



City of Keene
New Hampshire

September 5, 2012

Ian Bernard (aka Ian Freeman)
PMB 458
63 Emerald Street
Keene, NH 03431

NOTICE OF VIOLATION

Re: 73-75 Leverett Street
Tax Map Parcel 005-01-012.0000

Dear Mr. Bernard:

In follow-up to the inspection of your property located at 73-75 Leverett Street, Tax Map Parcel 005-01-012.0000 (the "Property"), conducted by the City of Keene (the "City") on June 14, 2012, the City issues to you the following **NOTICE OF VIOLATION** in accordance with RSA 676:17.

As you are aware, the City's inspection of the Property was based on a number of complaints, which were corroborated by information posted on the Internet, that you and/or your tenants were utilizing the Property in manner inconsistent with its current classification as a single dwelling unit¹. Pursuant to the City's Zoning Ordinance, a dwelling unit may be occupied by a single family, which is defined as "one or more persons occupying a dwelling unit and living as a single housekeeping unit, provided that a group of five or more persons who are not within the second degree of kinship shall not be deemed to constitute a family [...]."

After receiving the above-referenced complaints, and reviewing information posted on the Internet, the City contacted you on a number of occasions to request the opportunity to inspect the Property to either confirm or dispel the complaints. You declined the City's requests to inspect the Property, which necessitated the City's acquisition of an Administrative Inspection Warrant pursuant to RSA 595-B.

Based upon the complaints that the City received, the information posted on the Internet, and the observations made during the City's inspection², it is apparent that the Property was, at the time of the inspection, being utilized as a tourist home. Pursuant to Section 102-2 of the City's Zoning Ordinance, tourist home is defined as "a private home

¹ In its entirety, your building located at 73-75 Leverett Street is a duplex dwelling, meaning that it contains two (2) individual dwelling units.

² See Photos and Internet Printouts attached hereto.

with rooms leased for overnight transient accommodations." Your Property is located in the Low Density Zoning District, and as mentioned above, is classified as a single dwelling unit. Pursuant to Section 102-362 of the City's Zoning Ordinance, tourist home is not a permitted use in the Low Density District. See Sections 102-361, 362, of the City's Zoning Ordinance, enclosed herewith.

In addition, the use of your Property as a tourist home would make it a lodging or rooming house under Section 3.3.156, of NFPA 101 (2009 Edition), which has been adopted as the part of the New Hampshire State Fire Code ("Fire Code"). The Fire Code defines a lodging or rooming house as a "building or portion thereof that does not qualify as a one- or two-family dwelling that provides sleeping accommodations for a total of 16 or fewer people on a transient or permanent basis, without personal care services, with or without meals, but without separate cooking facilities for individual occupants." Therefore, if you intend to continue to use your Property as a tourist home, you will be required to comply with the requirements set forth in the Fire Code for new lodging or rooming houses. Said requirements include, but are not limited to Section 26.3.6, which states in pertinent part that lodging and rooming houses "shall be protected throughout by an approved automatic sprinkler system in accordance with 26.3.6.3," and Section 26.3.4, which requires that lodging or rooming houses "shall be provided with a fire alarm system in accordance with Section 9.6."

The corrective action required is as follows:

A. If you have not already done so, you must immediately cease and desist from any and all use(s) of the Property in violation of the City Zoning Ordinance, including but not limited to use as a tourist home.

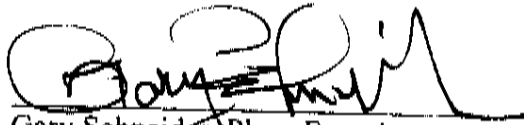
B. If you desire to continue to use the Property as a tourist home and/or lodging or rooming house, you must obtain a variance from the City Zoning Ordinance. In addition, you will also be required to apply for and obtain a building permit from the City, which will require that you demonstrate compliance with all applicable rules and regulations, including but not limited to the New Hampshire State Building Code and the New Hampshire State Fire Code. A failure to comply with the requirements of the applicable rules and regulations, including the Fire Code, may subject you to additional Notices of Violation.

FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS NOTICE OF VIOLATION MAY SUBJECT YOU TO ADDITIONAL ENFORCEMENT ACTION AND PENALTIES AS PROVIDED BY LAW, INCLUDING BUT NOT LIMITED TO A CIVIL PENALTY OF \$275 FOR THE FIRST OFFENSE AND \$550 FOR SUBSEQUENT OFFENSES FOR EACH DAY THAT THE VIOLATION CONTINUES AFTER THE DATE THAT YOU RECEIVE THIS NOTICE OF VIOLATION, IN ADDITION TO ANY COSTS, EXPENSES OR ATTORNEY'S FEES THAT MAY BE INCURRED BY THE CITY OF KEENE. IF YOU WISH TO CONTEST THIS NOTICE OF VIOLATION WITH RESPECT TO THE APPLICATION OF THE ZONING

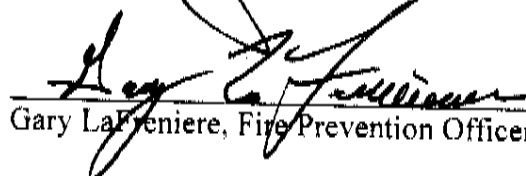
ORDINANCE TO YOUR PROPERTY, YOU MUST FILE AN APPEAL WITH THE ZONING BOARD OF ADJUSTMENT WITHIN 45 DAYS OF THE DATE OF THIS NOTICE OR YOUR RIGHT TO FURTHER APPEAL SHALL BE FORECLOSED.

Please contact either Gary Schneider at 352-5440, or Capt. Gary LaFreniere at 357-9861, if you have any questions.

CITY OF KEENE



Gary Schneider, Plans Examiner



Gary LaFreniere, Fire Prevention Officer

Attachments

Cc: Thomas P. Mullins, City Attorney

VIA CERTIFIED MAIL/RETURN RECEIPT
#7003 2260 0007 2513 6152
AND FIRST CLASS MAIL