

STATE OF MINNESOTA

CITY COUNCIL

COUNTY OF ANOKA

CITY OF COON RAPIDS

IN THE MATTER OF THE APPEAL OF THE DECISION OF THE BOARD OF ADJUSTMENT AND APPEALS REGARDING AN ORDER OF THE CHIEF BUILDING OFFICIAL CONCERNING THE HABITABILITY OF THE RESIDENTIAL STRUCTURE AT 10320 GROUSE STREET, COON RAPIDS, ANOKA COUNTY, MINNESOTA; SCOTT NELLIS, APPELLANT

CASE 12-01V

STATEMENT OF FINDINGS

This matter came before the Coon Rapids City Council on March 6, 2012.

Based upon the testimonies received and upon all other information brought before the Council, the Council hereby denies the appeal and upholds the decision of the Board of Adjustment and Appeals based on the following findings:

1. On October 18, 2011, City Code Enforcement officials received a call from a known confidential reporting party reporting a large pile of wood shavings from animal cages in the rear yard of the above subject property and that there was a strong and foul odor coming from the shavings. The reporting party stated that Mr. Nellis told the reporting party that he breeds and snakes and has approximately 100 snakes in the residence and that he breeds rats to feed the snakes. The reporting party also reported a strong smell of feces coming from the residence during a conversation with Mr. Nellis at his front door.
2. On October 19, 2011, City Housing Inspector Leya Drabczak inspected the rear yard at 10320 Grouse Greet and observed two mounds of wood shavings in the rear yard. Housing Inspector Drabczak reported a pungent smell coming from the mounds and that she could detect the smell while standing on a neighboring property.
3. On October 20, 2011, City Housing Inspector Drabczak searched the internet and found the website snsnakes.com that reportedly belongs to Mr. Nellis. The website stated that Mr. Nellis breeds and offers snakes for sale, including snake varieties that, if found to be true, would constitute a violation of City Code Chapter 6-500, Non-domestic Animals.

4. On October 25, 2011, based upon the information above, the City obtained an Administrative Search Warrant to inspect the premises at 10320 Grouse Street, Scott Nellis, property owner.
5. On October 26, 2011, the Administrative Search Warrant was executed and the property inspected by Coon Rapids Housing Inspector Leya Drabczak; Coon Rapids Police Department members Mike Plankers, Brad Johnson, Greg Koss and Desiree Toninato; Coon Rapids Fire Department members Nick House and Shannon Moen and State Humane Society Officer Keith Streff. All information regarding this inspection, including photographs, was provided to Chief Building Official Douglas Whitney.
6. Based on information provided him, Chief Building Official Whitney made the following determinations regarding code deficiencies:
 - a. The 2007 State Building Code, Section 1300.0030 Purpose and Application., Subpart 1. Purpose., states that the *purpose of this code is to establish minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.* Further, Section 1300.0180, Unsafe Buildings or Structures., provides that the *building official may order any building or portion of a building to be vacated if continued use is dangerous to life, health, or safety of the occupants. The order shall be in writing and state the reasons for the action.* Chief Building Official Whitney has determined that these provisions are not only intended to safeguard the health and safety of the building occupants but also to safeguard fire fighters and other emergency responders who might enter the building during emergency operations as well. It is his determination that this residential structure is not designed or equipped to accommodate the number of snakes, rodents and lizards found in the dwelling on the subject property.
 - b. The Minnesota State Building Code 2006, IBC Section 1203.4.2, Contaminants Exhausted., reads, *Contaminant sources in naturally ventilated spaces shall be removed in accordance with the International Mechanical Code and the International Fire Code.* Further, the State Building Code references the International Mechanical Code, Section 403, Mechanical Ventilation, Ventilations Systems., which reads, *Mechanical ventilation shall be provided by a method of supply air and return or exhaust air. The amount of supply air shall be approximately equal to the amount of return and exhaust*

