



# Staff Report

Civil Enforcement

To: SLC Planning dept  
From: Craig Weinheimer [craig.weinheimer@slcgov.com](mailto:craig.weinheimer@slcgov.com)  
Date: May 11, 2023  
Re: **PLNAPP2023-00109** Tanner Claggett - Appeal of Administrative Decision

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## Appeal of Administrative Decision

**PROPERTY ADDRESS:** 107 North F Street

**PARCEL ID:** 09-31-476-017-0000

**ZONING DISTRICT:** RMF35

**ORDINANCE SECTIONS:**

**21A.33.020** This property is zoned (RMF-35) and city records indicate the property has not received zoning approval to operate as a hotel/motel. As this use is not permitted or conditional in the RMF-35 zone, the existing use must be discontinued. The property shall not be used for any use other than those listed in 21A.33.020: TABLE OF PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL DISTRICTS

**21A.38.040** The current zoning certificate for the property lists the authorized use as: "boarding/rooming house limited to 34 occupants with off-street/off-site parking provided as per BOA case #8128 (10-22-79)." City records show that the Board of Adjustment approval did not authorize the use of the property for short term rental, but as student housing on a long term basis subject to additional conditions, including providing 18 offstreet/off-site parking stalls. City records indicate that those parkingstalls were never constructed. Therefore, the use was never legally established.

**APPELLANT:** Tanner Claggett representing owner Weishan Jin

**INTERPRETATION ISSUE:**

Civil Enforcement claims that the property owner is conducting a land use that is not permitted in the RMF35 zone.

**CIVIL ENFORCEMENT DETERMINATION:**

In 1979 the Board of Adjustment granted a conditional variance to the property to operate as a boarding house for no more than 34 occupants provided that 18 off street parking stalls were provided. In 1982, the owner of the property sought to amend the variance to allow for additional occupants without the required off-street parking. On April 5, 1982, the modification was denied. Simultaneously, the property owner also requested an administrative interpretation that the property could be operated as a hostel. When city staff determined that a hostel was not a permitted use, the property owner appealed. Hearings on the appeal were held between April 5, 1982 and May 17, 1982. At the conclusion of those proceedings, the Board of Adjustment held that the property could not be used as a hostel because that was not a identified use in the zoning code, but instead could be operated as a "rooming house" if the property was in compliance with the original variance. The variance was only for housing for students on a long term basis rather than offering overnight accommodations or housing with a high a turnover rate. Recent inspections by the City revealed that the parking stalls were not installed and that dwelling units have been offered for short-term rental accommodations consistent with a hotel/motel type use. The assigned Civil Enforcement officer received a neighbor complaint, visited the property to verify the validity of the complaint, and commenced a zoning enforcement case. Civil enforcement personnel reviewed the history of the variance approving the nonconforming use and determined that the conditions of the variance were not being complied with.

**Appeal:**

The appellant claims that the current land use of the property is established and should be allowed. The appellant also claims that the property does maintain off-street parking and that the 1979 BOA decision did not establish the number of required parking spaces in the zoning certificate. The property owner proposes to enter mediation using the Utah Property Rights Ombudsman's office as mediator. The City Attorney's Office has consulted with the Ombudsman's office and it does not conduct mediations for non-eminent domain disputes. Therefore, the City has not engaged in such mediation.

**Summary:**

The property owner of 107 North F Street has been operating a rooming house in an unapproved manner.

This is an appeal of an administration decision. Therefore, the standard of review for the appeal shall be 'de novo'. The Appeals Hearing Officer shall review the matter appealed anew, based upon applicable procedures and standards for approval, and shall give no deference to the original decision below. A public hearing must be held prior to the Appeal Hearing Officer making a decision.

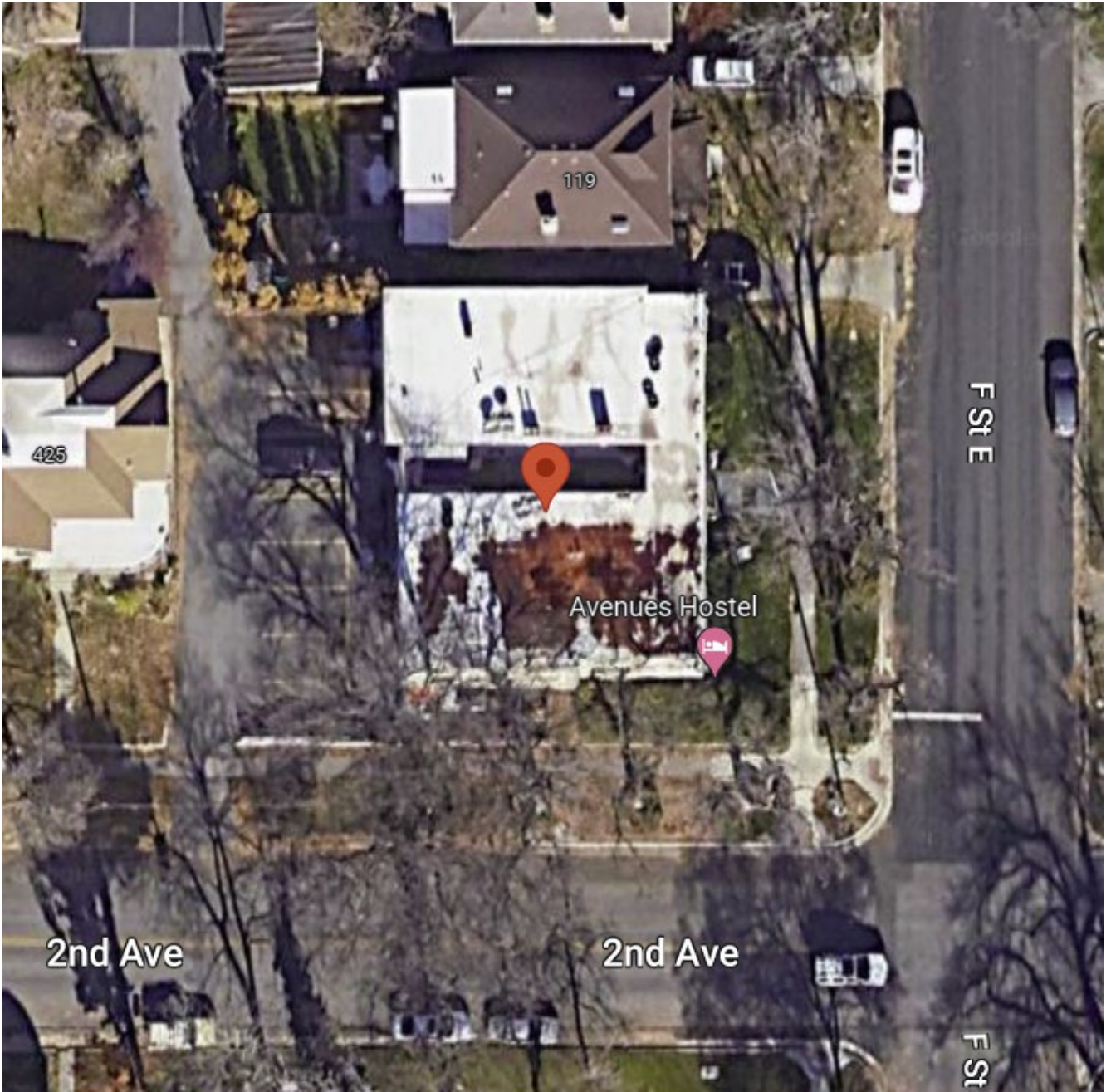
**NEXT STEPS:**

If the administrative decision is upheld, the property owner must discontinue operating the property as a rooming house for short term rentals. Instead, the property must be used in accordance with any permitted use in the RMF-35 zone (such as a multi-family dwelling). If the administrative decision is overturned, the appellant may continue to operate the multi-dwelling building inconsistent with the BOA decision. Any decision on this appeal can be appealed to Third District Court within 30 days.

**ATTACHMENTS:**

- A. Vicinity Map
- B. Background Documentation
- C. Appellant's appeal application, brief, and exhibits
- D. City Attorney's Office brief

- A. Vicinity Map



B.

Background Information – The assigned inspector visited the property on October 17, 2022 and took the following photos:





Civil Enforcement sent the following letter to the owner of record. The notice and order dated January 24, 2022 is the subject of this appeal.

ERIN MENDENHALL  
*Mayor*



**DEPARTMENT of COMMUNITY  
and NEIGHBORHOODS**  
Building Services

## **NOTICE AND ORDER - CIVIL**

January 24, 2023

Jin Weishan  
357 South Maryfield Drive  
Salt Lake City UT 84108

Property located at 107 North "F" Street, Salt Lake City, Utah  
Parcel No.: 09-31-476-017 Case No.: HAZ2022-04025  
USPS Tracking #: 9114 9022 0078 9690 4929 74

**NOTICE:** Notice is hereby given that the subject property was found to be in violation of Title 21A of the Salt Lake City Code which was enacted to maintain the life, health, safety and general welfare of the inhabitants of Salt Lake City. This Notice is issued following an inspection conducted on January 18, 2023, which identified the following violations:

Ordinance Reference	Description of Violation	Daily Fine
<p>21A.33.020: TABLE OF PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL DISTRICTS:  <a href="https://codelibrary.amlegal.com/codes/saltlakecityut/lstest/saltlakecity_ut/0-0-66178">https://codelibrary.amlegal.com/codes/saltlakecityut/lstest/saltlakecity_ut/0-0-66178</a></p>	<p>This property is zoned (RMF-35) and city records indicate the property has not received zoning approval to operate as a hotel/motel. As this use is not permitted or conditional in the RMF-35 zone, the existing use must be discontinued. The property shall not be used for any use other than those listed in 21A.33.020: TABLE OF PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL DISTRICTS: (see link in left column)  You may contact the Planning Department to apply for the appropriate zoning approval for any of the allowable uses in the zone, as provided in the table of permitted and conditional uses for that zone.</p>	<p>\$25 per day</p>
<p>21A.38.040: Nonconforming uses:  1. Burden Of Owner To Establish Legality Of Nonconforming Use: The burden of establishing that any nonconforming use lawfully exists under the provisions of this title shall, in all cases, be the owner's burden and not the City's. Building permits, business licenses and similar documentation may be considered as evidence establishing the legality of use.</p>	<p>The current zoning certificate for the property lists the authorized use as: "boarding/rooming house limited to 34 occupants with off-street/off-site parking provided as per BOA case #8128 (10-22-79)."  City records show that the Board of Adjustment approval did not authorize the use of the property for short term rental, but as student housing on a long term basis subject to additional conditions, including providing 18 off-street/off-site parking stalls. City records indicate that those parking stalls were never constructed. Therefore, the use was never legally established.</p>	<p>\$25 per day</p>

**SALT LAKE CITY CORPORATION**  
349 SOUTH 200 EAST SUITE 400  
P.O. BOX 145481, SALT LAKE CITY, UTAH 84114-5481

WWW.SLC.GOV  
TEL 801.535.7225 FAX 801.535.6597

**ORDER:** You are hereby ordered to cure the zoning violations within **thirty calendar (30) days** from the date of this Notice and Order. **IF YOU FAIL TO COMPLY WITH THIS NOTICE AND ORDER AND/OR FAIL TO REMEDY THE VIOLATIONS AS SET FORTH IN THIS NOTICE AND ORDER THE CITY WILL PURSUE LEGAL REMEDIES, INCLUDING BUT NOT LIMITED TO:**

- Record, with the Office of the Salt Lake County Recorder, on the title of the property a Certificate of Noncompliance detailing the aforementioned violations
- Assess DAILY civil penalties, in an amount specified herein, pursuant to Salt Lake City Ordinance Title 21A.20.050.

**APPEAL PROCESS:** Any person having any record, title, or legal interest in this property may contest the legitimacy of the zoning violations for which they were cited (but not the amount of the fine). An appeal may be filed with the Salt Lake City Planning Division within 20 days from the date of this notice. The Appeal of Administrative Decision application may be obtained in room 406 of the City & County Building, 451 South State Street. The fee for filing an appeal is \$285.

**CIVIL ACTION:** If the penalties imposed remain unsatisfied after seventy days (70) from the receipt of this Notice and Order, or when the penalty amounts to Five Thousand Dollars (\$5,000), the City may use such lawful means as are available, such as the Small Claims Court, to collect such penalty, including court costs and attorneys' fees. Commencement of any action to correct the violation shall not relieve the person cited of the responsibility to make payment of subsequent accrued civil penalties, nor shall it require the City to reissue any of the Notices required by Title 21A.

**TIME EXTENSIONS, MAY BE GRANTED BY THE HOUSING OFFICER. ALL REQUESTS FOR TIME EXTENSIONS MUST BE IN WRITING AND MUST BE RECEIVED PRIOR TO THE INITIAL 30 DAY DEADLINE.**

I can be reached Tuesday through Friday between 7:00 a.m. to 5:00 p.m. at **801-535-6191 (Office)** **801-889-6488 (Cell)** or by email at **Carlos.Ramirez@slcgov.com**. Please schedule an inspection IMMEDIATELY when the required work is completed. This will stop the accrual of any fines.

IN COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA) THE FOLLOWING INFORMATION IS PROVIDED; FAX NUMBER (801) 535-6174, TDD NUMBER 711.

Respectfully,

***Carlos O Ramirez***

[Carlos O Ramirez \(Jan 24, 2023 07:26 MST\)](#)

Carlos Ramirez  
Civil

# APPEAL OF A DECISION

## IMPORTANT INFORMATION



### CONSULTATION

Available prior to submitting an application. For questions regarding the requirements, email us at [zoning@slcgov.com](mailto:zoning@slcgov.com).



### SUBMISSION

Submit your application online through the [Citizen Access Portal](#). Learn how to submit online by following the [step-by-step guide](#).



### REQUIRED FEES

**\$285** filing fee submitted within required appeal period. Additional required notice and hearing fees will be assessed after submission.

