

License and Fees Committee Meeting Agenda
City of Superior, Wisconsin

Monday – October 13, 2014
1:00 p.m. Government Center – Conference Room 204

October 7, 2014

Roll Call

Approval of Minutes – August 11, 2014

1. John Graves request to appeal the revocation of his General Contractor Registration.

Adjournment

Linda Byrnes, Deputy City Clerk

c:

Mayor
City Council
City Attorney
Police Chief
Matt Markon
Fire Chief
Planning Director

Dave Minor, Chamber
Kaye Tenerelli, BID
Keith Kern, Tavern League

Shelley Nelson (email)
Post - 2
Library – Please Post (faxed)

Notice is hereby given that a majority of the members of the common council may be present at the meeting, and although this may constitute a quorum of the common council, the council will not take any action at this meeting.

In compliance with Wisconsin Open Meetings Law, this agenda was:
Posted at: Government Center, Courthouse, & Public Library
Media & mailing list notified: 10-7-14

LICENSE AND FEES COMMITTEE PROCEEDINGS
City of Superior, Wisconsin
Monday – August 11, 2014

The License and Fees Committee was called to order by City Clerk Kalan at 1:00 p.m. in the Government Center Board Room 201.

Members Present: Tom Fennessey, Esther Dalbec, Jack Sweeney (alt)
Members Excused: Denise McDonald
Staff present: City Clerk Kalan, City Attorney Prell, Deputy Clerk Byrnes

Approval of Minutes – July 14, 2014

MOTION by Dalbec, seconded by Sweeney and carried, to approve.

1. Original Class B Liquor & Beer license application by Super One Liquor LLC, 2202 E. 2nd St., for the license period September 1, 2014 – June 30, 2015. (*ref'd from July 15, 2014 Reg. Council mtg*)

Attorney Prell advised the committee members that municipal governing bodies have broad discretion regarding whether to issue a license to a particular applicant for a particular location as long as the decision as the action is not arbitrary and capricious which means unreasonable or does not have a rational basis.

Attorney Steve Ledin outlined reasons to deny the license application including an unwritten gentleman's agreement that Super One would not apply for a liquor license; the detrimental effect on existing and longstanding East End Establishments; and citizens would not benefit from and do not need another bar and liquor store.

Walter Haugen, Pudge's Bar, advised during a land trade with Super One they were assured that there was no intention of a bar/liquor store. He is not against competition but feels he was deceived by Super One.

Councilor Dan Olson stated he is trying to look at what will be achieved from granting the license. Will creating employment opportunities and an increased tax base also create unemployment and business loss for others? He believes a hand shake agreement is important and should be honored.

Attorney Kyle Torvinen mentioned that many municipalities in Wisconsin prohibit large box type liquor stores in conjunction with grocery stores. He believes this is an integrity issue.

Councilor Massorgia did not believe another liquor store was needed and that retail space would be better served with another type of business.

Dan Life, Angelo Decaro and Mark Heehn, Super One, spoke in favor of approving the license.

Attorney Toby Marcovich pointed out that those objecting to the license are competitors. The city issues permits for all kinds of businesses and should not be in the business of regulating competition.

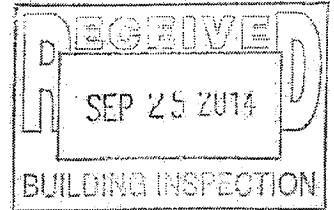
Councilor Jack Sweeney advised he contacted 19 of the 23 businesses in East End area and asked them if a) approval of the license would affect their business and b) if it would help their business. Overwhelmingly they answered it not affect business and would help business. As a City Councilor, he did not believe it was his job to control private industry.

MOTION by E Dalbec, seconded by Sweeney and carried, to recommend approval of the Class B Liquor & Beer License to Super One Liquor, LLC, 2202 E 2nd Street.

MOTION by Councilor E Dalbec, seconded by Sweeney and carried, meeting adjourned at 1:50 p.m.

Respectfully submitted,
Terri Kalan, City Clerk
City of Superior, Wisconsin

Sept. 25, 2014



Building Inspection Division

1316 North 14th Street

Suite 230

Superior, WI 54880

RE: CONTRACTOR REGISTRATION REVOCATION

BUILDING INSPECTOR:

I, John Graves, am submitting a request in writing to the City of Superior Building Inspector for a hearing before the license committee. I am submitting my request within 10 days of receiving notification that my contractor registration has been revoked.

