



PLANNING AND DEVELOPMENT

200 Third Street North

Fargo, North Dakota 58102

Phone: (701) 241-1474

Fax: (701) 241-1526

E-Mail: planning@cityoffargo.com

www.cityoffargo.com

MEMORANDUM

TO: Board of Adjustment
FROM: Aaron Nelson, Planner *AN*
DATE: February 24, 2017
RE: Board of Adjustment Meeting

The next meeting of the Board of Adjustment will be held on Tuesday, February 28, at 9:00 a.m. in the City Commission Room at Fargo City Hall. If you are not able to attend, please contact staff at 241-1474 or planning@cityoffargo.com. Thank you.

BOARD OF ADJUSTMENT
Tuesday, February 28, 2017 9:00 a.m.
City Commission Room
AGENDA

1. Approve Minutes of January 24, 2016 Meeting
2. New Business
 - a) Appeal of an Administrative Decision
Appellant claims that staff erred in determining that two sets of siblings and a fifth person does not qualify as a Household as defined by the LDC.
4. Other Business
5. Adjournment

Board of Adjustment meetings are broadcast live on cable channel TV Fargo 56 and can be seen live by video stream on www.cityoffargo.com/streaming. They are rebroadcast each Tuesday at 9:00 a.m. for one month following the meeting.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 241-1474 or TDD at 241-8258. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.



BOARD OF ADJUSTMENT MINUTES

Regular Meeting:

Tuesday:

January 24, 2017

The Regular Meeting of the Board of Adjustment of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 9:00 o'clock a.m., Tuesday, January 24, 2017.

The Members present or absent were as follows:

Present: Deb Wendel-Daub, Matthew Boreen, Russell Ford-Dunker, Michael Love, Mike Mitchell

Also present: Erik Johnson, Jodi Bertrand, Bruce Taralson

Absent: Mark Lundberg

Chair Wendel-Daub called the meeting to order.

Chair Wendel Daub noted a potential conflict of interest for Member Mitchell and the applicant regarding the variance request being heard today.

City Attorney Erik Johnson reviewed the State of North Dakota's statutory provisions and the procedures the Board would follow when addressing potential conflicts of interest.

Chair Wendel Daub asked for a vote from the Board stating a yes vote means there is a conflict of interest that interferes with the impartiality of voting, and a no vote waives any conflict of interest and approves Member Mitchell be allowed to vote on Item 3a. Upon call of the roll Members Love, Boreen, Ford Dunker and Wendel-Daub voted no. Absent and not voting: Members Lundberg. The motion was declared carried.

Item 1: Approval of Minutes: Regular Meeting of December 22, 2016

Member Ford-Dunker moved the minutes of the December 22, 2016 Board of Adjustment meeting be approved. Second by Member Love. All Members present voted aye and the motion was declared carried.

Item 2: Approve Order of Agenda

Member Mitchell moved the Order of Agenda be approved as presented. Second by Member Love. All Members present voted aye and the motion was declared carried.

Item 3: New Business

a) Variance Request – 510 4th Street South: Request for a variance of Article 21-06 of the Municipal Code. The requested variance is to allow the opening of a proposed building to be approximately 8.9 feet lower, the fill around the building

to be 8.9 feet lower, and the fill 15 feet away from the building to be 8.6 feet lower, than would otherwise be required by the City's Floodproofing Code: DENIED

A Hearing had been for December 22, 2016; however, the applicant requested the Hearing be continued to this time and date.

Senior Planner Donald Kress presented the staff report noting a correction to the requested fill around the building to be minus 8.4 feet, instead of minus 8.9 feet as stated. Mr. Kress referred to the criteria used during staff's analysis of the request and their recommendation for approval with the following condition: The applicant agreeing to a waiver of liability against the city and with the facility's organization administering an emergency response plan.

Applicant Tom Eide, CFO for Prairie St. John's and Architect David Shultz, Shultz and Associates Architects, spoke on behalf of the application.

Board discussion began regarding the option of utilizing the first floor for parking; the accessibility of emergency vehicles; the plan not to use floodable materials when constructing the first floor of the new facility; existing and future flood insurance requirements; and the challenges staff and developers face when reviewing applications for these unique areas of the City.

Stormwater Engineer Jody Bertrand presented Engineering staff's review of the requested variance.

Fargo resident Thomas Scott Krogman, shared his concerns regarding the flood wall.

Inspections Administrator Bruce Taralson presented his department's review of the requested variance application.

Member Boreen moved the findings of staff be accepted and the variance to allow the opening of a proposed building to be approximately 8.9 feet lower, the fill around the building to be 8.9 feet lower, and the fill 15 feet away from the building to be 8.6 feet lower be approved, on the basis that the review considerations of Section 21-0603 have been satisfied with the following condition: The applicant agreeing to a waiver of liability against the City with the facility's organization administering an emergency response plan. Second by Member Mitchell.

Board discussion ensued regarding the need for this variance request to be decided by a higher level authority.

Upon call of the roll Member Mitchell voted aye. Members Boreen, Ford-Dunker, Love, and Wendel Daub voted no. Absent and not voting: Member Lundberg. The variance was declared denied.

Item 4: Adjournment:

Member Love moved to adjourn the meeting at 9:55 a.m. Second by Member Ford-Dunker. All Members present voted aye and the motion was declared carried.