## APPLICANT INFORMATION

### ADDRESS OF SUBJECT PROPERTY

107 North "F" Street, Salt Lake City, Utah 84103

### DECISION APPEALED

HAZ2022-04025 Notice & Order-Civil for Zoning Violations

### NAME OF APPELLANT

Tanner Clagett, (15823) of Christensen & Jensen, P.C.

### PHONE

(801) 323-5000

### MAILING ADDRESS

257 East 200 South, Suite 1100, Salt Lake City, Utah 84111

### EMAIL

tanner.clagett@chrisjen.com

### APPELLANT'S INTEREST IN PROPERTY (\*owner's consent required)

Owner  Architect\*  Contractor\*  Other\*

### IF OTHER, PLEASE LIST

Counsel and Legal Representative of Property Owner

### NAME OF PROPERTY OWNER (if different from appellant)

Jin Weishan

### PHONE

801-815-2336

### MAILING ADDRESS

107 North "F" Street, Salt Lake City, Utah 84103

### EMAIL

jinweishan@gmail.com

## OFFICE USE

### CASE NUMBER BEING APPEALED

### RECEIVED BY

### DATE RECEIVED

### APPEALED DECISION MADE BY

Administration  Historic Landmark Commission  Planning Commission

**DISCLAIMER:** PLEASE NOTE THAT ADDITIONAL INFORMATION MAY BE REQUIRED BY THE PROJECT PLANNER TO ENSURE ADEQUATE INFORMATION IS PROVIDED FOR STAFF ANALYSIS. ALL INFORMATION REQUIRED FOR STAFF ANALYSIS WILL BE COPIED AND MADE PUBLIC, INCLUDING PROFESSIONAL ARCHITECTURAL OR ENGINEERING DRAWINGS, FOR THE PURPOSES OF PUBLIC REVIEW BY ANY INTERESTED PARTY.



## ACKNOWLEDGMENT OF RESPONSIBILITY

1. This is to certify that I am making an application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application will be processed under the name provided below.
2. By signing the application, I am acknowledging that I have read and understood the instructions provided for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I understand that the documents provided are considered public records and may be made available to the public.
3. I understand that my application will not be processed until the application is deemed complete by the assigned planner from the Planning Division. I acknowledge that a complete application includes all of the required submittal requirements and provided documents comply with all applicable requirements for the specific applications. I understand that the Planning Division will provide, in writing, a list of deficiencies that must be satisfied for this application to be complete and it is the responsibility of the applicant to provide the missing or corrected information. I will keep myself informed of the deadlines for submission of material and the progress of this application.
4. I understand that a staff report will be made available for my review prior to any public hearings or public meetings. This report will be on file and available at the Planning Division and posted on the Division website when it has been finalized.

### NAME OF APPLICANT

Tanner Clagett, (15823)

### EMAIL

tanner.clagett@chrisjen.com

### MAILING ADDRESS

257 East 200 South, Suite 1100, Salt Lake City, Utah 84111

### PHONE

(801) 323-5000

### APPLICATION TYPE

Appeal of Administrative Decision

### SIGNATURE

M. Tanner Clagett  
M. Tanner Clagett (Feb 13, 2023 15:08 MST)

### DATE

Feb 13, 2023

## LEGAL PROPERTY OWNER CONSENT

If the applicant is not the legal owner of the property, a consent from property owner must be provided. Properties with a single fee title owner may show consent by filling out the information below or by providing an affidavit.

**Affirmation of sufficient interest:** I hereby affirm that I am the fee title owner of the below described property or that I have written authorization from the owner to pursue the described action.

### LEGAL DESCRIPTION OF SUBJECT PROPERTY

BEG AT SE COR LOT 1 BLK 37 PLAT D SLC SUR W 109 FT N 85 FT E 109 FT S 85 FT TO BEG 4698-0256 6020-0709 6958-2576

### NAME OF OWNER

Jin Weishan

### EMAIL

jinweishan@gmail.com

### MAILING ADDRESS

107 North "F" Street, Salt Lake City, Utah 84103

### SIGNATURE

Jin Weishan  
Jin Weishan (Feb 13, 2023 17:32 CST)

### DATE

Feb 13, 2023

1. If a corporation is fee titleholder, attach copy of the resolution of the Board of Directors authorizing the action.
2. If a joint venture or partnership is the fee owner, attach copy of agreement authorizing action on behalf of the joint venture or partnership.
3. If a Home Owner's Association is the applicant then the representative/president must attach a notarized letter stating they have notified the owners of the proposed application. A vote should be taken prior to the submittal and a statement of the outcome provided to the City along with the statement that the vote meets the requirements set forth in the CC&Rs.

**DISCLAIMER:** BE ADVISED THAT KNOWINGLY MAKING A FALSE, WRITTEN STATEMENT TO A GOVERNMENT ENTITY IS A CRIME UNDER UTAH CODE CHAPTER 76-8, PART 5. SALT LAKE CITY WILL REFER FOR PROSECUTION ANY KNOWINGLY FALSE REPRESENTATIONS MADE PERTAINING TO THE APPLICANT'S INTEREST IN THE PROPERTY THAT IS THE SUBJECT OF THIS APPLICATION.

Todd Weiler, (7671)  
M. Tanner Clagett, (15823)  
CHRISTENSEN & JENSEN, P.C.  
257 East 200 South, Suite 1100  
Salt Lake City, Utah 84111  
Telephone: (801) 323-5000  
Facsimile: (801) 355-3472  
[todd.weiler@chrisjen.com](mailto:todd.weiler@chrisjen.com)  
[tanner.clagett@chrisjen.com](mailto:tanner.clagett@chrisjen.com)

*Appellants/Attorneys for Weishan Jin &  
Avenues Hostel*

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**PLANNING DIVISION  
OF  
SALT LAKE CITY**

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In The Matter of the following Property:

**AVENUES HOSTEL**, located at:  
**107 North “F” Street,**  
Salt Lake City, Utah 84103

Parcel No. 09-31-476-017

Property Owner: **JIN WEISHAN**

**APPEAL**

Case No. HAZ2022-04025

Council District 3

Inspecting Officer: Brian Looney

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Weishan Jin, owner of real property located at 107 North “F” Street, Salt Lake City, Utah—by and through his counsel, Todd Weiler and Tanner Clagett of Christensen & Jensen, P.C.—hereby submits this appeal of the zoning violations alleged in the January 24, 2023, Notice and Order, a copy of which is attached herein as Exhibit 1.

**I. ALLEGATIONS IN THE NOTICE AND ORDER**

The Notice and Order states that the property located at 107 North “F” Street (the “Property”) “was found to be in violation of Title 21A of the Salt Lake City Code.”<sup>1</sup> The Notice and Order contains two specific alleged violations:

1. The Property’s zoning—“(RMF-35)”—does not allow the Property to operate as a “hotel/motel.”<sup>2</sup>
2. The Property’s zoning authorizes use as a “boarding/rooming house limited to 34 occupants with off-street/off-site parking.” Further,

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<sup>1</sup> Exhibit 1.

<sup>2</sup> *Id.*

the Board of Adjustment approval did not authorize the use of the property for short term rental, but as student housing on a long term basis subject to additional conditions, including providing 18 off-street/off-site parking stalls. City records indicate that those stalls were never constructed. Therefore, the use was never legally established.<sup>3</sup>

## **II. HISTORY OF THE PROPERTY**

The Property has a long history of zoning and usage disputes, many of which were initiated by neighbors of the Property who don't care to have a boarding/rooming house located in their neighborhood. This has caused the Property to be the subject of near-constant scrutiny and numerous challenges to its existence. These disputes predate Mr. Jin's ownership of the Property, and date back to at least 1979.

Weishan Jin, the current owner of the Property, purchased it in approximately 1994, and renamed the "Avenues Residential Center." Prior to Mr. Jin's ownership of the Property and his operation of the Avenues Residential Center, previous owners of the Property operated their own boarding/rooming house on the Property.

It is one of the previous owners, William P. Hales, who initially sought permission from the city to operate a boarding/rooming house on the Property in 1979. In fact, Mr. Hales' request—and the conditions on which it was granted—are referenced in the January 24, 2023, Notice and Order sent to Mr. Jin: "The current zoning certificate for the property lists the authorized use as 'boarding/rooming house limited to 34 occupants with off-street/off-site parking provided as per BOA case #8128 (10-22-79).'"<sup>4</sup>

## **III. ADDRESSING VIOLATION NO. 1 – ZONING & NON-PERMITTED USE**

The first alleged violation detailed in the January 24, 2023, Notice and Order is that:

- The Property's zoning—"(RMF-35)"—does not allow the Property to operate as a "hotel/motel."<sup>5</sup>

A primary concern with this allegation is that the Property has been repeatedly inspected by the City over the decades—during which time the Property continued in its current use—and, despite other violations being raised (and then addressed), the overall use of the Property was never in issue. This includes numerous violations, and subsequent inspections, where the Property was then determined to be "Compliant." For example:

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<sup>3</sup> *Id.*

<sup>4</sup> Exhibit 1 (citing Board of Adjustment notes for case #8128 (10-22-79), attached herein as Exhibit 2).

<sup>5</sup> Exhibit 1.

<b>Issue / Violation Date</b>	<b>Description of Issue</b>	<b>Result</b>
May 4, 2022 <sup>6</sup>	Civil Enforcement Case addressing an issue of “Illegal Units in Basement,” which was subsequently remedied	Property determined to be Compliant
May 12, 2020 <sup>7</sup>	Civil Enforcement Case addressing concerns that the Property was being used as a ‘halfway house.	An inspection determined the Property to be Compliant
November 6, 2019 <sup>8</sup>	Civil Enforcement Case History addressing questions of “too many units”	Issued was remedied and the Property was determined to be Compliant
April 8, 2019 <sup>9</sup>	Civil Enforcement Case History claiming “outdoor storage and unlicensed vehicle”	Issues were remedied and the Property was determined to be Compliant
April 8, 2019 <sup>10</sup>	Numerous neighbor complaints regarding the Property’s condition	Issues were remedied and the Property was determined to be Compliant
July 28, 2016 <sup>11</sup>	Neighbor complaints	Inspection determined the Property to be Compliant
June 15, 2010 <sup>12</sup>	Outdoor storage of inoperable vehicles; failure to maintain landscaping	Resolved
June 4, 2009 <sup>13</sup>	Outdoor storage of inoperable vehicles; failure to maintain landscaping	Resolved

This table is not exhaustive, but it shows a history of regular involvement between the City and the Property. It further indicates that the Property’s usage was never called into question—until now. The City has always been aware of the Property usage (that issue, too, has its own lengthy history). However, the City has always determined the Property to be Compliant with City codes.

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<sup>6</sup> May 4, 2022, Civil Enforcement Case History, attached herein as Exhibit 3.

<sup>7</sup> May 12, 2020, Civil Enforcement Case History, attached herein as Exhibit 4.

<sup>8</sup> November 6, 2019, Civil Enforcement Case History, attached herein as Exhibit 5.

<sup>9</sup> April 8, 2019, Civil Enforcement Case History, attached herein as Exhibit 6.

<sup>10</sup> April 8, 2019, Civil Enforcement Case History, attached herein as Exhibit 7.

<sup>11</sup> July 28, 2016, Civil Enforcement Case History, attached herein as Exhibit 8.

<sup>12</sup> June 15, 2010 Notice of Zoning Violation Last Warning, attached herein as Exhibit 9.

<sup>13</sup> June 4, 2009, Notice and Order – Civil, attached herein as Exhibit 10.

The question regarding the Property's usage, historically, has also been addressed in the past. The Property's usage was directly addressed in a September 17, 1996 letter from Salt Lake City Corporation to the Property's prior owner, Elizabeth Heath.<sup>14</sup> The letter is addressed to Ms. Heath and the "American Youth Hostel." In that letter, Harvy Boyd, writing for the City, states that Property is "licensed by Salt Lake City Corp. to operate as a 14 room, rooming house." Mr. Boyd goes on to write:

For your information, Salt Lake City Corp. defines a rooming house in Chapter 5.56, Rooming Houses and Boarding Houses of the Salt Lake City Code. The definition is stated as follows: "Rooming House means any place where rooms are rented or kept for rental or lodging or sleeping purposes by the day, week or month where such rental does not include board, by whatever name such place is denominated, such as hotel, motel, lodging house or rooming house."

Exhibit 11.

This letter was followed in 1998 by a "Detailed Request Report" regarding the Property, which further clarified the Property's usage history.<sup>15</sup> That report indicates that the City had received complaints regarding the Property's use and advertisement as a hostel. A note on the report dated September 21, 1998, states:

This case has come up before and has a lengthy history. Because the only definition for Rooming House prior to 1995 is out of the business license chapter, and it allows occupancy by the day. It has been determined there is a non-conforming use, and daily stay will be permitted. The property has been licensed as a rooming house since 1979.

Exhibit 12 (underlining added).

While it's clear that, at some point, the definition for Rooming House and other properties, was changed, what has never changed is the Property's use. As of 1998, it was clear that the Property had been granted a non-conforming use to operate openly as a hostel.<sup>16</sup> There is nothing in the Property's history to indicate this non-conforming use was ever revoked or otherwise readdressed. Indeed, the June 1, 1994, Certificate of License issued to Weishan Jin and the Avenues Residential Center for "Lodging Services" in a "14-room house"<sup>17</sup> was issued several years prior to the City's 1998 letter acknowledging the Property's accepted non-conforming use.<sup>18</sup> This demonstrates that Property's non-conforming use status was in-place and widely accepted even after Mr. Jin purchased the Property – and that there is no colorable argument that the non-conforming use ended with Ms. Heath's sale of the Property.

Under Salt Lake City Municipal Code 21A.62.040, "non-conforming use" is defined as:

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<sup>14</sup> September 17, 1996, letter from Salt Lake City Corporation, attached herein as Exhibit 11.

