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June 17, 2016

Steve Poor, Director  
Development Services Division  
City of Minneapolis – Community Planning and Economic Development  
250 S. Fourth Street; Room 300  
Minneapolis, MN 55414

Re: *Potential Code Violations and Illegal Hazards at 1313 Chestnut Avenue.*

Dear Mr. Poor,

As you know from my prior correspondence, I am the owner and artistic director of Open Window Theatre, a not-for-profit theatre operating out of 1313 Chestnut Avenue in Minneapolis. During the course of operating my business, I have learned two things: first, the building has not had a valid certificate of occupancy for nearly a decade since the time it was purchased and renovated by the current owners, changing the use of the building, and second there are a substantial number of fire code violations and illegal activities that have been perpetuated by the owners of the building. As a result, the health and safety of the hundreds of people that patronize the entire building each week could be at risk. Our many attempts to get the building owners and managers to fix the issues and obtain a valid certificate of occupancy have been almost entirely ignored.

Because the health and safety of myself, my staff, and the patrons of my theatre are potentially at risk, I am requesting that the City inspect the building at 1313 Chestnut Avenue and investigate the multitude of potential code violations our inspectors have already identified. At the very least, I am informing the City that the building has been operating for nearly a decade without a valid certificate of occupancy and the City should have known that the building could not have obtained one due to the various potential code violations. Many of these issues were allowed to exist because the City apparently failed to conduct final inspections when the building was illegally renovated. The potential violations are growing in number and severity. Please tell us what we can do to get someone to inspect the building, enforce the fire code, and enforce the various laws that are designed to protect tenants and the public.

## BACKGROUND

Open Window Theatre is a not-for-profit theatre with a mission that includes the exploration of faith and spirituality through performance. In 2011, Open Window signed a multi-year lease to occupy suite 102 at 1313 Chestnut Avenue in Minneapolis. The property is owned by Metropolis Minneapolis, LLC, and managed by Space Unlimited, LLC. The owners and managers expressly agreed to lease Open Window the property to be used as a theatre arts performance space. They also agreed that we would be allowed to renovate the space to fit our needs. Unbeknownst to us, the property was not fit for this or any other use.

We started moving forward with plans to renovate our suite in the summer of 2015. Shortly thereafter we learned that the property was not actually zoned to allow a performing arts company to operate – this in spite of the unit being leased to us expressly for use as a performing arts venue. When the landlord refused to do anything to resolve the zoning problem, we took it upon ourselves to work with City Hall to get an appropriate zoning overlay – something that as tenants should not have been our responsibility, nor our expense. This, however, turned out to be only the tip of the iceberg.

With the zoning matter resolved, we continued with our attempts to get the suite renovation plans approved. It was then that we learned the entire building lacked a valid certificate of occupancy. In fact, the last certificate of occupancy on record for the building dates back to 1969. In 2007, Metropolis Minneapolis changed the building's use from an industrial warehouse to a building subdivided into suites for commercial tenants and for public meeting spaces (churches, performing arts centers, etc.). In order for this change of use to happen, they needed to renovate the entire building.

At that time, the owners did actually apply for a remodeling permit. From here, however, we are somewhat unsure what happened. In 2009, final inspections were canceled for no documented reason – at least for any reason we can find; our inquiries into the matter have garnered no response. What we do know is that the City apparently did not complete the inspections: either corrective action should have been ordered or a certificate of occupancy issued. Neither occurred (nor did the City ever make a SAC determination), and Open Window Theatre is suffering as a result. As it stands today, the owner has still never obtained a certificate of occupancy allowing the building to be occupied.

Presently, we are stuck with an even greater conundrum. In order for Open Window Theatre to continue operating, we have been required to pay for a “fire watch” in the amount of \$260 per individual performance, all due to the City's failure to conduct the required inspections and issue (or deny) a valid certificate of occupancy for the building. This means that for our most recent show, the critically acclaimed production of “*Everyman*”, we had to incur an additional expense that was nearly \$6,000.00 over the course of 24 performances. While we are very grateful for the help of the City Council and Blond Yang in working with us to find a way for us

to operate in spite of the building's problems, the fire watch would never have been needed in the first place had the City conducted the required inspections, had the building not been allowed to be illegally renovated, and had the law been enforced against Metropolis Minneapolis.

