl: as far as we understand this was open when Galtier Plaza opened. We haven't made any changes in egress or the stairwell since then. As Larry pointed out, it must have been approved then or it wouldn't have received the Certificate of Occupancy. We should point out there is an emergency alarm that opens the door in an emergency. It is any kind of an emergency. Theoretically that was part of the code and why it was approved.

Moermond: this has always been a locked door? I thought I was hearing it was now made into a locked door due to the unsheltered access. What are we actually talking about from your understanding?

Kohl: it has always been locked and an integral part of the building's security.

Braun: it has always been locked and unlocked in an emergency. I've lived here since 1997 and it was like that since then. This is not a recent change.

Moermond: what I am trying to connect, you are saying the problem with the unsheltered would be exacerbated?

Braun: once they get into the lobby they can get in and go to any floor they want.

Moermond: so it is fair to say it would exacerbate the problems you are already experiencing with the unsheltered gaining access to the building through the garage.

Shaff: I also believe this is an exit from the parking garage and I heard from Inspector Niemeyer that Bigos, who controls the garage, have an easement through this stairway to exit the building.

Braun: correct.

Kohl: the garage has many other exits. It doesn't need to have the north stairwell.

Shaff: I hear what you are saying but at this point then perhaps you can give a code analysis that you have enough exits that these aren't required.

Geng: we definitely want to come up with a solution. In regard to stairwell A, I believe Stephanie and I have discussed possibly getting an analysis of emergency exit and seeing if it is even necessary. Now the ramp is solely open, not divided like it was in the past. We have to get our engineers involved, but that would be something we'd have to start.

Moermond: we have exiting from the parking area, from the building. The fact that it exists as an exit now it creates an expectation for someone in an emergency they could go down to get out, then they

couldn't actually get out at ground level unless the alarm system functions as it should. I'm struggling, is it an egress, is it not? Going half a block seems like a long way in an emergency. I'm going to ask the building official to look at the code and make a determination of what the situation would have been at the time the Certificate of Occupancy was issued. Then we can move forward from there. I know he is out for 2 weeks so I'm going to move this to June 13 and we can revisit this. in the meantime, if you have more information I'm happy to accept it and put it in the record. While this is under appeal the orders are stayed. I want to make sure we have an answer on that first question since the other issues follow from that.

1 Legislative Hearings 06/13/2023 Referred City Council 07/12/2023

Action Text: Referred to the City Council due back on 7/12/2023

Notes: Recommendation forthcoming. LHO to talk to Building Official.

Nick Geng, Bigos Building engineer, appeared via phone
Stephanie Simmons, Bigos Regional Management, appeared via phone
Linda Kohl, association secretary for On the Park, appeared
Larry Braun, association president of On the Park, appeared
Brad Lerhrkey, occupant and board member, appeared

Staff update by Supervisor Mitchell Imbertson: we have a continuation of an appeal already heard. There is a stairway in this building that goes through 3 levels of apartment garage and 9 stories of a building. It exits and the first floor to a lobby by ON the Park Condos. This is an exit for the parking ramp and 9 stories of the building. A lock was added to the door from the stairway at the first floor. That keeps the door from being opened so there is no proper exit. You'd have to go down below grade through the parking ramp or would need a key for the door. This is a safety concern as this is a required exit, and you would be directed up the stairs 3 levels from the parking ramp to a ramp you couldn't leave or go through the ramp you just left or be trapped in the stairway.

Moermond: what I was remembering was that you folks were going to look at some type of code analysis.

Braun: we thought you were doing it. That lock was added in 1984. It has always been locked. And it electrically unlocks when there is a fire alarm. It wasn't recently done. Our most recent Certificate of Occupancy was in 2022.

Moermond: I get that. I think the confusion arises from the terms used. When we use the phrase "code analysis" that is invariably related to the owner or the developer going and hiring an engineer, architect, some design professional to assess the situation. Put their initials and credentials on how it meets code. I completely trust where you are coming from that you were looking for the City to do the analysis. That's the term applied and I think I see where you are coming from. I'm sorry that our notes didn't indicate Fire was to look into anything—

You know what. This is my fault. When you all come with the same understanding of the same situation—I just need to pull the threads apart to figure out what happened. I said I would follow up with the Building Official. He was on vacation. I made note of that, I believe I even have an email out there. I think we were ships in the night because that ended a few days before I went on medical leave. It is on me and I sincerely apologize you made a trip down to City Hall. I sincerely apologize. It is time out of your life. I will address this and do it in a way that will keep you from having to attend another hearing. I feel like I remember my sentiment on it. I need to do that gut check with him and make sure that loop gets closed. That is what happen and I am so sorry.

2 City Council 07/12/2023 Adopted As
Amended

Action Text: Adopted as amended

3 Mayor's Office 07/14/2023 Signed

Action Text: Signed