<sup>15</sup> October 2, 1998, Detailed Request Report, attached herein as Exhibit 12.

<sup>16</sup> *Id.*

<sup>17</sup> June 1, 1994, Certificate of License, attached herein as Exhibit 13.

<sup>18</sup> *See* Exhibit 12.

“Any building or land legally occupied by a use at the time of passage of the ordinance codified herein or amendment thereto which does not conform after passage of said ordinance or amendment thereto with the use regulations of the district in which located.”

The Property has continued to operate in the same or similar capacity in which it has operated since 1979. It has been operating openly—and with City permission—as a hostel since at least the early 1990’s. As the City Code makes clear, the fact that the definition for “rooming/boarding house” changed at some point is irrelevant. The Property’s preexisting use as a hostel makes it a non-conforming use, which makes the hostel a legal operation. *See* SLC Code 21A.62.040 (“nonconforming use”).

The January 24, 2023, Notice and Order fails to acknowledge or account for the Property’s history operating as a permitted non-conforming use. Moreover, the history of the City’s involvement with the Property, and the numerous cited instances where the Property came into compliance following some violation or other, strongly indicates that the City has long been aware that the Property’s use was permissible.

The Property’s longstanding history operating as a hostel, the City’s acknowledgment of the Property’s non-conforming use, and the long chain of inspections resulting in “compliant” determinations all lend weight to a potential zoning estoppel claim for the Property.

The zoning estoppel doctrine estops a government entity from exercising its zoning powers to prohibit a proposed land use when a property owner, relying reasonably and in good faith on some governmental act or omission, has made a substantial change in position or incurred such extensive obligations or expenses that it would be highly inequitable to deprive the owner of his right to complete his proposed development.

*Checketts v. Providence City*, 2018 UT App 48, ¶ 21.

As has been discussed above, the Property has been operating in its current capacity—legally, and with the City’s full knowledge—for decades. Before the current Notice and Order, there has never been a time when the City sought to put an end to the Property’s hostel business based on zoning. Indeed, as the 1998 letter makes clear, the City has long recognized the Property as operating as a non-conforming use—and legally so.<sup>19</sup> Mr. Jin has long relied on City’s continued reissuance of his zoning certificates and business licenses. To suddenly move the goal posts after decades of legal operations would effectively shutter the business. Such a move would not only be in violation of the zoning estoppel doctrine, but it would be in direct contradiction of the City’s own prior representations.

There has been no evidence presented that the Property’s non-conforming use status was ever changed or revoked. As a result, its continued usage as a hostel is indeed permissible under City code.

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<sup>19</sup> *See* Exhibit 12.

#### IV. ADDRESSING VIOLATION NO. 2 – NUMBER OF REQUIRED PARKING SPACES

As indicated on the Notice and Order, Mr. Jin’s zoning certificate for the Property does refer to BOA case #8128.<sup>20</sup> And, as quoted by the Notice and Order, the zoning certificate reads: “Current legal use is a boarding/rooming house limited to 34 occupants with off-street/off-site parking provided as per BOA case #8128 (10-22-79).”<sup>21</sup>

However, what is *not* included in the zoning certificate is the number of parking spaces the Property is required to have. All the zoning certificate says is “off-street/off-site parking provided as per BOA case #8128 (10-22-79).”<sup>22</sup> There is nothing to indicate that Mr. Jin was provided a copy of BOA case #8128, and it is not reasonable to expect that he go digging for case minutes for a zoning petition from 1979.

Crucially, the Property *does have* off-street parking. There is parking in the rear of the building, and that parking is off-street. This parking area is clearly visible in the satellite photos obtained from the Salt Lake County Parcel Viewer.<sup>23</sup>

If the zoning certificate were to be conditioned on the Property having a specific number of off-street parking spaces, it should have specified as much. Indeed, the condition that *some* amount of off-street parking was specified. It would have been just as easy to include the specific number of parking spaces required rather than refer to an obscure case file from several decades earlier.

Moreover, the 1979 condition of a specific number of parking spaces was never enforced. From 1979 until 2023—a span of 44 years—the requirement that 107 N. F St. have 18 parking spaces was never identified as an issue the Property needed to address. This is despite the fact that there have been other issues addressed at the Property. As recently as May of 2022, there were reports of 107 N. F St. having two additional residential units in violation of City code. The City raised these concerns at the Property and the Property responded by addressing the City’s concerns. The record of City inspections of the Property contains no prior documentation regarding concerns over the number of parking spaces.

The Notice and Civil Order states that “City records indicate that those [18] parking stalls were never constructed. Therefore, the use [as boarding/rooming house] was never legally established.”<sup>24</sup> The City is claiming that, from 1979 until 2023, the Property never “legally established” its use as a boarding/rooming house because the 18 parking spaces were never constructed. There are several issues with this line of argument.

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<sup>20</sup> December 30, 2003, Zoning Certificate, attached herein as Exhibit 14.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Parcel Viewer photos, attached herein as Exhibit 15.

<sup>24</sup> Exhibit 1.

First, as discussed, the zoning certificate issued for the Property in 2003 fails to specify a number of parking spaces required. In stating that the Property needs to have “off-street/off-site parking provided as per BOA case #8128 (10-22-79),”<sup>25</sup> the City appears to be saying only that *some* amount of off-street/off-site parking is required. Alternatively, the zoning certificate appears to be almost intentionally obscure by stating, “parking is required, but in order to know just how much parking is required, you must first locate a specific set of case minutes from a zoning hearing in 1979.”

Second, if the legal use of the Property was “never established,” then it begs asking: How has this issue never been addressed in the 44 years since that requirement was imposed? The Property has been the subject of numerous inspections over the decades, and it doesn’t appear that the parking issue was ever raised. This fact alone raises the specter of uneven enforcement. Prior owner, William Hales—on whom the parking requirement was first imposed—was apparently never confronted about the issue, despite being expressly notified of the required number of spaces. Even after Mr. Jin acquired the Property in 1994, he was never notified of the requirement. And when Mr. Jin received his zoning certificate in 2003, the specifics of the requirement were almost deliberately omitted. Yet, now, 20 years later—and almost a half century after the requirement was first imposed—Mr. Jin’s longstanding use of the Property is threatened because he was never notified how much parking he was supposed to provide.

## V. CONCLUSION

The January 24, 2023, Notice and Order represents a sudden and dramatic effort by the City to terminate the Property’s longstanding, legal business operations. This has been an unexpected challenge to Mr. Jin and to the Property after many years of operation. And while there have been issues during that time, the history of involvement by the City has always resulted in the Property being found compliant with City codes.

As a solution to the issues presented, Mr. Jin and the Property would propose a mediation between themselves and the City, using the Utah Property Rights Ombudsman’s office as mediator.

Should there be any need for additional information, please do not hesitate to contact my office at the phone number or email address listed on this letter. Thank you very much for your attention to this matter.

DATED this 10<sup>th</sup> day of February, 2023.

CHRISTENSEN & JENSEN, P.C.



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Tanner Clagett

*Attorney for Jin Weishan & Avenues Hostel*

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<sup>25</sup> *Id.*



# EXHIBIT 1

ERIN MENDENHALL  
Mayor



DEPARTMENT of COMMUNITY  
and NEIGHBORHOODS  
Building Services

## NOTICE AND ORDER - CIVIL

January 24, 2023

Jin Weishan

Property located at 107 North "F" Street, Salt Lake City, Utah  
Parcel No.: 09-31-476-017 Case No.: HAZ2022-04025  
USPS Tracking #: 9114 9022 0078 9690 4929 74

**NOTICE:** Notice is hereby given that the subject property was found to be in violation of Title 21A of the Salt Lake City Code which was enacted to maintain the life, health, safety and general welfare of the inhabitants of Salt Lake City. This Notice is issued following an inspection conducted on January 18, 2023, which identified the following violations:

Ordinance Reference	Description of Violation	Daily Fine
21A.33.020: TABLE OF PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL DISTRICTS: <a href="https://codelibrary.amlegal.com/codes/saltlakecityut/lstest/saltlakecity_ut/0-0-66178">https://codelibrary.amlegal.com/codes/saltlakecityut/lstest/saltlakecity_ut/0-0-66178</a>	This property is zoned (RMF-35) and city records indicate the property has not received zoning approval to operate as a hotel/motel. As this use is not permitted or conditional in the RMF-35 zone, the existing use must be discontinued. The property shall not be used for any use other than those listed in 21A.33.020: TABLE OF PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL DISTRICTS: (see link in left column) You may contact the Planning Department to apply for the appropriate zoning approval for any of the allowable uses in the zone, as provided in the table of permitted and conditional uses for that zone.	\$25 per day
21A.38.040: Nonconforming uses: 1. Burden Of Owner To Establish Legality Of Nonconforming Use: The burden of establishing that any nonconforming use lawfully exists under the provisions of this title shall, in all cases, be the owner's burden and not the City's. Building permits, business licenses and similar documentation may be considered as evidence establishing the legality of use.	The current zoning certificate for the property lists the authorized use as: "boarding/rooming house limited to 34 occupants with off-street/off-site parking provided as per BOA case #8128 (10-22-79)." City records show that the Board of Adjustment approval did not authorize the use of the property for short term rental, but as student housing on a long term basis subject to additional conditions, including providing 18 off-street/off-site parking stalls. City records indicate that those parking stalls were never constructed. Therefore, the use was never legally established.	\$25 per day

SALT LAKE CITY CORPORATION  
349 SOUTH 200 EAST SUITE 400  
P.O. BOX 145481, SALT LAKE CITY, UTAH 84114-5481

WWW.SLC.GOV  
TEL 801.535.7225 FAX 801.535.6597

# EXHIBIT 2

only takes place in the middle. Jerry Blair said that as a compromise they agreed that 40' would be adequate. Mr. Stringham said that Mr. Blair had met with the architects and they had come back and said that they felt that they needed 60' or they would be driving over the curb. Jerry Blair said that the street was being built now and it is being constructed according to a design made by the Traffic Department. Mr. Jorgensen pointed out that by constructing the street the ordinance requires a 30' setback to the parking lot. The parking next to the street would have to come out and 30' replaced with landscaping. Mr. Bettilyon said that a permit was issued to have this parking and they have built it in good faith.

There were no protests. Later in the meeting the various aspects of the case were reviewed. Jerry Blair said that the permit was issued on the width of the whole layout and then a street was put in after a permit was issued. Mr. Jorgensen said that by putting in the street he needs to go back 30' from the property line on both sides which means he will lose two rows of parking stalls. Mr. Rampton said that this was not designed for big equipment.

Since the Board could find no unusual condition attached to this property which would deprive the owner of a substantial property right or use of his property and since no evidence was presented which would justify the requested variance, Mr. Hogensen moved that the variance be denied. The motion was seconded by Mr. Dunn, all voting "Aye".

Case No. 8128 - readvertised - at 425 Second Avenue in application of William P. Hales for a permit to remodel an existing nursing home into a boarding house without the required parking and for a special exception to the ordinance to permit a portion of the parking in a Residential "R-6" District.

Virginia Hales was present at the meeting. Also present were:

Marilyn Mahler	127 "F" Street
Jim Mahler	127 "F" Street

Mr. Jorgensen explained that the applicant is purchasing the property which was the old nursing home located on the corner of "F" Street and Second Avenue. The nursing home did not meet the federal and state ordinance so it is being converted into a boarding house. The petitioner owns the property to the north and the two properties to the west. The first time they were before the Board they were requesting to remove the home on Second Avenue and convert it into a parking lot. The drawings they brought in did not show landscaping. There were objections to removing the home. This case went to the Planning Commission and they gave approval provided the home was left and the parking be utilized by removing the shops and sheds in the back. The petitioners said that they need the shop. They will utilize the existing parking and there would be about eight parking stalls. The driveway to the north leads to a carport. There is a shop that will be turned into a three-car carport. On all the property combined there will be a total of 18 stalls which would permit 36 students. Mrs. Hales said that they are asking for a license for 38 people. She said that actually they have parking right now for 34 so they still require a variance.

Marilyn Mahler said that the neighbors did not welcome the boarding house to their neighborhood. She said their streets are full but this does not sound to extreme. She said that she is glad she is taking the parking from other places rather than tearing the house down. Mrs. Hales said that they are working with foreign students

October 22, 1979

and there have been no automobiles there yet. Mrs. Mahler said that there isn't a problem with the parking right now but the neighborhood has no guarantee that this will not change in the next year or two. It was pointed out that the stalls are laid out on a regular size basis. Mr. Jorgensen asked how many patients were in the convalescent home. There were 51. Later in the meeting the various aspects of the case were reviewed. It was noted that they are two parking stalls short.

Mr. Callister moved that the variance to remodel an existing nursing home into a boarding house without the required parking and the special exception to the ordinance to permit a portion of the parking in a Residential District be granted provided the boarding house is limited to 34 occupants and the management is responsible to see that tenants park off the street utilizing the various off street parking stalls outlined by the petitioner. Also, the stalls become required open space for the boarding house and cannot be eliminated or used for other purposes unless the number of boarders or roomers are reduced.

The following matters, which were previously heard, were then discussed:

Case No. 8105 at 125 Goltz Avenue in application of Ivonny Kiess for a variance to legalize an addition to a nonconformingly located single-family dwelling, which is licensed as a day care center, which does not maintain the required side and rear yards and the rebuilding of an existing detached storage area which does not maintain the 10' lateral distance to the dwelling in a Residential "R-6" District.

Mr. Jorgensen presented the plans showing what has been done in the past. He said the addition on the front was constructed three years ago. Al Blair said that the Building Department has sent someone out to look at the building and it meets all the codes. It was noted that the new addition has an overhang. The Board felt that the additions make the building look better than it has ever looked. What the petitioner is asking for is to legalize the addition.

Mr. Hogensen moved that the variance to legalize an addition on the back of the dwelling which cantilevers 2 1/2' over the foundation of the new accessory building which replaced an older building be granted with a double fee. The motion was seconded by Mr. Callister, all voting "Aye".