Sincerely,

A handwritten signature in black ink, appearing to read "John Graves". The signature is fluid and cursive, with a long horizontal stroke at the end.

John Graves

7365 S. Marsik Rd

Lake Nebagamon, WI 54849

218-393-9851

STATE OF WISCONSIN
CITY OF SUPERIOR

In re: Revocation of City of Superior Contractor Registration
Dated September 11, 2014 for John B. Graves

NOTICE OF HEARING

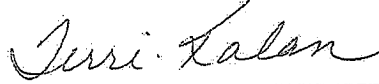
TO: John B. Graves
7365 S. Marsik Rd
Lake Nebagamon, WI 54849

PLEASE TAKE NOTICE, that a hearing will be held before the Licenses and Fees Committee of the Common Council of the City of Superior, Wisconsin on October 13, 2014 beginning at 1:00 p.m. in the Conference Room 204 of the Government Center, 1316 N 14th Street, Superior, Wisconsin, to hear and consider evidence relating to the above-described revocation. You may but are not required to appear at the hearing and present evidence and testimony in support of the application. You may but are not required to cross-examine witnesses that may be presented in opposition to the application. You may but are not required to have an attorney present to represent you. If you choose to be represented by an attorney, you are solely responsible for the cost of the attorney. The hearing will not be stenographically recorded. If you wish to obtain a stenographic recording of the hearing, you are required to arrange for the reporter and to pay for the cost of the reporter.

This hearing is the only opportunity you will have to present your evidence. You are not entitled to another hearing before the Common Council. If you fail to appear at this hearing the committee will issue its findings and recommendations to the Common Council based upon the evidence presented at the hearing.

Dated at Superior, Wisconsin, this 6th day of October, 2014.

CITY OF SUPERIOR

By 
Terri Kalan, City Clerk

c: Chief Building Inspector Curran
City Attorney Prell



SUPERIOR

WISCONSIN

Living up to our name.

Building Inspection Division
Public Works Department

Phone: (715) 395-7288
Fax: (715) 395-7346
Website: www.ci.superior.wi.us
Email: buildingsafety@ci.superior.wi.us

1316 North 14th Street
Suite 230
Superior, WI 54880

September 11, 2014

John B. Graves
7365 South Marsik Road
Lake Nebagamon, Wisconsin 54849

RE: City of Superior - Contractor Registration Revocation
Name: John B. Graves
License Type: City of Superior - Contractor License - LIC #001835

Mr. John B. Graves,

Effective *immediately* the City of Superior Contractor Registration issued to you under date of February 5, 2014 for privilege of providing General Contracting services within the City of Superior is hereby *revoked* under authority provided by the Superior Code of Ordinances, Section 34-62 (a) (1) thru (a) (4).

Referenced Ordinance Section 34-62 is indicated below. Each provision of the ordinance is iterated herein with the applicable violations subsequently listed thereafter.

Applicable City of Superior Ordinance:
SCO Sec. 34-62. Revocation and Suspension.

(a) **Grounds.** Any person obtaining a registration certificate under the provisions of this article may have it revoked or suspended for any of the following reasons:

- (1) There has been a conviction of the contractor or its representatives of a criminal statute or a provision of this construction code or other city ordinance substantially relating to the work of a contractor;
- (2) There are multiple uncorrected violations of this construction code or other city ordinances where the violations are connected with or a part of carrying on the business for which the license is issued;
- (3) There has been multiple failures to obtain permits required under the provisions of this construction code;
- (4) The registered contractor has employed multiple persons not authorized to do any specific work as required under the provisions of this construction code or other ordinances of the city, or the laws of the state.

(b) **Hearings.** Within ten days of denial, revocation or suspension notification, the applicant may submit a request in writing with the building inspector for a hearing before the license committee. After the hearing, the license committee may grant or deny the registration, revoke the registration, or suspend the use of the registration for a period of up to 90 days.