Not only was the nearly \$6,000.00 an extraordinary cost for a relatively new and growing non-profit theatre to incur, but adding insult to injury, the only tenant against whom the fire code has been enforced is Open Window Theatre. In the building is a gym that holds large group workouts, sometimes hosting even more occupants than our theatre, a business that is allowed to stack pallets and large pallet deliveries in the exit corridors, workout equipment from a previous tenant that the landlords have been storing in the exit corridors for over a year, an utter lack of adequate and required disability parking and parking stripes, a lack of adequate and required emergency exit lighting in the corridors and illegal exit corridor widths, and graffiti on the outside of the building that, even though repeatedly reported, has yet to be properly cleaned. Thus, in addition to failing to enforce the code in 2007-2009, and thereby facilitating a situation where the owners have been operating the building illegally, it appears that the City is now selectively enforcing the code against one tenant and ignoring the code violations affecting all tenants and the entire building.

As we discovered more and more health and safety violations, we enlisted the help of an architect and a licensed contractor to conduct preliminary inspections of the building. Their findings included the following apparent code violations:

**APPARENT CODE VIOLATIONS AND  
HEALTH & SAFETY HAZARDS AT 1313 CHESTNUT AVE.**

The following apparent code violations and health and safety hazards were identified during our inspection of the building. We included pictures of the findings, when appropriate, attached as referenced:

**FIRE HAZARDS**

1. **Sprinkler System.** There is no sprinkler system in the building. This is required because the building is a class A or B occupancy with an occupant load of greater than 30 for the corridors. The doors opening to the corridors are not fire rated (minimum of one hour rating is required to allow a non-sprinkled corridor). (Attachments 001, 002, 003, 004.)
2. **Doors.** Doors are not fire rated; doors are primarily made of glass. (Attachments 005, 006, 007, 008).
3. **Corridor Width.** The corridors are narrower than 8 feet wide. With doors opening into the corridor the effective width is even narrower. (Attachments 005, 006, 007, 008).

4. **Corridor Bottlenecks.** The owners' renovations created bottlenecks at the emergency exits, where the corridors narrow even further to a mere four to five feet wide. (Attachments 009, 010, 011, 012).
5. **Holes in Fire-Walls.** The walls to the corridors have holes in them that punch all the way through to the suites. This negates any semblance of fire ratings that the corridors are required to have. (Attachments 013, 014, 015, 016, 017, 018).
6. **Fire Extinguisher.** Some fire extinguishers are not attached to the wall, but rather sit on the ground where they are moved around for convenience. It is also quite possible that there are not enough extinguishers for the building. (Attachment 019).
7. **Shattered Windows.** The back door of the building (double pane glass) leading to the back parking lot has a missing (shattered out) pane of glass. It has been like this for months without repair. (Attachments 020, 021, 022).

#### **EMERGENCY EXITS**

8. **Exit Obstruction.** Using two of the three emergency exits requires going up or down narrow, steep, and long stair cases. (Attachments 009, 023, 024).
9. **Obstructed Exit Signs.** The owners have allowed tenants to hang flags, fliers, and other decorations in the hallways obstructing the view of the exit signs, sometimes completely. (Attachment 023).
10. **Storage in Corridors.** The tenants have been allowed to use the corridors as storage for large pallets, exercise machines, and other heavy and obstructive objects. (Attachments 009, 011, 012, 023, 025).
11. **Egress Lighting.** Most of the corridors lack adequate emergency egress lighting. We found one set of emergency exit lights in one of the corridors, but it is stand alone and not connected to any of the exit signs. (Attachments 005, 026).
12. **Exit Sign Lighting.** There are exit signs that are not backlit on a separate power supply. (Attachments 024, 026).