Case No. 8112 at 1104 West 2100 South Street in application of James K. Lisonbee for a permit to erect a shop and storage building on a lot which does not have total frontage on a dedicated street in an Industrial "M-1A" District.

Mr. Jorgensen explained that the case was held over to verify the statements that the adjoining property owner did not want to subdivide and check on the gas line. This has been done and the facts are as stated in the previous meeting. Mr. Jorgensen said the petitioner has a right-of-way that comes down to where he wants to build the shop and storage building. He explained that it was possible to build over a gas line. It was pointed out that this is a piece of property which has no access except for the right-of-way.

Mr. Callister moved that the variance to erect a shop and storage building on a lot which does not have total frontage on a dedicated street be granted provided he agrees to cooperate and dedicate his portion of the street if the others in the area ever decide to put in a dedicated street and if requested by the city. The motion was seconded by Mr. Dunn, all voting "Aye".

# EXHIBIT 3

# Civil Enforcement Case History Report

Tuesday, November 29, 2022

INFORMATION

Case # HAZ2022-01412

Sidwell # 09-31-476-017-0000

Address 107 N F St

Council District: 3

Owner Info:

Status: Closed

Date Created:

5/4/2022

Inspector: Looney, Brian

Created By:

LB7513

Complete Date:

## VIOLATIONS

Illegal Units in Basement

## WORK ACTIONS

Comment Type	Action	Inspector	Action Description	Date - Time
Result Comment	In Progress	Brian Looney	Thank you for alerting us to the potential egress violations that exist at this property. After visiting the building in person and after some research, the 2 "units" in the basement are not allowed. The property is only allowed 14 legal sleeping rooms, none of which are supposed to be in the basement. Even if they were allowed only one of them would have sufficient egress according to the ordinance. I have been in contact with management and the property owners indicating that they must remove any items, including beds that would suggest these are sleeping rooms. They also need to install permanent signs that read "maintenance supplies", or "storage" etc. See photos.	5/4/2022 12:00 AM
Request Comment	In Progress	Brian Looney	Verify egress issues in basement units as per the email from Captain Schreiner.	5/4/2022 12:00 AM
Request Comment	In Progress	Brian Looney	Follow up on illegal units in basement.	5/12/2022 12:00 AM
Result Comment	In Progress	Brian Looney	SCHEDULED A TIME TO LOOK AT UNITS---I have been talking daily with Gin "San" about putting together a time to go and look at the units. Thursday 19th at 11:00am is what we decided on.	5/12/2022 12:00 AM
Result Comment	Compliant	Brian Looney	COMPLIANT----I went to walk the property and count the rooms to make sure that only 14 of the rooms were used for sleeping. Upon arriving at the hostel I found one of the storage rooms that still had a bed in it with some personal belongings that would indicate that there was someone still sleeping there. I made them disassemble the bed and remove any personal items in the room, they did so. As it stands now the there are only 14 rooms being used for sleeping. (See photos)	5/19/2022 11:00 AM
Request Comment	Compliant	Brian Looney	Go look at units	5/19/2022 11:00 AM

# EXHIBIT 4



# Civil Enforcement Case History Report

Tuesday, November 29, 2022

INFORMATION

Case # HAZ2020-02193

Sidwell # 09-31-476-017-0000

Address 107 N F St

Council District: 3

Owner Info:

WEISHAN, JIN  
357 S MARYFIELD DR SALT LAKE CITY , UT 84108-1541

Status: Closed

Date Created:

5/12/2020

Inspector: Weinheimer, Craig

Created By:

WC5368

Complete Date:

## VIOLATIONS

Council hostel inquiry

Council Member Wharton received a message from [REDACTED], a D3 constituent, concerned the Avenues Hostel may be being used as a halfway house. [REDACTED] was alerted of a registered sex offender staying here and is worried they are staying at the Avenues Hostel as a halfway house situation.

This matter was investigated last year, but since our office was notified again, is there any new information you can share with us about this matter? Could this please be investigated if need be? Please feel free to contact [REDACTED] directly for more information about this.

Thank you,

Austin Kimmel  
Salt Lake City Council Staff

## WORK ACTIONS

Comment Type	Action	Inspector	Action Description	Date - Time
Request Comment	Compliant	Dan Maughan	check with owner about halfway house and sex offender issues	5/13/2020 12:00 AM
Result Comment	Compliant	Dan Maughan	No issues or evidence of a halfway house.	5/13/2020 12:00 AM

# EXHIBIT 5

# Civil Enforcement Case History Report

Tuesday, November 29, 2022

INFORMATION

Case # HAZ2019-04209

**Sidwell #** 09-31-476-017-0000

**Address** 107 N F St

**Council District:** 3

**Owner Info:** WEISHAN, JIN  
357 S MARYFIELD DR SALT LAKE CITY , UT 84108-1541

**Status:** Closed

**Date Created:** 11/6/2019

**Inspector:** Maughan, Dan

**Created By:** MD9429

**Complete Date:**

## VIOLATIONS

too many units

## WORK ACTIONS

Comment Type	Action	Inspector	Action Description	Date - Time
Request Comment	In Progress	Dan Maughan	number of rooms violation	11/6/2019 12:00 AM
Result Comment	In Progress	Dan Maughan	sent warning letter	11/6/2019 12:00 AM
Request Comment	Compliant	Dan Maughan	follow up on warning letter	11/21/2019 12:00 AM
Result Comment	Compliant	Dan Maughan	Number of units has been resolved,, numbering from 1-15 with no number 13, making total of 14 sleeping room. No sleeping units in basement area, and there are 4 storage rooms , a laundry in the basement and an employee luang, and one office.	11/21/2019 12:00 AM

# EXHIBIT 6

# Civil Enforcement Case History Report

Tuesday, November 29, 2022

INFORMATION

Case # HAZ2019-01413

**Sidwell #** 09-31-476-017-0000

**Address** 107 N F St

**Council District:** 3

**Owner Info:** WEISHAN, JIN  
357 S MARYFIELD DR SALT LAKE CITY , UT 84108-1541

**Status:** Closed

**Date Created:**

4/8/2019

**Inspector:** Maughan, Dan

**Created By:**

MD9429

**Complete Date:**

## VIOLATIONS

out door storage and unlicensed vehicle

out door storage and unlicensed vehicle

out door storage and unlicensed vehicle

## WORK ACTIONS

Comment Type	Action	Inspector	Action Description	Date - Time
Result Comment	In Progress	Dan Maughan	1. remove all outdoor storage, construction material, appliances, yard and tree clippings and garbage. 2. remove tent from side yard.. noted in housing letter. to be done in 2 weeks	4/10/2019 12:00 AM
Request Comment	In Progress	Dan Maughan	zoning violation, outdoor storage, construction material, appliances, yard and tree clippings and garbage. tent in corner side yard.	4/10/2019 12:00 AM
Request Comment	N/O	Dan Maughan	re-inspection	5/14/2019 12:00 AM
Result Comment	N/O	Dan Maughan	some item still remain sending zoning notice and order.	5/14/2019 12:00 AM
Result Comment	In Progress	Dan Maughan	Date: 5/15/2019 Posted notice and order for out side storage and unlicensed vehicles .	5/15/2019 12:00 AM
Request Comment	In Progress	Dan Maughan	notice and order post	5/15/2019 12:00 AM
Request Comment	In Progress	Dan Maughan	check property exterior	6/17/2019 12:00 AM
Result Comment	In Progress	Dan Maughan	Date: 6/20/2019 Out door storage just about done, continuing to monitor property	6/17/2019 12:00 AM
Result Comment	Compliant	Dan Maughan	exterior issues corrected	7/9/2019 12:00 AM
Request Comment	Compliant	Dan Maughan	up date zoning issues/progress	7/9/2019 12:00 AM

# EXHIBIT 7

# Civil Enforcement Case History Report

Tuesday, November 29, 2022

INFORMATION

Case # HAZ2019-00737

Sidwell # 09-31-476-017-0000

Address 107 N F St

Council District: 3

**Owner Info:** WEISHAN, JIN  
357 S MARYFIELD DR SALT LAKE CITY , UT 84108-1541

Status: Closed

Date Created:

4/8/2019

Inspector: Maughan, Dan

Created By:

MD9429

Complete Date:

## VIOLATIONS

complaints/4 year inspection

complaints/4 year inspection

complaints/4 year inspection

complaints/4 year inspection

## WORK ACTIONS

Comment Type	Action	Inspector	Action Description	Date - Time
Result Comment	In Progress	Dan Maughan	04/04/2019 107 N F Street complaint inspection for Building and Zoning issues  1. need permits for new water heaters, new furnaces, new electrical wiring and boxes and new water main valve and piping. 2. remove all outdoor storage, construction material, appliances, yard and tree clippings and garbage. 3. remove tent from side yard. Permits and required inspections are to be obtained with in the next 14 days.  Call Dan if you have question. 801-535-7935	4/4/2019 12:00 AM
Request Comment	In Progress	Dan Maughan	complaint junk, wire exposed, construction no permits, too many people	4/4/2019 12:00 AM
Request Comment	In Progress	Dan Maughan	re-inspection	5/14/2019 12:00 AM
Result Comment	In Progress	Dan Maughan	still need permits for Building and Electrical Number of rooms do not match BL only aloud 34 occupants	5/14/2019 12:00 AM
Request Comment	In Progress	Dan Maughan	check permit visit property	6/17/2019 12:00 AM
Result Comment	In Progress	Dan Maughan	Date: 6/17/2019 Open permits general contractor Craig Wilson 801-573-5507 to get an update on what is needed. Which is a permit for the wall in basement and for the door installation at the court yard/breeze way west entrance.	6/17/2019 12:00 AM
Result Comment	In Progress	Dan Maughan	Date: 7/9/2019 Still need permits for rear exterior door, and partition wall in basement.	7/9/2019 12:00 AM
Request Comment	In Progress	Dan Maughan	up date housing issues/progress	7/9/2019 12:00 AM
Request Comment	In Progress	Dan Maughan	check permits, Waiting for HLC on door Check room numbers and location	8/1/2019 12:00 AM

Result Comment	In Progress	Dan Maughan	Date: 8/1/2019 Discussion with Dennis Need to get inspection on permit and 14 rooms need to be identified for renting and the rest identified for storage, recreation , break, offices or similar uses, not for sleeping.	8/1/2019 12:00 AM
Result Comment	In Progress	Dan Maughan	Discussion with owner Need to get inspection on permit and 14 rooms need to be identified for renting and the rest identified for storage, recreation , break, offices or similar uses, not for sleeping. open zoning case for room violation	11/6/2019 12:00 AM
Request Comment	In Progress	Dan Maughan	update	11/6/2019 12:00 AM
Request Comment	In Progress	Dan Maughan	check permits	11/21/2019 12:00 AM
Result Comment	In Progress	Dan Maughan	Permit inspection - one inspection one the electrical, no inspection on the other permits.	11/21/2019 12:00 AM
Request Comment	In Progress	Dan Maughan	check permits and with property owner	3/5/2020 12:00 AM
Result Comment	In Progress	Dan Maughan	Reminded owner to get the permits final , stated that everything is done.	3/5/2020 12:00 AM
Request Comment	In Progress	Dan Maughan	check permit/ call owner	4/21/2020 12:00 AM
Result Comment	In Progress	Dan Maughan	Permits still open	4/21/2020 12:00 AM
Request Comment	In Progress	Dan Maughan	Check permit	5/21/2020 12:00 AM
Result Comment	In Progress	Dan Maughan	still trying to get permits closed electrical, plumbing and permits	5/21/2020 12:00 AM
Request Comment	In Progress	Dan Maughan	check permits/ contact owner	6/23/2020 12:00 AM
Result Comment	In Progress	Dan Maughan	still has open permits	6/23/2020 12:00 AM
Request Comment	In Progress	Dan Maughan	check permits notify owner	7/28/2020 12:00 AM
Result Comment	In Progress	Dan Maughan	electrical, plumbing and mechanical permits are still open, corrections required on the last inspections in April 2020. Need to get inspections final. So the Housing case can be closed.	7/28/2020 12:00 AM
Request Comment	In Progress	Dan Maughan	check permits notify owner	8/27/2020 12:00 AM
Result Comment	In Progress	Dan Maughan	electrical, plumbing and mechanical permits are still open, corrections required on the last inspections in April 2020. Need to get inspections final. So the Housing case can be closed	8/27/2020 12:00 AM
Request Comment	In Progress	Dan Maughan	email	8/27/2020 12:00 AM
Result Comment	In Progress	Dan Maughan	sent email to owner about open permits	8/27/2020 12:00 AM
Request Comment	In Progress	Dan Maughan	check permits	9/28/2020 12:00 AM
Result Comment	In Progress	Dan Maughan	permits still open	9/28/2020 12:00 AM
Result Comment	In Progress	Dan Maughan	building, plumbing and mechanical permit still open.	10/20/2020 12:00 AM
Request Comment	In Progress	Dan Maughan	follow up with owner	10/20/2020 12:00 AM
Result Comment	In Progress	Dan Maughan	building, plumbing and mechanical permit still open.	11/19/2020 12:00 AM
Request Comment	In Progress	Dan Maughan	check permits call owner	11/19/2020 12:00 AM
Request Comment	In Progress	Dan Maughan	check permits	12/14/2020 12:00 AM
Result Comment	In Progress	Dan Maughan	Plumbing and Mechanical permit still open	12/14/2020 12:00 AM
Request Comment	In Progress	Brian Looney	Need to contact the property owner to follow up and close building permits. (See Jorge for on going enforcement if no response from the owner or manager)	4/6/2021 12:00 AM
Result Comment	In Progress	Brian Looney	Spoke with Dennis (Maintenance), Shuman (Manager), and "San" or Weishan (owner) about the two open permits on the plumbing and mechanical. I told him to call 801-535-7224 to get the inspection done and the permits closed. Dennis said they rectified the deficiencies.  Shuman---801-359-3855 107 N. F st.	4/6/2021 12:00 AM
Request Comment	In Progress	Brian Looney	Follow up with Shuman (property Manager) or Dennis (maintenance)	4/14/2021 12:00 AM