"Grounds" for revocation of your Superior Contractors Registration is a combined result of your reluctance and / or refusal to correct violations listed herein coupled with your constant and repeated pattern of leasing dwelling units for occupancy which continue to pose a health and / or safety risk as further described under **Conclusion and Summary** paragraph at the end of this letter. Violation of any one of the (4) four previously referenced provisions of Ordinance Sec. 34-62 (a) (1-4) will be construed as sufficient grounds for revocation of your City of Superior Contractor's Registration Certificate. Various referenced violations are grouped separately by dwelling (property) address (below); each dwelling (property) address listed (below) has uncorrected / outstanding violations and associated unresolved / outstanding written Orders in full effect.

Listing of Violations:

1. On April 21, 2014, you entered a plea of "guilty" to an array of violations in reference to 1220-1222 Faxon which, among others, included but were not limited to: Failure to Obtain a Certificate of Occupancy; Failure to install Smoke & Carbon Monoxide Detectors; Failure to provide required Fire Rated separations between Dwelling Units; Failure to Correct Electrical Service Grounding System; and Unlawful Occupancy. The 1220-1222 Faxon property currently has (50+) fifty plus outstanding and unresolved violations described in Notice(s) to Correct – previously issued to you - beginning February 1, 2013 and revised / updated on April 21, 2014 as part of a stipulated agreement signed by you. On September 9, 2014 the Building Inspection Division discovered that you Mr. John B. Graves, employed non-registered contractor(s) to replace at least a portion of the roof at 1220-1222 Faxon. After-the-fact inspection /observation of this work indicated improper installation of asphalt shingle roofing with total disregard for proper flashing in accord with shingle manufacturer's installation instructions and the Wisconsin Uniform Dwelling Code.
SCO - Sec. 34-62 (a)(1); Sec. 34-62 (a)(4) Exhibit "A" – Stipulated Agreement.
2. On April 23, 2014 a Stop Work Order was posted at 1304 John Avenue for lack of proper permits. Later, on July 8, 2014, you applied for and were issued a permit for the completion of the first floor area of the existing single-family dwelling located at 1304 John Ave. This permit was issued to you after it was determined that you had already been working on that dwelling without first obtaining any proper permit. Later again, more specifically on August 4, 2014, the use of the building was observed as that of an occupied unlawful duplex - in direct contradiction of the purpose for which Permit #250700 was issued to you on July 8, 2014 - and in direct violation of the current City of Superior Zoning Code. Inspection(s) performed of the property on August 7, 2014 and again on August 19, 2014 confirmed the dwelling conversion as a two-family duplex and further indicated the interior condition of the units as occupied under lease and unsafe for human habitation. Observed unpermitted work, either in progress and/or in place, at the interior of the unlawful upper/lower dwelling units included plumbing, electrical wiring, and general construction. No permits were issued for any of the observed plumbing or electrical work at 1304 John Avenue. Plumbing and electrical work had already been done or was in process of being done by unknown persons or entities not licensed to perform such work at the time of observation.
SCO - Sec. 34-62 (a)(1); Sec. 34-62 (a)(2); Sec. 34-62 (a)(3); Sec. 34-62 (a)(4).
See attached exhibit "B" – Permit # 25070 and various photos.
3. On July 3, 2014 the tenant then residing at 1118 Hammond requested a safety inspection of this single-family dwelling rental. The tenant's initial complaint pertained to a leaking roof and collapse of the 2nd floor bathroom ceiling. The City of Superior Building Inspection Division found numerous violations, including but not limited to extensive peeling exterior lead paint and exposed friable asbestos pipe wrap in the basement area with a ripped, open, protective seal allowing asbestos to become airborne. Attached herein as exhibit "C" are independent testing reports confirming the presence of both lead paint and asbestos. The back yard contains an existing open and exposed in-ground "pool" in a state of total disrepair and deterioration and is herein and hereby considered a health and life safety hazard that must be abated.
Refer to attached photos & exhibit "C".
4. On Oct. 6, 2011 and again on Jan. 17, 2012 you were notified of a failing foundation at the property located at 1116 Hammond Avenue, as well as numerous other violations at that same property address. A Notice to Correct Order was issued to you on April 3, 2012 for the repair or replacement of the building foundation; the second floor unit of the two-family dwelling was also determined as unsafe for human habitation at that time. On June 28, 2012 a citation was issued to you for renting a dwelling unit which had been placarded by the Building Inspection Division as Not Habitable. On August 8, 2012 a "Raze Order" was issued to you for lack of progress in making required corrections at that property address. On Sept. 20, 2012 you entered into a stipulated agreement with the City of Superior (exhibit "D") with regard to a then contested "Raze Order". The agreement granted additional time to you to replace the foundation and complete all other ordered repairs prior to a final hearing scheduled on December 11, 2012. On November 29, 2012 the "Raze Order" was lifted as a result of

