



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

OFFICE OF THE CITY ATTORNEY

300 Sixth Street

City web: www.rcgov.org

Phone: 605-394-4140
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MEMORANDUM

To: Zoning Board of Adjustment

From: Jess Rogers, Assistant City Attorney *JR*

Date: March 6, 2017

Subject: 516 South Street

On March 3, 2017, a tenant of 516 South Street came to the City Attorney's office to complain about her landlord. Beginning in August of 2016, this tenant, along with her husband and four children rented the top two floors of the residence at 516 South Street. Her lease, which she provided me a copy of, does not mention utilities. However, she was provided a cover sheet that gave contact information for local utilities and explained that as tenant, she would need to put the utilities in her name. Tenant did so. She was also aware that the basement of the house was being rented to three School of Mines students.

When utility bills began to arrive, Tenant noticed that they were much larger than she would have expected. When she called the utility companies, she was informed that there was only one meter for water, gas, and electricity for the entire house. Tenant was paying the utilities not only for her family, but also for the three basement tenants. She contacted Charles Christie, her landlord (and the signatory to her lease), asking how she could recover the basement tenants' share of the utilities. He informed her that this would not be possible, as their leases specified that they would not be required to pay utilities. Prior to this, Tenant was never told that she would be responsible for paying utilities for the basement tenants.

While inhabiting 516 South Street, Tenant was also responsible for sorting the mail, as the basement tenants shared her address. Mr. Christie had attached a box near the basement entrance where she would leave their mail. Mr. Christie explained that they could not get a separate address because their apartment was "not up to code." He was open about the fact that this was an illegal dwelling, one he was "working on" addressing.

Tenant provided enough evidence of an illegal dwelling for me to follow-up with the City's Building Official, Brad Solon. Solon informed me that the City was also aware

that Mr. Christie was renting an illegal dwelling in the basement of 516 South Street. On December 8, 2016 Solon wrote to the Christie/Dunsmore Trust (legal owner of the property), informing it of several Building Code violations on the property and instructing the owner to "Vacate the lower, un-permitted unit and commence repairs without any further delay" (see attached letter). Upon receiving this letter, Mr. Christie contacted Solon, and they had several conversations about this property. Mr. Christie stated that he had purchased this property as an existing two-dwelling unit. Solon informed him that the City had no knowledge of this use (and in fact had knowledge to the contrary as recently as 2012), and in order to receive a building permit for *some* of the required work, he would need proof of this pre-existing use. He has yet to provide such proof.

According to City records and the Tenant's sworn affidavit, Mr. Christie has not corrected any of the cited Building Code violations, including those unrelated to the use as a two-dwelling unit, nor has he vacated the illegal dwelling, despite being instructed to do so. For these reasons, the City is currently prosecuting Mr. Christie for several Building Code violations. Given his previous lack of compliance with City directives and his current criminal case regarding the property at issue, it is my recommendation that the Board deny the requested variance. The property can still be used as a single-family dwelling. Such use would not only be in compliance with zoning requirements, but it would also eliminate the need for several of the corrections listed in Solon's December letter, bringing it closer to compliance with the Building Code.



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-5035

Community Planning & Development Services

300 Sixth Street

Brad Solon, Division Manager, Building Services
Community Planning & Development Services
city web: www.rcgov.org

Phone: 605-394-4120
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e-mail: brad.solon@rcgov.org

December 8, 2016

**Violation Notice
Certified Mail
Return Receipt Requested**

CODETRaK Ref: CIBS16-0094

Christie/Dunsmore Trust
3311 Dover St
Rapid City, SD 57702-3438

Re: Illegal Dwelling Unit/Substandard Conditions – 516 South St, Rapid City, SD

Dear Christie/Dunsmore Trust,

An inspection of your property located at 516 South Street in Rapid City, legally described as Lot A, Rapid City, High School Sub (County ID 65353) revealed substandard conditions that include but are not limited to: illegal/un-permitted dwelling unit in the basement (IPMC 108.1.4 Unlawful Structure), Structure is Maintained Unlawfully (IPMC 108.1.5 #8), No Fire Separation Between Units (IPMC 108.5 #10), No Egress Window (IPMC 702.4), Improper Headroom at Stairs (IPMC 305.4), and Deck Improperly Constructed (IPMC 305.2). The basement unit must be vacated and corrections are required, whether the unit is occupied, or not. Your property is not in compliance with the Rapid City Municipal Code.

Vacate the lower, un-permitted unit and commence repairs without any further delay. Structural work to decks over 30" in height from grade require a building permit. Have all of the repairs completed on or before January 20, 2017. Schedule a follow-up inspection when complete. Permitted work requires a licensed contractor.

Failure to comply may cause the city attorney to institute the appropriate proceeding to restrain, correct, or abate such violations. The city attorney may elect to prosecute you criminally, and if convicted of any such violation you may be fined not more than \$500 or jailed up to 30 days, or both. Each day any violation of this code or other ordinance continues shall constitute a separate offense.



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OPPORTUNITY

EQUAL OPPORTUNITY EMPLOYER

Any person having an interest in the property or the premises may appeal this determination by filling a written appeal to the building official within twenty two (22) days of receiving this notice. Failure by any person to appeal the notice and order within that time period shall constitute a waiver of right to an administrative hearing.

Also, an additional dwelling unit is not permitted at this property by zoning. Contact Rapid City Planning Department for more information.

Additionally, where there are 2 or more dwellings, the units are required to be fire sprinkled with a minimum NFPA 13D or R system.

Please call or email if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'BS', is written over the word 'Sincerely,'.

Brad Solon
Division Manager
Building Services

CC: Jess Rogers, City Attorney