Result Comment	In Progress	Brian Looney	<p>PERMIT FOLLOW UP---Spoke with Shuman (property manager) and San (property owner) to follow up on the two open permits (plumbing, mechanical). He contacted the permit office to tell them he decided to not install the equipment. He said they will send an inspector out to prove that he indeed did NOT install. After that he will contact me or vice versa and the permits will then be closed and he will be in compliance.</p> <p>--Shuman (property manager)---801-359-3855  --San (property owner) [REDACTED]  --107 N. F street</p>	4/14/2021 12:00 AM
Result Comment	Compliant	Brian Looney	<p>COMPLIANT---Property owner is compliant. Permits that needed the scope to be amended have all been done. He decided to not install 2 tankless water heaters therefore going against the scope on the permit. As a result he needed another inspection to verify that he indeed did not install them. Will schedule him out for his next 4 year.</p> <p>--Shuman (property manager)---801-359-3855  --"San" (property owner) [REDACTED]  --107 N. F street</p>	5/5/2021 12:00 AM
Request Comment	Compliant	Brian Looney	<p>Contact permit office and property owner to determine if he actually (did not) install new equipment.</p> <p>. --Shuman (property manager)---801-359-3855  --San (property owner) [REDACTED]  --107 N. F street</p>	5/5/2021 12:00 AM
Request Comment	Scheduled	Brian Looney	<p>4 year inspection due.</p> <p>--Shuman (property manager)---801-359-3855  --"San" (property owner) [REDACTED]  --107 N. F street</p>	4/11/2023 12:00 AM

# EXHIBIT 8

# Civil Enforcement Case History Report

Tuesday, November 29, 2022

INFORMATION

Case # HAZ2016-01989

Sidwell # 09-31-476-017-0000

Address 107 N F St

Council District: 3

**Owner Info:** WEISHAN, JIN  
357 S MARYFIELD DR SALT LAKE CITY , UT 84108-1541

**Status:** Closed

**Date Created:**

7/28/2016

**Inspector:** Lake, Talley

**Created By:**

LT7600

**Complete Date:**

## VIOLATIONS

107 N F St Apts

## WORK ACTIONS

Comment Type	Action	Inspector	Action Description	Date - Time
Result Comment	Compliant	Talley Lake	After speaking with Scott M we have decided that the issues with drugs/police calls are a police issue we can not enforce on. Any issues with state tax laws will need to be taken up with the Utah State Tax Commission. Closing Case	7/28/2016 12:00 AM
Request Comment	Compliant	Talley Lake	LIC1994-00878  This property is zoned a rooming/boarding home under 30 day stay. I have received complaints from the neighbors and I have seen several police activity calls. Because the property is under a 30 Day stay he does not qualify for the Landlord/Tenant Program. If the property is being used as a over 30 days stay then applicant needs to come in and either participate in the Landlord/Tenant Program or not participate and pay the higher fees.  The complaints state this property is being used over 30 days stay, drugs, etc.  Could you please have a inspector visit the property and go over the ordinance with him in regards to Hostel, Rooming House.  Thank you, Jennifer Madrigal Jennifer Madrigal Landlord/Tenant Licensing Coordinator (801) 535-6555	7/28/2016 12:00 AM

# EXHIBIT 9

SALT LAKE CITY CORPORATION  
COMMUNITY & ECONOMIC DEVELOPMENT  
HOUSING & ZONING ENFORCEMENT  
451 South State Street, Room 406  
P. O. Box 145481  
Salt Lake City, Utah 84114-5481

NOTICE OF ZONING VIOLATION LAST WARNING

Jin Weishan  
235 East South Sandrun Road  
Salt Lake City, UT 84103

Issue Date: June 15, 2010  
Cert Mail No.: 7005 0390 0000 0379 1961

Re: Property located at 107 North "F" Street, Salt Lake City, Utah  
Sidwell Number: 09-31-476-017 Citation No.: HAZ2009-02520

**NOTICE:** Notice is hereby given that the subject was found to be in violation of Title 21A of the Salt Lake City Code which was enacted to maintain the life, health, safety and general welfare of the inhabitants of Salt Lake City.

**Ordinance Reference**

**Description of Violation**

21A.40.140

It is unlawful to permit the outdoor storage of inoperable, unused or unlicensed vehicles, vehicle parts, appliances, interior furniture, discarded building materials, landscape debris; or other spent and useless items commonly known as junk in a residential district. All residential accessory storage must be in an enclosed building.

21A.48.040

It is unlawful to fail to maintain all landscaping materials, fences walls, hedges, plants and/or irrigation systems so as to present a neat, healthy and orderly appearance.

**Penalties:** Pursuant to Section 21A.20.050 & 21A.20.080 of the Salt Lake City Code, commencing on June 21, 2010, a fine of \$50.00 per day per parcel (address) will be levied against the owner(s) of this property until the violation(s) are corrected.

**CIVIL ACTION:** If the penalties imposed remain unsatisfied after seventy (70) days from the receipt of the Notice and Order, or when the penalty amounts to Five Thousand Dollars (\$5,000), the City may use such lawful means as are available, such as the Small Claims Court, to collect such penalty, including court costs and attorney's fees. Commencement of any action to correct the violation shall not relieve the person cited of the responsibility to make payment of subsequent accrued civil penalties, nor shall it require the City to reissue any of the Notices required by Title 21A. If you need to contact me, I can be reached between 7:00 - 9:30 a.m. or 4:30 - 5:00 p.m. Tuesday through Friday. Please call 801-535-6683 between 7:00 to 9:30 am and 4:30 and 5:00 pm Tuesday through Friday to schedule an inspection IMMEDIATELY when the required work is completed. This will stop the accrual of any fines.

IN COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA), THE FOLLOWING INFORMATION IS PROVIDED: FAX NUMBER (801) 535-6174, TDD NUMBER (801) 535-6021.

  
Scott Mikkelsen, Housing/Zoning Officer, 801-535-6683

# EXHIBIT 10

SALT LAKE CITY CORPORATION  
COMMUNITY & ECONOMIC DEVELOPMENT  
HOUSING & ZONING ENFORCEMENT  
451 South State Street, Room 406  
P. O. Box 145481  
Salt Lake City, Utah 84114-5481

To: Jin Weishan  
235 East South Sandrun Road  
Salt Lake City, UT 84103

Issued Date: June 4, 2009  
Cert. Mail No.: 7005 0390 0000 0379 6652

## NOTICE AND ORDER-CIVIL

Re: Property located at 107 North "F" Street, Salt Lake City, Utah  
Sidwell Number: 09-31-476-017 Citation No.: HAZ2009-02520

**NOTICE:** Notice is hereby given that the subject property was found to be in violation of Title 21A of the Salt Lake City Code which was enacted to maintain the life, health, safety and general welfare of the inhabitants of Salt Lake City. This Notice is pursuant to an inspection which was conducted on June 3, 2010, which, discovered the following violations:

<u>Ordinance reference</u>	<u>Description of Violation</u>	<u>Daily Fine</u>
21A.40.140	It is unlawful to permit the outdoor storage of inoperable, unused or unlicensed vehicles, vehicle parts, appliances, interior furniture, discarded building materials, landscape debris; or other spent and useless items commonly known as junk in a residential district. All residential accessory storage must be in an enclosed building.	\$25 per day
21A.48.040	It is unlawful to fail to maintain all landscaping materials, fences walls, hedges, plants and/or irrigation systems so as to present a neat, healthy and orderly appearance.	\$25 per day

**ORDER:** You are hereby ordered to cure the zoning violations within fourteen calendar (14) days from the date of this Notice and Order. **IF YOU FAIL TO OBEY THIS ORDER WITHIN THE ALLOTTED TIME, THIS DEPARTMENT WILL TAKE THE FOLLOWING ACTIONS:**


- File a Certificate of Noncompliance to be recorded against the property,
- Initiate Salt Lake City Ordinance Title 21A.20.050 civil penalties provision for violation of zoning regulations.

**APPEAL PROCESS:** Any person having any record, title, or legal interest in this property may contest the legitimacy of the zoning violations for which they were cited (but not the amount of the fine). An appeal may be filed with the Salt Lake City Board of Adjustment within 30 days from the date of this notice. The appeal form "Appeal of Administrative Decision," may be obtained in room 215 of the City & County Building, 451 South State Street. The fee for filing an appeal is \$200.00

**CIVIL ACTION:** If the penalties imposed remain unsatisfied after seventy days (70) from the receipt of this notice, or when the penalty amounts to Five Thousand Dollars (\$5,000), the City may use such lawful means as are available, such as the Small Claims Court, to collect such penalty, including court costs and attorneys' fees. Commencement of any action to correct the violation shall not relieve the person cited of the responsibility to make payment of subsequent accrued civil penalties, nor shall it require the City to reissue any of the Notices required by Title 21A.

**TIME EXTENSIONS, MAY BE GRANTED BY THE HOUSING OFFICER. ALL REQUESTS FOR TIME EXTENSIONS MUST BE IN WRITING AND MUST BE RECEIVED PRIOR TO THE 14-DAY DEADLINE. PLEASE CALL 801-535-6683 TO SCHEDULE AN INSPECTION IMMEDIATELY WHEN THE REQUIRED WORK IS COMPLETE. THIS WILL STOP THE ACCRUAL OF ANY FINES. If you need to contact me, I can be reached between 7:00 - 9:30 a.m. or 4:30 - 5:00 p.m. Tuesday through Friday.**

IN COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA), THE FOLLOWING INFORMATION IS PROVIDED: FAX NUMBER (801) 535-6174, TDD NUMBER (801) 535-6021.

  
Scott Mikkelsen, Housing/Zoning Officer, 801-535-6683

# EXHIBIT 11



ROGER R. EVANS  
DIRECTOR

**SALT LAKE CITY CORPORATION**  
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
BUILDING SERVICES AND LICENSING

DEEDEE CORRADINI  
MAYOR

September 17, 1996

Ms. Elizabeth Heath  
American Youth Hostel  
SENT VIA FAX: 202-783-6171

RE: 107 North 'F' Street Rooming House

To whom it may concern:

The rooming house located at 107 North 'F' Street is licensed by Salt Lake City Corp. to operate as a 14 room, rooming house. The business license is held under the name of Avenues Residential Center.

For your information, Salt Lake City Corp. defines a rooming house in Chapter 5.56, Rooming Houses and Boarding Houses of the Salt Lake City Code. The definition is stated as follows: "Rooming House means any place where rooms are rented or kept for rental for lodging or sleeping purposes by the day, week or month where such rental does not include board, by whatever name such place is denominated, such as hotel, motel, lodging house or rooming house."

If you should have any further questions, please feel free to contact this office.

Sincerely,

  
Harvey Boyd

# EXHIBIT 12

Date: Friday July 17, 2009  
Time: 09:16 am

# Detailed Request Report

Page 1 of 1

Request: **98128958**  
Service Address: 107 N F ST 84103-2601  
Requester:  
Requester Address:

**APARTMENT INSPECTIONS (CE52)**

Council District: 3  
Phone:

Input Date: Wednesday August 26, 1998 Input Department: BH; Input Person: Melodie Bailey  
Person Assigned: 28  
Department Assigned: BH

**Status: Resolved**  
Close Date: 10/02/1998

Comments: (8/26/98) - RECEIVING COMPLAINTS REGARDING HOSTEL USE- HAVE ADVERTISEMENTS AND PICTURES INDICATING USE ALSO CALLED FROM INFORMATION BOOTH AT GREYHOUND BUS DEPOT AND INQUIRED ABOUT AVAILABLE ROOMS OR BEDS FOR A NIGHT WAS INFORMED THEY ARE AVAILABLE FOR \$14- PER NIGHT INITIATE ENFORCEMENT FOR USE VIOLATIONS  
(9/21/98) THIS CASE HAS COME UP BEFORE AND HAS A LENGTHY HISTORY. BECAUSE THE ONLY DEFINITION FOR ROOMING HOUSE PRIOR TO 1995, IS OUT OF THE BUSINESS LICENSE CHAPTER AND IT ALLOWS OCCUPANCY BY THE DAY. IT HAS BEEN DETERMINED THERE IS A NON CONFORMING USE AND DAILY STAY WILL BE PERMITTED. THE PROPERTY HAS BEEN LICENSED AS A ROOMING HOUSE SINCE 1979. WAS ADVISED BY LYNN PACE (ATTORNEY), THERE IS NOTHING LEGALLY TO STAND ON BECAUSE OF THE UNCLEAR DEFINITION FOR BOARDING OR ROOMING HOUSES. THERE IS A BIG CONFLICT WITH CURRENT DEFINITION OF ROOMING HOUSE. CLOSE CASE.  
(10/2/98) Request reopened by Jill Denicke from department HOUSING & NEIGHBORHOOD SERV.. THIS CASE SHOULD BE CLOSED WITH NO FINES.

29

**Account:**  
**Route:**

Owner: WEISHAN, JIN  
Owner Address: 235 E SOUTHSANDRUN RD  
SALT LAKE CITY UT 84103

## Action Taken

---

Delivered # _____	Pickup # _____	Left # _____	Stolen # _____
Delivered # _____	Pickup # _____	Repair # _____	

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# EXHIBIT 13

Posted in a Conspicuous Place—Expires December 31st of the Year Issued.