air. The system shall not be prohibited from producing negative or positive pressure. Ventilation supply systems shall be designed to deliver the required rate of supply air to the occupied zone within an occupied space. The minimum ventilation rate of outdoor air shall be determined in accordance with Section 403.3. Exception: Where the registered design professional demonstrates that an engineered ventilation system design will prevent the maximum concentration of contaminants from exceeding that obtainable by the rate of outdoor air ventilation determined in accordance with Section 403.3, the minimum required rate of outdoor air shall be reduced in accordance with such engineered system design. Section 510, Hazardous Exhaust Systems., of the International Mechanical Code provides the following regulations: Section 510.1 General.: *This section shall govern the design and construction of duct systems for hazardous exhaust and shall determine where such systems are required. Hazardous exhaust systems are systems designed to capture and control hazardous emissions generated from product handling or processes, and convey those emissions to the outdoors;* and Section 510.4, Independent System.: *Contaminated air shall not be recirculated to occupied areas unless the contaminants have been removed.* The North Metro Chemical Assessment Team found the level of NH₃/Ammonia to be 10 parts per million (ppm) on the upper level and 20 ppm in the lower level of the home. The OR-OSHA Permissible Exposure Limit (PEL) for NH₃ is 25 ppm at an eight-hour Time Weighted Average. The liquid or gas may cause severe irritation and/or burns to the eyes, nose, throat and skin. Ammonia has an odor threshold of 1 - 2 ppm. Chief Building Official Doug Whitney has determined that the construction of this residential dwelling is not designed to be used in the manner currently being used by the property owner as none of the rooms that house snakes and other animals has either adequate sanitation or adequate ventilation. Specifically, the floors were not made of smooth, hard, nonabsorbent surfaces that extend upward onto the wall at least 6 inches. The wall surfaces adjacent to the cages do not consist of smooth, hard, nonabsorbent surfaces to the level of the top of the cages. Materials like wood, carpet and drywall will not only absorb spills, but also absorb odors and gasses.

- c. Coon Rapids Revised City Code - 1982, Section 12-307, Subsection 7, Electrical Service in Dwellings., reads: *Every dwelling unit and all public and common areas must be supplied with electric service, functioning over current protection devices, electric outlets, and electric fixtures which are properly installed, maintained in safe*

and good working condition in compliance with the edition of the National Electric Code in effect as of the date of construction or improvements thereto, and connected to a source of electric power in a manner prescribed by State and local laws, ordinances, rules, and regulations. The National Electrical Code (NEC), NEC Article 400, Flexible Cords and Cables, Section 400.1, General., covers general requirements, applications and construction specifications for flexible cords and flexible cables. Section 400.8, Uses Not Permitted., reads, *Flexible cords and cables shall not be used for the following: (1) As a substitute for the fixed wiring of a structure. (2) Where run through holes in walls, structural ceilings, suspended ceilings, dropped ceilings, or floors. (3) Where run through doorways, windows, or similar openings. (4) Where attached to building surfaces. (5) Where concealed by walls, floors, or ceilings or located above suspended or dropped ceilings.* It is the determination of the Chief Building Official that extension cords used in the residential dwelling on the subject property do not comply with these codes. Extension cords require ventilation to prevent build up of heat. If used inside a wall or enclosed space, heat, over time, will cause the outer jacket of cords to dry out and crack, exposing bare wires. This condition creates a potential point for electrical shorting of the wires, causing a spark, and the potential for a dangerous fire. Extension cords are intended to be used only for short periods of time.

7. It is the determination of the Chief Building Official that the residential structure on the subject property be classified as unfit for human habitation. The conditions of the subject structure that led to the determination that the structure be classified as Unfit for Human Habitation (Coon Rapids Revised City Code – 1982 Section 12-313) and as an Unsafe Building or Structure (Part 1300.0180 of the Minnesota State Building Code), and to the issuance of the Compliance Order in accordance Coon Rapids Revised City Code – Section 12-315, include:
 - a. The dwelling is not provided with mechanical and ventilation systems needed to keep and care for the number of snakes, rodents and lizards present in the structure.
 - b. The air contaminants are well above any acceptable limits.
 - c. The wall and floor surfaces do not consist of smooth, hard, nonabsorbent surfaces needed to provide for sanitary conditions.

- d. The excessive storage present in the structure creates a hazard for fire fighters and emergency responders during emergency operations.
 - e. The windows that fire department personnel would use during emergency operations are blocked and limit access into and out of the structure.
 - f. The use of extension cords is a noncompliant condition and, whether energized or not, creates conditions dangerous to human safety and property. When used as a substitute for fixed wiring, as currently used in the subject residence, they present hazards for both electrical shock and fire.
8. Based on these findings, Chief Building Official Doug Whitney determined that the residential structure on the subject property was unfit for human habitation and on November 30, 2011, issued a Compliance Order in accordance with Coon Rapids Revised City Code – 1982, Section 12-315, Subsection 2, Compliance Order.
 9. On December 5, 2011, Mr. Nellis appealed the Compliance Order to the Board of Adjustment and Appeals.
 10. On February 2, 2012, upon consideration of the matter, the Board of Adjustment and Appeals upheld the Compliance Order in its entirety on a 4 to 0 vote.
 11. On February 6, 2012, Mr. Nellis filed an appeal of the decision of the Board of Adjustment and Appeals in this matter to the City Council.

Adopted by the Coon Rapids City Council on a ____ to ____ vote this 6th day of March 2012.

Tim Howe,
Mayor

ATTEST:

Cathy Sorensen,
City Clerk