certain progress being made with the placement of a new foundation. The placard however, was to remain in place and in full effect as a condition of required progress with regard to correcting all other documented and outstanding violations and the remaining uninhabitable condition of the second floor dwelling unit. The duplex dwelling located at 1116 Hammond Avenue currently remains in an unfinished, incomplete, uninhabitable, unsafe, condition and constitutes a blight on the surrounding properties and immediate neighborhood. On July 8, 2014 you were issued a Notice to Correct to remove trash, garbage and debris from this property; for lack of response, on July 25, 2014, you were cited for failing to clean-up and properly maintain the exterior of this property. See attached exhibit "D".

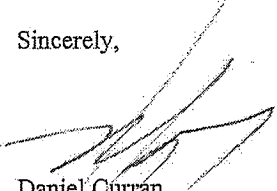
SCO - Sec. 34-62 (a)(1); Sec. 34-62 (a)(2).

Conclusion & Summary:

Although the circumstances portrayed herein pertain to only four of the many properties owned by you within the corporate limits of the City of Superior, other properties owned by you within the City of Superior continue to steadily generate tenant complaints with regard to health and safety issues which, when brought forward, are typically followed by violation Notices. Most complaints related to your rental properties appear to have a common denominator: Disregard for dwelling occupant health and safety coupled with what appears to be blatant disregard for applicable City of Superior Municipal Ordinances and applicable State and National codes pertaining to building use and functionality, use of building materials, and building construction, HVAC, plumbing, and electrical construction codes and related standards. Your seeming inability to completely and accurately complete a basic permit application form prior to undertaking the work coupled with what appears to be repetitive inability to follow-through with completion of work or to understand or otherwise comprehend and take to heart basic code requirements, whether under the guise of an agreed upon preamble of terms and conditions outlined as a condition of permit issuance prior to beginning work; or by form of written stipulation after-the-fact; incomplete work or non-compliant work or work otherwise initiated or otherwise performed by you whether through ignorance or intention appears to *intentionally create or otherwise result in the creation of a health and safety hazard or hazards*. In consideration of your continued assault upon City, State, and National governance as evidenced by your repeated failure to comply and abide by the most basic, elementary, and applicable City of Superior building and zoning codes and standards, the City of Superior Building Inspection Division is hereby *compelled* to Order you to Cease & Desist all general contracting activities within the City of Superior for which your City of Superior Contractor Registration Certificate #001835 was granted to you on February 5, 2014. Inspections of work attempted or otherwise undertaken by you, Mr. John B. Graves has generally without exception revealed your work product to be egregious, unsafe, hazardous, non-code compliant, and below any acceptable standard or norm. It is the information of this office that you have contractually employed untrained persons to perform work on your dwellings within the corporate limits of the City of Superior who do not possess the certifications or skills necessary to allow them to do any work properly. Your constant and repeated pattern of leasing dwellings for occupancy which continue to pose a health and/or safety risk and which have been placarded by the Building Inspection Division as unsafe for human habitation bears heavily on the decision to, under provisions contained within City of Superior Code of Ordinances Section 34-62(a)(4), *hereby immediately revoke your City of Superior Contractor Registration Certificate #001835 issued to you under date of February 5, 2014.*

If you wish to appeal this *revocation* of your Contractor Registration, please refer to Superior Code of Ordinances, Sec. 34-62 (b) - Hearings. An appeal hearing application must be submitted in writing to the office of the Superior Building Inspection Department within (10) ten days from the date posted on this notice.

Sincerely,



Daniel Curran
Chief Building Inspector

c.c: Bruce C. Hagen
Frog Prell
Jeff Goetzman
Todd Janigo
Pete Krull
Ryan Mears