I.D. NUMBER  
702 0073

AVENUES RESIDENTIAL CENTER  
BUSINESS LOCATION  
107 N F  
SALT LAKE CITY, UTAH 84103

ST

# CERTIFICATE OF LICENSE

This is to certify that the herein named, having complied with the ordinances in force, relating to licenses, is hereby licensed to transact the business of: **LODGING SERVICES**  
14 ROOM HOUSE      1 NEW BUS



WEISHAN JIN  
AVENUES RESIDENTIAL CENTER  
107 N F STREET  
SLC UT 84103

ATTEST:

*Kendrick D. Lowley*  
City Recorder

Deedee Corradini,  
Mayor of Salt Lake City

within Salt Lake City, Utah at the address indicated  
commencing 060194 and ending 055195

In Testimony Whereof, I have hereunto set my hand

*Deedee Corradini*

THIS LICENSE IS NOT TRANSFERABLE

# EXHIBIT 14

# ZONING CERTIFICATE

Certificate # 04-005356

Date of Issue: 12-30-03

NEW       Amended

## SALT LAKE CITY CORPORATION BUILDING SERVICES AND LICENSING

THIS CERTIFICATE HAS BEEN ISSUED PURSUANT TO:

- |                                     |                                    |                         |
|-------------------------------------|------------------------------------|-------------------------|
| <input type="checkbox"/>            | Building Permit# _____             | Dated: _____            |
| <input type="checkbox"/>            | Change of Use application          | Dated: _____            |
| <input type="checkbox"/>            | Unit Legalization # _____          | Dated: _____            |
| <input checked="" type="checkbox"/> | Administrative Interpretation;     | Dated: <u>12-7-2003</u> |
| <input type="checkbox"/>            | Change of status of existing bldg. | Dated: _____            |
| <input type="checkbox"/>            | Zoning Certificate Application     | Dated: _____            |

This document certifies that the property  
located at: 107 North F Street  
Is zoned: RMF-35  
The authorized use is: Boarding/Rooming House

Specific conditions associated with this site:

Current legal use is a boarding/rooming house  
limited to 34 occupants with off-street/off-site  
parking provided as per BOA case # 8128 (10-22-79)  
See legalization file

Signed this 30<sup>th</sup> day of December,

2003.

  
Zoning Administrator

# EXHIBIT 15





Base Maps

Pictometry

**Parcel Search**

Parcel/Owner/Address

Search Prelim Parcel Layer  ?

Find Parcel Number:  
 Find ?

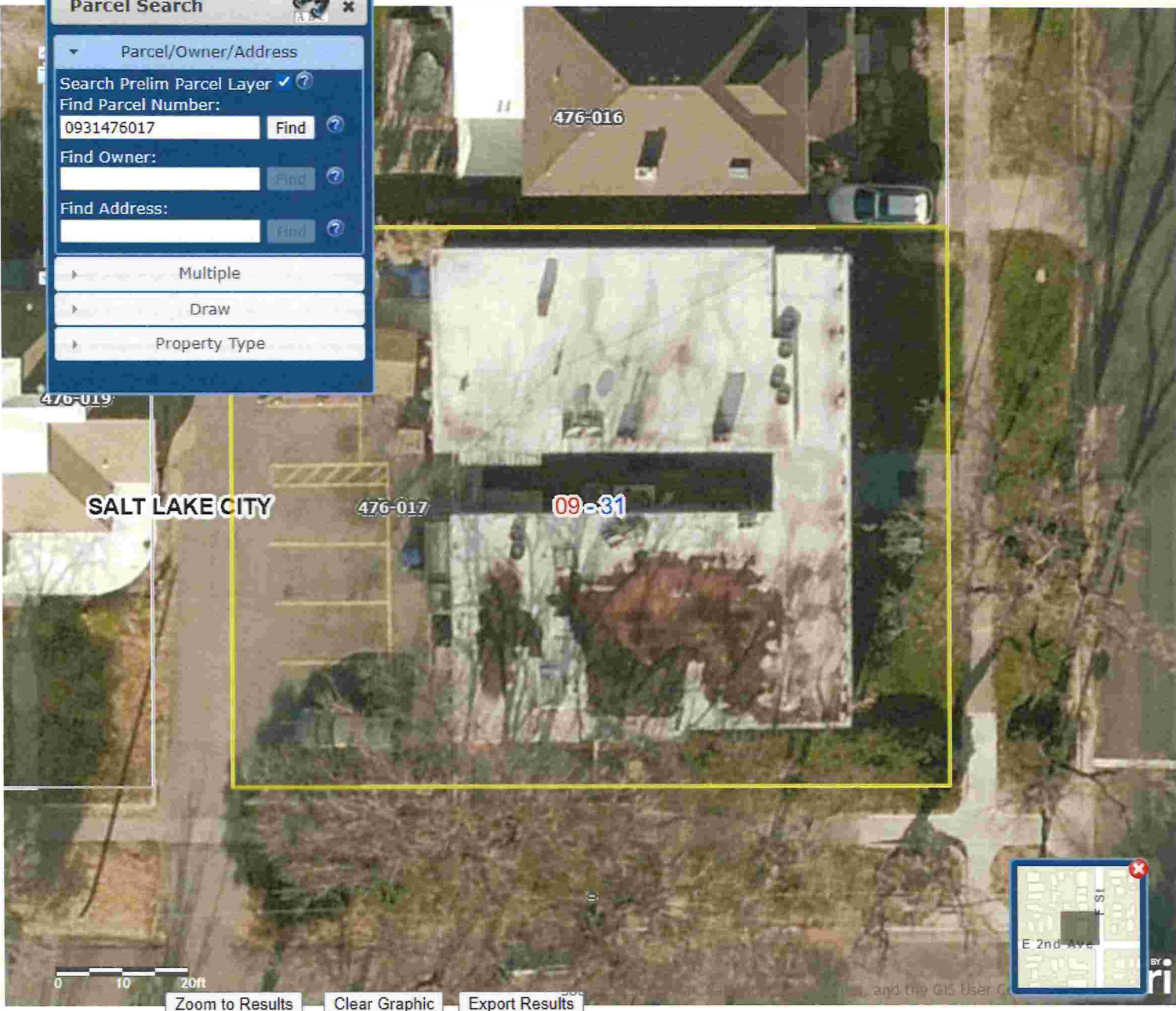
Find Owner:  
 Find ?

Find Address:  
 Find ?

Multiple

Draw

Property Type



**Parcel**

Parcel Record	09314760170000
Owner	WEISHAN, JIN
Address	107 N F ST
Total Acreage	0.21
Tax Class Id	
Property Type	564
Tax District	13
% Exempt	
Exempt Type	
Municipal Zone	RWF-35
MLS Number	
<b>Valuation / Tax Year 2022</b>	
Land Value	\$ 274,390
Building Value	\$ 651,990
Final Value:	\$ 926,380
<b>Legal Description:</b>	
BEG AT SE COR LOT 1 BLK 37 PLAT D SLC SUR W 109 FT N	
85 FT E 109 FT S 85 FT TO BEG 4698-0256 6020-0709	
6958-2576,	

- Land
- Structures
- Value History
- Results 1

new Parcel Viewer

Parcel Search

Parcel/Owner/Address

Search Prelim Parcel Layer  ?

Find Parcel Number:  
0931476017 Find ?

Find Owner:  
Find ?

Multiple

Draw Property Type

476-019

SALT LAKE CITY

476-017

09-31

476-016

E 2nd Ave

0 10 20ft

Zoom to Results Clear Graphic Export Results

Base Maps Pictometry

Parcel

Land

Land Record		
Record ID	1	2
Lot Use	COMMERCIAL	COMMERCIAL
Lot Type	PRIMARY-SQFT	PRIMARY-SQFT
Land Class		
Income Flag	YES	YES
Seasonal use		
Influence Type		
Influence Effect		
Eff. Front		
Lot Depth		
Sqr. Feet	1307	7841
Acres	0.03	0.18
Sewer	PUBLIC	PUBLIC
Number Lots		
Std Lot Sz		
Rate Override		
Zone	RMF-35	RMF-35
Water Available	Y	Y
Off Street Park.	FAIR	FAIR
Driveway Access		
Driveway Type		
Lot Shape	REGULAR	REGULAR
Lot Location	CORNER	CORNER
Neighborhood	7580	7580
Nbhd Group	1003	
Nbhd Type	STATIC	STATIC
Nbhd Effect	TYPICAL	TYPICAL
Topography	LEVEL	LEVEL
Traffic	LIGHT	LIGHT
Traffic Count	2465	5456
Traffic Influence	TYPICAL	TYPICAL
Street type	TWO-WAY	TWO-WAY
Street Finish	PAVED	PAVED
Curb Gutter	Y	Y
Sidewalk	Y	Y
Wooded		
Winter Use		
Land View		
External Neg.		
Water		
Privacy		
Equestrian		
Golf		
Mob Lot		
Land Value	\$ 39,210	\$ 235,230
Sound Value	\$ 0	\$ 0
GreenBelt Date		
GreenBelt Audit Dt		
GreenBelt Value	\$ 0	\$ 0
GreenBelt Auditor		

Structures

Value History

Results 1

D.

Katherine D. Pasker (#17633)  
SALT LAKE CITY CORPORATION  
P.O. Box 145478  
451 South State Street, Suite 505A  
Salt Lake City, UT 84114-5478  
Telephone: (801) 535-7788  
Facsimile: (801) 535-7640  
[Katherine.Pasker@slcgov.com](mailto:Katherine.Pasker@slcgov.com)

*Attorney for Respondent Salt Lake City Corporation*

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JIN WEISHAN,

Appellant,

vs.

SALT LAKE CITY CORPORATION

Respondent.

APPEAL OF AN ADMINISTRATIVE  
DECISION

Case No. HAZ2022-04025

Appeal Petition No. PLNAPP2023-  
00109

Hearing Date: May 11, 2023

Property Address: 107 North F Street

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## **INTRODUCTION AND STANDARD OF REVIEW**

This matter comes before the Salt Lake City Appeals Hearing Officer as an appeal of an administrative decision pertaining to the enforcement of Salt Lake City’s (“City”) zoning code, which is found in Title 21A of the *Salt Lake City Code* (“Code”). The appeals hearing officer, established pursuant to Section 21A.06.040 is the City’s designated land use appeal authority on appeals of administrative decisions pertaining to land use regulation enforcement as provided in Chapter 21A.16. In accordance with Section 21A.16.030.A, an appeal made to the appeals hearing officer shall identify “the decision appealed, the alleged error made in connection with the decision being appealed, and the reasons the appellant claims the decision to be in error.” It is an appellant’s burden to prove that the decision made by the zoning administrator was incorrect.

See Code § 21A.16.030.J. Moreover, it is an appellant’s responsibility to marshal the evidence in this appeal. See *State v. Nielsen*, 326 P.3d 645 (Utah 2014), and *Hodgson v. Farmington City*, 334 P.3d 484 (Utah Ct. App. 2014). The role of the appeals hearing officer is to “review the matter appealed anew, based upon applicable procedures and standards for approval, and shall give no deference to the decision below.” Code § 21A.16.030.I.1.

### BACKGROUND

Appellant Jin Weishan (“Appellant”) is the current owner of a multi-unit building located at 107 North F Street in Salt Lake City, Utah (the “Property”). According to the records of the Salt Lake County Recorder, Appellant purchased the Property in 1994. See Exhibit A. The Property is currently operated as a hostel. Appellant Appeal at 5. In 1979, the Salt Lake City Board of Adjustment (“Board”) granted a conditional variance to the Property to operate as a boarding house. The City’s zoning code in 1979 used the terms “boarding house” “lodging house” and “rooming house” but did not define those terms. As expressed in contemporaneous notes of the Board proceedings, the variance was expressly conditioned on the Property having 18 parking stalls and to limit occupancy to 34:

This case went to the Planning Commission and they gave approval provided the home was left and the parking be utilized by removing the shops and sheds in the back. The petitioners said that they need the shop. They will utilize the existing parking and there would be about eight parking stalls. The driveway to the north leads to a carport. There is a shop that will be turned into a three-car carport. ***On all the property combined there will be a total of 18 stalls*** which would permit 36 students. . . .

Mr. Callister moved that the variance to remodel an existing nursing home into a boarding house without the required parking and the special exception to the ordinance to permit a portion of the parking in a Residential District be granted provided the boarding house is limited to 34 occupants and the ***management is responsible to see that tenants park off the street utilizing the various off street parking stalls outlined by the petitioner.*** Also, the stalls become required open

space for the boarding house and cannot be eliminated or used for other purposes unless the number of boarders or roomers are reduced.

Exhibit 2 to Appellant Appeal (emphasis added). In 1982, the then-owner of the Property sought to amend the variance to allow for additional occupants without the required off-street parking. On April 5, 1982, the modification was denied. See Exhibit B (Case No. 8901). In its denial, the Board directed that “petitioner is given 30 days to comply with the original variance. 11 storage and obstructions must be removed and the parking areas made available as originally required by the Board.” Exhibit B. The condition to provide 18 parking stalls was repeatedly reinforced when, in 1982, the owner of the Property owner also requested an administrative interpretation that the Property could be operated as a hostel. When city staff determined that a hostel was not a permitted use, the owner appealed. Hearings on the appeal were held between April 5, 1982 and May 17, 1982. See Exhibit E. At the conclusion of those proceedings, the Board held that the Property could not be used as a hostel because that was not an identified use in the zoning code, but instead could be operated as a “rooming house” if the Property was in compliance with the original variance. At its May 17<sup>th</sup> hearing, the Board noted that the owners “have not conformed to the terms of the original variance since they have not made 18 stalls available” and that in order to maintain the use “the parking must conform.” Exhibit C. The Board further defined the terms of the variance as “a rooming house with the type of occupancy [the petitioner] said she would basically have (longer residency rather than overnight accommodations)” and “housing for students on a long term basis rather than a high turnover rate.” *Id.* The then-owner of the Property did not appeal this decision. On December 30, 2003, the City issued a zoning certificate for the Property as follows: “Current legal use is a boarding/rooming house limited to 34

occupants with offstreet/off-site parking provided as per BOA case #8128 (10-22-79) See legalization file.” Exhibit 14 to Appellant’s Appeal.