#### **RESTROOMS**

13. **Restroom Venting.** Restrooms are not vented. The venting is capped in the building, risking an indoor buildup of sewage gas. (Attachments 027, 028, 029, 030).

14. **Insufficient Restrooms.** The occupancy of the building requires a minimum of 15 restrooms. There are only two accessible from the common areas.
15. **Bathroom Lock.** The locks on the common area bathrooms only deadbolt and do not have the required passage set. (Attachments 031, 032, 033).
16. **Bathroom Fans.** Not vented outside, only vented into the common areas. (Attachment 034).

#### UTILITIES

17. **Faulty Wiring.** The HVAC systems have been rewired by the owners to allow tenants and the owner to steal electricity from other units. (Attachments 035, 036, 037, 038, 039).
18. **Gas & Heating.** The heating and gas is ported such that some tenants are paying for the gas and heating of other tenants, and tenants have no control over the heat and gas in their own units.

#### PARKING LOT & OUTSIDE THE BUILDING

19. **No Striping.** Parts of the parking lot are not striped. (Attachments 040, 041).
20. **Proper Striping.** The parking lot striping that does exist is improperly done, with spaces that are too narrow, or spaces that are perpendicular to the building when the width of the lot should require parallel parking spots. (Attachments 042, 043).
21. **Disability Parking.** There is no official disabled parking spot. The owners have put a spot on their own, but there is only one, it is not wide enough, not in the proper location, and not properly marked, and is on a steep grade. (Attachments 044, 045, 046, 047).
22. **Grading.** The parking lot is too steep for how it is structured. (Attachments 048, 049, 050).
23. **Dumpster.** There is no fence around the dumpster. (Attachment 51).
24. **Drainage.** There are multiple drainage issues due to the lack of storm water runoff and the grade of the parking lot. (Attachments 052, 053, 054, 055, 056).
25. **Graffiti.** The building has been tagged a number of times, both in the past and recently. The graffiti has not been properly cleaned as of the date of this letter. (Attachments 057, 058, 059).

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This is only a list of the apparent violations we were able to find on our own accord. Our inspectors were not allowed onto the roof, into other suites, or into various maintenance or other areas. We have no doubt that a full inspection will uncover more code violations and other safety and health hazards.

### **Requested Action**

We have tried repeatedly to get the building owner to fix these issues, but to no avail. We have also taken it upon ourselves to try and get a certificate of occupancy, at least for our space – even though that is the responsibility of building owner, not the tenants. Certainly, in many cases, resolving the suspected violations and getting a certificate of occupancy may require substantial renovation to the building. However, these renovations would only be required because the owner illegally renovated the building in the first place, the City never conducted the final inspections back in 2007-2009 that should have resulted in code compliance and a certificate of occupancy for the building, the City has not responded to our previous requests, including violations the City recently witnessed first-hand, and the hazards have been perpetuated because the owners appear to believe that the City will not enforce the code and the law. Just as the costs should be the responsibility of the owners, the risk posed by the potential violations and hazards should not be borne by the tenants and patrons of the building.

Due to the large number of infractions and hazards, we are demanding that the City step in and conduct a thorough inspection of the property. The inspections should include, at the very least, the inspection the City failed to conduct to properly close out the 2007 remodeling permit, but also include an investigation into the violations we have identified. Moreover, the individual suites and other areas we are unable to access should also be subject to inspection; the selective enforcement against Open Window Theatre cannot continue.

The owners of the building have been non-responsive to our requests to obtain a certificate of occupancy and bring the building up to code. Neither Open Window Theatre nor its patrons should have to wait any longer for the code and the law to be enforced. It is not right, and we need your help.

Thank you for your attention to this matter.

Sincerely,



Jeremy Stanbary  
Founder & Exec-Artistic Director  
Open Window Theatre

Enclosed

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cc Kristi Oman, Metropolis Minneapolis  
Blong Yang, Councilman Ward 5, Minneapolis  
Doug Determan  
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