Recent inspections by the City revealed that the parking stalls were not installed and that dwelling units have been offered for short-term rental accommodations consistent with a hotel/motel type use. On or about January 24, 2023, the City issued a “Notice and Order – Civil” informing Appellant of certain zoning violations at the Property, specifically, that the Property was not conducting a use permitted in the RMF-35 zone and that the Property’s current use was an illegal non-conforming use because the Property was in violation of the conditions required to maintain the variance that had authorized the “boarding/rooming house” use. On January 26, 2023, the City issued a related “Revocation Notice” revoking the zoning certificate that had memorialized the “boarding/rooming house” variance. On or about February 13, 2023, Appellant appealed both notices.

## **ARGUMENT**

### **I. THE CITY IS NOT ESTOPPED FROM ENFORCING THE CONDITIONS OF THE BOARD’S VARIANCE.**

Appellant asserts that the City should be estopped from enforcing the Board’s conditions on the variance granting the boarding/rooming house use. See Appellant Brief at 5. Zoning estoppel prevents “a government entity from exercising its zoning powers to prohibit a proposed land use when a property owner, relying reasonably and in good faith on some governmental act or omission, has made a substantial change in position or incurred such extensive obligations or expenses that it would be highly inequitable to deprive the owner of his right to complete his proposed development.” *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah

1980). “Generally, the doctrine of estoppel is not assertable against the state and its agencies.” *McLeod v. Retirement Board*, 2011 UT App 190, ¶ 20 (quotation simplified). To prevail on a claim of estoppel against the government “exceptional circumstances must be present such as the intentional discriminatory application of the ordinance.” *Utah County v. Baxter*, 635 P.2d 61, 65 (Utah 1981). For estoppel to be applicable, the Appellant must show “that the entity made very clear, well-substantiated representations.” *Myers v. Utah Transit Auth.*, 2014 UT App 294, ¶20. Furthermore, “failure to enforce zoning for a time does not forfeit the power to enforce.” *Town of Alta v. Ben Hame Corp.*, 836 P.2d 797, 803 (Utah Ct. App. 1992); *see also Salt Lake County v. Kartchner*, 552 P.2d 136, 138 (Utah 1976) (“Ordinarily a municipality is not precluded from enforcing its zoning regulations[ ] when its officers have remained inactive in the face of such violations.”).

Appellant fails to satisfy the prima facie standard for eligibility to assert a claim of estoppel because Appellant can neither show a reasonable and good faith reliance on a government act or omission nor a substantial change in position or incursion of extensive obligations. As noted above, property owners do not have a good faith reliance on a jurisdiction not enforcing its zoning ordinance due to mere delay in enforcement. What’s more, Appellant has provided no evidence that the City ever made an affirmative statement to Appellant that it was not enforcing these conditions. Rather, Appellant was put on notice through the City’s zoning certificate that conditions related to the boarding/rooming house use existed and specifically directed Appellant to investigate those conditions in the City’s files. Appellant’s failure to do so is not a good faith basis to prevent the City from enforcing those conditions now. Utah law also holds that mere purchase of a property does not satisfy the substantial

change/incursion prong of the estoppel test. “Utah cases discussing equitable estoppel in the context of zoning ordinances uniformly consider the mere purchase or actual ownership of land as inadequate to establish a substantial change in position or the incurrence of extensive expenses. Rather, something beyond mere ownership of the land is required before the doctrine of equitable estoppel will apply . . . .” *Stucker v. Summit County*, 870 P.2d 283, 290 (Utah Ct. App. 1994). Appellant has failed to allege any substantial change or expenses he has made with respect to this Property beyond its mere purchase in 1994. Therefore, Appellant cannot show substantial reliance on the City’s delay in enforcement of the variance conditions. Appellant’s estoppel claim therefore fails.

Appellant nevertheless claims the City’s prior enforcement actions that determined the Property was compliant with City ordinances bar the City from enforcing the variance conditions. The defect in Appellant’s argument is twofold. First, none of the prior complaints regarding the Property – and subsequent enforcement actions – related to the variance conditions. Rather, as set forth in Appellant’s brief, all of the complaints related to the number of units, the behavior of occupants, outdoor storage, the condition of the landscaping, and finally a complaint regarding the Property’s use as a halfway house. Appellant has cited no enforcement instance when the City was confronted with a complaint concerning the lack of the required parking and indicated that such use was in compliance with City Code or terms of the variance. Even if complaints related to the variance conditions had been made, Utah law reflects that more than general ministerial determinations of compliance would be needed in order to waive the conditions imposed by the Board. *See Town of Alta*, 836 P.2d 797, 803 (it is “unreasonable and unrealistic to conclude that a clerk or a ministerial officer having no authority to do so, could



bind the county to a variation of a zoning ordinance duly passed”). Such generalized statements in the City’s internal investigation logs is not the kind of “clear, well-substantiated representations” required to estop the City from pursuing enforcement activities contrary to such statements. Second, Appellant has presented no evidence that the City ever communicated to Appellant that the Property was in compliance with Code. The evidence provided by Appellant of the City’s determinations regarding the Property’s compliance are internal investigation case logs. Appellant has not provided evidence of any representation made by the City to Appellant that the Property was in compliance.<sup>1</sup>

The City’s enforcement history reflects that this Property has repeatedly been subject to zoning enforcement for not being adequately maintained. The City’s selective response to the zoning issues, which were directly related to neighbor complaints, reflect the City’s pragmatic approach to committing enforcement resources only to those zoning violations that actually disturb the public health, safety, and welfare. Appellant has cited no authority for the proposition that in enforcing its zoning ordinance the City must cite a Property for every violation in order to enforce the same violation later. To the contrary, a selective, complaint-based, zoning enforcement regime has been upheld by the Utah Supreme Court for more than 40 years. In

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<sup>1</sup> Appellant has provided evidence that in 1996 the City issued a letter to a prior owner of the Property that a business license was issued for the Property as a 14 room rooming house and that the definition in the business licensing code of rooming house was “any place where rooms are rented or kept for rental or lodging or sleeping purposes by the day, week or month where such rental does not include board, by whatever name such place is denominated, such as hotel, motel, lodging house or rooming house.” Exhibit 11 to Appellant Brief. As this letter pertained only to the business license, and not the approved land use for zoning purposes, it has no bearing on the applicability to the conditions imposed by the Board in granting the variance to operate as a boarding house.

*Provo City v. Hansen*, a house in Provo was rented to more individuals than was allowed by the City's zoning ordinance. 585 P.2d 461 (Utah 1978). Someone complained to Provo City regarding the situation and the landlord was told to reduce the occupancy to the required level. He refused on the grounds that other properties were also violating the occupancy ordinance and appealed Provo City's enforcement action. The Court ruled that Provo City had not engaged in discriminatory enforcement by enforcing only in response to community complaints and was not prevented from enforcing the occupancy limit. 585 P.2d 461, 462. In a similar fashion, it has recently come to the City's attention that the Property is in violation of the variance conditions that are required in order to maintain the boarding/rooming house use. Because Appellant cannot point to a "very clear, well-substantiated representation[ ]" by the City waiving the variance conditions, the City is not barred from enforcing those conditions now.

## **II. THE ZONING CERTIFICATE PUT APPELLANT ON NOTICE REGARDING THE CONDITIONS OF THE VARIANCE.**

Appellant asserts that the City's zoning certificate is deficient in that it does not state the number of off-street parking spaces required in order to maintain the use. Appellant Brief at 6. He claims that "it is not reasonable to expect that he go digging for case minutes for a zoning petition from 1979." *Id.* Appellant cites no authority for this proposition. The zoning certificate specifically directs Appellant to the Board's case file number and directs "see legalization file." Exhibit 14 to Appellant Brief. With this information Appellant was equipped to determine the conditions imposed by the Board and Appellant offers no reason as to why he did not.

City Code provides that "[a] zoning certificate may be revoked by the zoning administrator in accordance with the provisions of this section, if the recipient of the certificate

fails to develop or maintain the property in accordance with the plans submitted, the requirements of this title, or any additional requirements lawfully imposed in connection with the issuance of the zoning certificate.” Code § 21A.08.060.A. The Board imposed conditions related to the use of the Property in connection with the variance granted in 1979. Those conditions were expressly incorporated into the zoning certificate issued for the Property in 2003. In his brief Appellant impliedly acknowledges that the Property does not have 18 off-street stalls and expressly admits that he operates the Property as a hostel. Because Appellant has failed to comply with the lawful conditions of the Board the City is entitled to revoke the zoning certificate. With such revocation Appellant will still be able to operate the Property according to any permitted use in the RMF-35 zone, which includes a variety of multi-family uses. *See* Code § 21A.33.020.

Contrary to Appellant’s claims, City records reflect that both he and prior owners were put on notice regarding the variance conditions. Shortly before issuance of the zoning certificate in 2003, the City sent a letter to Appellant’s counsel and enclosed the pertinent Board records. That letter again referred Appellant to the Board case that set forth in detail the parking conditions. Moreover, the letter stated that in order to maintain the variance “the property must be used for longer residency rather than overnight accommodations. *Use as a hotel, motel or hostel, with transient or daily accommodations was never the intent of the Board of Adjustment.* It shall also be noted that today’s zoning ordinance requires a minimum occupancy of one month.” Exhibit D (emphasis added). Therefore, Appellant has no good faith basis to allege that he was not aware of the variance conditions to which the Property is subject or that the City ever allowed the Property to be used as a hostel.

Appellant also misstates the record regarding notification to prior owners of the 18 parking stall requirement. Appellant claims that “it doesn’t appear that the parking issue was ever raised” after the variance was granted. Appellant Brief at 7. City records roundly refute this claim. The parking requirement was discussed extensively in 1982 when the Property was back before the Board to modify the variance and to determine if the Property was allowed to operate as a hostel. Exhibit B, C. In both proceedings the Board reiterated that the Property must comply with the terms of the original variance and the Board warned that if the Property did not comply “the variance will be void.” Exhibit C.

### **III. THE PROPERTY’S CURRENT USE IS ILLEGALLY NON-CONFORMING.**

Appellant claims that “the Property has been granted a non-conforming use to operate openly as a hostel.” Appellant Brief at 4. Utah’s Municipal Land Use, Development, and Management Act (“MLUDMA”) provides that, under certain circumstances, a property owner may continue using its land for a particular purpose even after a change in the law renders that purpose impermissible. *See* Utah Code § 10-9a-511. This is known as a "nonconforming use." *See* Utah Code § 10-9a-103(43). A property falls within the definition of a legal "nonconforming use" if three conditions are met: (1) the use “legally existed before its current land use designation”; (2) the property “has been maintained continuously since the time the land use ordinance governing the land changed; and” (3) “because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.” *Id.* In support of this claim of legal non-conforming use status, Appellant cites to an internal case log document prepared in 1998. There is no evidence that this document was provided to Appellant at the time. Moreover, this document contradicts the letter issued to Appellant in 2003

regarding the occupancy limitations imposed by the Board. Even if this document was provided to Appellant it does not authorize the Property's use as a hostel. Rather it, like other City documents, acknowledge that the authorized use of the Property was as a rooming house and that use is non-conforming. It is unclear whether the 1998 log document was prepared with any knowledge of the variance conditions. Therefore, it cannot reasonably be interpreted to constitute a "very clear, well-substantiated representation[ ]" by the City waiving those conditions.

Appellant's argument that the Property is legally non-conforming fails for two reasons. First, procedurally, Appellant has not obtained a non-conforming use determination from the City, which is prerequisite to establishing a legal non-conforming use. *See* City Code § 21A.38.040.E; *see also* Utah Code § 10-9a-511(4)(a) ("Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use through substantial evidence, which may not be limited to municipal or county records."). Second, Appellant's evidence reflects that the Property was only allowed to become a boarding/rooming house because of the variance granted by the Board. Stated another way, absent the variance, the boarding/rooming house use was never legally established such that that use should be allowed to continue notwithstanding subsequent changes in the zoning laws applicable to the Property. Appellant has offered no evidence that prior to 1979 a boarding/rooming house use was legally established. Therefore, the use could only be legally established if the Property had complied with the terms of the variance. City records reflect that the Property did not comply with these conditions. Exhibit B ("Mr. Jorgensen pointed out the original variance required her to provide parking, and that has not been complied with."); Exhibit

C (“Mrs. Lever explained that in 1979 the Board granted a variance to operate a boarding house in the “R-6” District with parking in an abutting residential district. The petitioner agreed to provide 18 parking stalls. Based on that, 34 guest units were approved. Since that time, it appears there is a question on whether they have complied with the original variance. According to information in the file, they needed to make a change to an existing carport to provide five parking stalls, maybe less. The carport and garage have not been made to conform. If they did not provide the required stalls, the occupancy load had to be reduced. Mr. Nelson said they had a three-car carport and were going to remove some posts so they could put in five stalls. They have not done that and have not conformed to the terms of the original variance since they have not made 18 stalls available.”) Since the Property never complied with the parking condition, and did not continuously comply with the extended occupancy condition, the Property cannot be a legal non-conforming use.

### **CONCLUSION**

Appellant has failed to meet his burden of proving that the zoning administrator’s decision to revoke the zoning certificate, and related zoning enforcement decision pertaining to the Property’s noncompliance with the RMF-35 zoning regulations, was incorrect. There is substantial evidence that the Property did not comply with the conditions of the variance granted in 1979, which Appellant appears to acknowledge. The City should not be estopped from enforcing these conditions merely due to the passage of time. The Property has been a frequent object of zoning enforcement due to the owner’s failure to properly maintain it. The City aims to improve those conditions by enforcing the long-standing condition that the Property have long

term occupants. For this reason and all of the reasons stated above, Appellant's arguments must be rejected and the zoning administrator's decision upheld.

DATED this 2<sup>ND</sup> day of May, 2023.

/s/ Katherine D. Pasker  
KATHERINE D. PASKER  
*Attorney for Respondent Salt Lake City  
Corporation*

# EXHIBIT A



11

06/09/94 5846406 4:19 PM 11.00  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
PETTEY & BRANTLEY  
REC BY: P. GRAY DEPUTY - WI

WHEN RECORDED MAIL TO:

PETTEY & BRANTLEY  
Attorneys at Law  
4516 South 700 East, Suite #370  
Murray, Utah 84107  
File No.: 940603

-----  
**WARRANTY DEED**  
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5846406

VIRGINIA PEBBLES, Trustee of the Carol Virginia Peebles Living Family Trust,

Grantor(s) of the City of Salt Lake, County of Salt Lake, State of Utah, hereby  
CONVEY and WARRANT to

WEISHAN JIN, a married man

of 226 University Village, Salt Lake City, Utah 84102, grantee(s) for the sum of TEN AND  
NO/100 -- DOLLARS, and other good and valuable consideration, the following described  
tract of land in Salt Lake County, State of Utah:

Beginning at the Southeast corner of Lot 1, Block 37, Plat "D", Salt Lake City  
Survey and running thence West 109 feet; thence North 85 feet; thence East  
109 feet; thence South 85 feet to the point of beginning.

TOGETHER WITH AND SUBJECT TO: a right-of-way for ingress and  
egress over the following:

Commencing at a point 109 feet West from the Southeast corner of Lot 1,  
Block 37, Plat "D", Salt Lake City Survey, and running thence North 85 feet;  
thence West 12 feet; thence South 85 feet; thence East 12 feet to the point  
of beginning.

Sidwell No. 09-31-476-017

- SUBJECT TO:
1. Taxes for the year 1994 and all subsequent years.
  2. Covenants, Conditions, Restrictions, Easement and rights of way of record or enforceable in law or equity.
  3. All applicable zoning laws and ordinances.

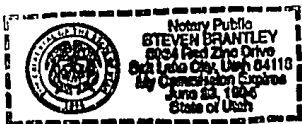
DATED this 5th day of May, 1994.

*Virginia Peebles*  
Virginia Peebles, Trustee of the Carol

Virginia Peebles Living Family Trust

STATE OF UTAH                    )  
  ): ss.  
COUNTY OF SALT LAKE        )

On the 9th day of June, 1994, personally appeared before me Virginia Peebles,  
Trustee of the Carol Virginia Peebles Living Family Trust, the signer of the above  
instrument who duly acknowledged to me that she executed the same.



*Steve Brantley*  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing at

My Commission Expires:

BK6958PG2576

## EXHIBIT B

April 5, 1982

are only five cars. Mr. Jorgensen pointed out the original variance required her to provide parking, and that has not been complied with. Mrs. Peebles said she did provide the parking but no one used it. Mr. Jorgensen said she could not provide parking and then take it away. Mrs. Peebles said they have never given one minute of trouble to anyone in the neighborhood. They do not even use the front door except on a few occasions. This is the result of a complaint that they were advertising as a hostel. A letter was received by the Traffic Department stating the parking should be complied with as previously required. The letter is filed with the case. Mr. Hales said when they went through this two years ago they had people objecting to the service. If they only knew what they were doing for people, they would not object. They provide a place to stay at a fraction of what it costs downtown. He said they can store the wood in the yard and empty the carport. He said the Board can come at any time and see that the parking lot is not full. He said once or twice the lot has been full.

Later in the meeting the various aspects of the case were reviewed. Mr. Jorgensen said this is a nonconforming use. This was changed to a boarding house under authorization from the Board provided parking was put in. Mr. Nelson pointed out they did not have the full amount of parking required so they could only obtain a license for 30 roomers. Mr. Jorgensen said the two stalls behind the house on "F" Street are unusable. She can operate as a boarding house because this has a nonconforming status. Mr. Dunn noted the petitioner wishes to advertise as a hostel because it attracts a different clientele. Mr. Dunn said she has not complied with the parking requirements of the first variance, and she only has enough for 30 roomers.

Mr. Callister moved that Case No. 8900 be held for a legal opinion with regard to the definition of a hostel, and also for advice from the attorney. The motion was seconded by Mr. Lewis, all voting "Aye".

Mr. Callister moved that Case No. 8901 be denied since the Board could find no unusual condition attached to this property which, in the opinion of the Board, would deprive the owner of a substantial property right or use of his property and since no evidence was presented which would justify the requested variance. The petitioner is given 30 days to comply with the original variance. All storage and obstructions must be removed and the parking areas made available as originally required by the Board. The motion was seconded by Mr. Lewis, all voting "Aye".

Case No. 8902 at the rear of 2085 South Redwood Road in application of Dee's Inc. for a permit to construct an office/commercial building, a portion of the parking for which would not maintain the required 30 foot landscaped side yard in a Commercial "C-2" District abutting a Residential "R-2" District.

Michael C. Hogge of 777 East 2100 South and the attorney for F. B. Truck-lines were present. Mr. Jorgensen explained the property is located on the corner of Redwood Road and 2100 South. There is an existing Dee's Restaurant on the corner. To the east is a large parking lot and it is

# EXHIBIT C

May 17, 1982

There were no protests. Later in the meeting the various aspects of the case were reviewed. The Board noted the encroachment was underground. There are many situations in the city where the area under the sidewalk is encroached upon.

Mr. Lewis moved that a variance be granted to construct an underground parking structure which would not have the required setbacks and transformer and switch gear vaults out to City property with the following provisions:

1. all landscaped areas be sprinklered to ensure proper maintenance;
2. permission be obtained from the City to allow the vaults on city property.

The motion was seconded by Mr. Kelly, all voting "Aye".

The following cases, having been previously heard, were then discussed:

Case No. 8900 at 107 "F" Street in application of Virginia Peebles for an appeal of the administrative decision, the petitioner contending that a hostel is a permitted use in a Residential "R-2H" District.

Mrs. Lever explained that in 1979 the Board granted a variance to operate a boarding house in the "R-6" District with parking in an abutting residential district. The petitioner agreed to provide 18 parking stalls. Based on that, 34 guest units were approved. Since that time, it appears there is a question on whether they have complied with the original variance. According to information in the file, they needed to make a change to an existing carport to provide five parking stalls, maybe less. The carport and garage have not been made to conform. If they did not provide the required stalls, the occupancy load had to be reduced. Mr. Nelson said they had a three-car carport and were going to remove some posts so they could put in five stalls. They have not done that and have not conformed to the terms of the original variance since they have not made 18 stalls available. Mrs. Lever said since the time this was approved, the property has been downzoned to "R-2H". A rooming house is not a permitted or conditional use in that district. If allowed, it would be nonconforming. From the minutes of the first meeting, it indicates that this would be housing for students on a long term basis rather than a high turnover rate. The ordinance does not address whether a rooming house needs to be on a monthly, weekly, or daily basis. What the petitioner is operating is a lodging house, not a rooming house. She is advertising as a hostel. The only way she can operate as that is if she is in compliance with the variance, which she is not. A hostel is not a term that is used in the ordinance. She is not providing a boarding house because she does not provide meals.

Mr. Callister moved that the Board uphold the administrative decision that this is not a hostel. The Board finds that the petitioner is in violation of the previous variance and if she does not comply with the provisions of that within 30 days, the variance will be void. The finding is based on the fact that the use of the property for a boarding house or lodging house

May 17, 1982

is based on a nonconforming use and that nonconforming use has been violated because the terms of the variance have not been complied with. In order to keep the nonconforming use, the petitioner must operate as a rooming house with the type of occupancy she said she would basically have (longer residency rather than overnight accommodations) and the parking must conform. The motion was seconded by Mr. Lewis, all voting "Aye".

Case No. 8928 at 1689 South 1300 East Street in application of Triangle Oil Company for a permit to erect a free-standing double-face, illuminated sign in an existing pump island and a single-face sign mounted flat on the building which causes the total square footage of signs to exceed the 100 square feet allowed for nonconforming uses in a Residential "R-2" District.

Mr. Lewis said the problem is the lighting and the contention of the neighbors is that the sign is too bright. Mr. Nelson said the man at the last meeting who claimed he could sit in his dining room without lights has a hedge and a fence between his property and the sign, so that is questionable. The upper unit does get a lot of light from the sign. The petitioner submitted a petition signed by people in support of the sign. The sign on 500 South and 1100 East, which is similar, was referred to. There is a 5' x 7' sign on the pump island at that location. The petitioner has indicated he is willing to cut the size of the sign on the pump island down.

Mr. Lewis moved that a variance be granted to permit a sign in the pump island provided it is cut down to 6' x 7.5' and the sign is not lighted. There must be no other signs on the property at any time and the landscaped setbacks must be installed. The motion was seconded by Mr. Kelly, all voting "Aye".

Case No. 8930 at 2185 Crystal Avenue in application of Gerald L. Whittaker for a permit to construct a single-family dwelling on a lot without the required square footage, rear yard, setback and off-street parking in a Residential "R-2" District.

Mr. Lewis said this is a small lot. They can either let the petitioner build on it or let it remain as a weed patch. Mr. Barney said the lot is only 28' in depth. This request was before the Board previously and at that time had a larger setback. The Board denied the request at that time. The petitioner now wants a 12' setback, no rear yard, parking in the side yard and the lot does not have the required square footage. This is not a buildable lot. A previous owner has been paid for the lot by the State; the petitioner has an option to purchase the property.

Mr. Callister moved that the variance be denied since the Board could find no unusual condition attached to this property which, in the opinion of the Board, would deprive the owner of a substantial property right or use of his property and since no evidence was presented which would justify the requested variance. The motion was seconded by Mr. Kelly. The motion carried with Mr. Lewis in opposition.

# EXHIBIT D

October 7, 2003

Ray Quinney & Nebeker  
Attn: Christopher N. Nelson  
PO Box 45385  
Salt Lake City, Utah 84145-0385

Re: 107 North 'F' Street, Sidwell # 09-31-476-017

Dear Christopher:

Thank you for your patience while I researched this matter regarding the property located at 107 North 'F' Street. In a letter dated September 17, 1996, former Deputy Director of Building Services, Harvey Boyd, provided Ms. Elizabeth Heath, of American Youth Hostel, a definition of "rooming house" taken from the business licensing section of the City code. The definition indicates that rooming houses may rent by the day, week or month. In your letter dated September 25, 2003, you inquire as to whether the "property is zoned for a rooming house or a hotel."

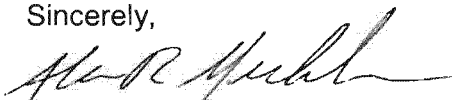
Based on Board of Adjustment (BOA) records and conversations with Larry Butcher, the Zoning Administrator, the current legal use is a boarding/rooming house. In 1979, the BOA granted a special exception to allow a change of use from a nursing home to a boarding house without the required parking. The owners argued that they should be granted the special exception because they only rented to foreign exchange students at the University of Utah and that parking was not an issue since most of these students did not have cars. The BOA granted the special exception for parking with provisions (see BOA case #8128, 10/22/79, attached).

In 1982, the City received a complaint that the owner was advertising as a hostel. On an appeal of an administrative decision the owner again appeared before the BOA contending that a hostel was a permitted use in the zone. The BOA upheld the administrative decision stating that if the nonconforming use was to continue the owners must operate as they said they would, i.e. with "longer residency rather than overnight accommodations" (see BOA case #8900 4/5/82, attached).

Therefore, the Zoning Administrator has determined that the boarding/rooming house was a nonconforming use at the time and that the City granted a special exception for the deficiency in required parking. If the special exception for parking is to remain valid the property must be used for longer residency rather than overnight accommodations. Use as a hotel, motel or hostel, with transient or daily accommodations was never the intent of the Board of Adjustment. It shall also be noted that today's zoning ordinance requires a minimum occupancy of one month.

If I may be of any further assistance please call me at (801) 535-7142.

Sincerely,



Alan R. Michelsen  
Legalization Planner

Enclosures 2

cc Larry Butcher  
Enzo Calfa



# EXHIBIT E

Address: 107 "F" Street

Owner: Virginia Peebles

Variance: Appeal from the administrative decision, the petitioner contending that a hostel is a permitted use in a R-2H District.

Case No. 8900

Date: 4-5-82  
4-19-82  
5-3-82  
5-17-82

Action: Held over  
Held over  
Held over  
Upheld decision

Address: 107 "F" Street

Owner: The Community Treatment Center

Variance: an appeal from the administrative decision that the use presently occupying the building (a halfway house) is not a permitted use in a Residential "R-2H" District.

Case No. 9539

Date: 4/2/84

Action: Upheld

Address: 107 "F" Street (see 425 Second Avenue)

Owner: William F. Hales

Variance: Permit to remodel an existing nursing home into a boarding house and for a special exception to the ordinance to permit a parking lot which requires Board of Adjustment approval in a Residential R-6 District.

Case No. 8128

Date: 9/24/79  
10/22/79

Action: Held over  
Granted (Prov.)

Address: 107 "F" Street

Owner: Virginia Peebles

Variance: Modification of Board of Adjustment Case No. 8128 allowing her to increase the capacity of an existing rooming house from thirty to forty roomers without the required off-street parking in a R-2H District.

Case No. 8901

Date: 4-5-82

Action: Denied

**Address:** 103 and 107 "F" Street

**Owner:** Kenneth Hara

**Variance:** Permit to replace the existing porches, thereby attaching the two buildings without maintaining the required set-back or side yard in an R-6 District.

Case No. 4249

**Date:** 4/3/61

**Action:** Held in exec. session

4/17/61

Held in exec. (but not over 60 days)

5/15/61

Denied

Rec. 133 IM 7-30-54

**Address:** 103 and 107 "F" Street

**Owner:** Kenneth Hara

**Variance:** Permit to remodel two nonconformingly located buildings into a rest home which would not maintain the required side yard in an R-6 District.

Case No. 4435

**Date:** 2/19/62

**Action:** Held in exec. session

3/5/62

Granted (Prov.)