CITY OF FARGO
Board of Adjustment
Appeal of an Administrative Decision Staff Report

Item No: 2.a

Date: February 23, 2017

Appellant: Greg Wentz

Status: Board of Adjustment – February 28, 2017

Summary of Record

Background:

Building Inspections staff received a phone call complaint regarding the potential over-occupancy of a detached house located at 1640 5th Street North on October 31st, 2016. In response, a building inspector was dispatched to investigate the complaint on November 1st, 2016. Upon arrival at the subject property, one of the tenants of the house stated that there were six persons living there. The building inspector determined that the six persons living at the house did not meet the definition of a “Household.” As the result of the inspection, the building inspector determined that the use of the property was not in compliance with the Land Development Code (LDC) because the property was being used for “Group Living” as opposed to “Household Living.”

On November 8th, 2016, the Building Inspections Department issued a *Notice and Order of the Building Official* letter to the owner of the property (IWE Inc.) to notify the owner of the violation and the necessary remedy. Upon receiving the Notice and Order of the Building Official, Greg Wentz, a registered agent of IWE Inc., removed one of the tenants of the house but allowed five tenants to remain. The five remaining tenants include two sets of siblings and a fifth unrelated person. City staff informed Wentz that two additional tenants would need to be removed in order for the living arrangement of the house to meet the definition of a Household, or he would need to apply for a Conditional Use Permit in order to allow Group Living at the property.

Wentz discussed this code provision with staff from the Building Inspections and Planning Departments, as well as with the City Attorney. Wentz informed staff that he intended to appeal staff’s decision to classify the tenants at the subject property as Group Living as opposed to Household Living, and requested staff to send him a written explanation of why two sets of siblings and a fifth person is not considered Household Living. Subsequently, the City Attorney drafted a legal opinion outlining staff’s decision process, which was provided to Wentz prior to the submittal of his appeal application. Currently, the *Notice and Order of the Building Official* is on-hold pending the result of this appeal.

Claim of Appellant:

The appellant, Greg Wentz, submitted an appeal of an administrative decision claiming that staff erred in determining that two sets of siblings and a fifth person does not qualify as a Household as defined by the LDC.

Exhibits:

The following exhibits are admitted as part of this staff report and are attached:

- Exhibit 1 – Legal Opinion from Fargo City Attorney, Erik Johnson
- Exhibit 2 – The appellant’s appeal application with attachment
- Exhibit 3 – Zoning Map for the area of 1640 5th Street North
- Exhibit 4 – Parcel Report for the property at 1640 5th Street North
- Exhibit 5 – Building Inspections Notice of Order of the Building Official for 1640 5th Street North

Relevant Facts

Staff believes that the following facts are relevant to the Board's consideration of this appeal:

1. There are five (5) people residing together at 1640 5th Street North. Of these five people, there are two sets of siblings and a fifth unrelated person. *Exhibit 2*
2. The property at 1640 5th Street North is located within the SR-2 (Single-Dwelling Residential) zoning district. *Exhibits 3 & 4*
3. The property at 1640 5th Street North does not have a Conditional Use Permit (CUP) to allow Group Living uses. *Exhibit 4*
4. The Building Inspections Department has made a finding that the occupancy of the dwelling unit at 1640 5th Street North is not in compliance with the LDC and has issued a notice and order to remedy the violation. *Exhibit 5*

Relevant Code Provisions

LDC Section 20-1202(25) – Words Defined

Household: Any one of the following:

- a. One or more persons related by blood, marriage, adoption, or legal guardianship, including foster children, living together in a dwelling unit; or*
- b. A group of not more than 3 persons not related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit;*
- c. Two unrelated persons and their children living together in a dwelling unit; or*
- d. Any group of people living together that meets the definition of "protected class," as that term is defined in North Dakota law.*

LDC Section 20-1203(C.1) – Residential Use Categories

Group Living

a. Characteristics

Group Living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of Household Living. The size of the group may be larger than the average size of a household. Tenancy is arranged on a monthly or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories). Generally, Group Living structures have a common eating area for residents. The residents may receive care, training, or treatment, as long as the care givers also reside at the site.

LDC Section 20-1203(C.2) – Residential Use Categories

Household Living

a. Characteristics

Household Living is characterized by the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories).

LDC Section 20-0401 – Use Table

Table 20-0401 lists the uses allowed within zoning districts.

Use Category	Definition (Excerpt; See Sec. 20-1203)	Specific Use Type	Zoning Districts																							
			A G	S R 0	S R 1	S R 2	S R 3	S S 4	S S 5	M R 1	M R 2	M R 3	U R M U	M H P	N O	N C	G O	L C	D M U	G C	L I	G I	P I			
Residential																										
Household Living	residential occupancy of a dwelling unit by a "household"	House, Detached	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	P	C	-	-	-			
		House, Attached	-	-	-	-	P	P	P	P	P	P	P	P	P	P	C	C	P	C	-	-	-			
		Duplex	-	-	-	-	P	P	P	P	P	P	P	P	P	P	C	C	P	C	-	-	-			
		Multi-Dwelling Structure	-	-	-	-	-	-	P	P	P	P	P	P	P	P	C	C	P	C	-	-	-			
		Mobile Home Park	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	-	-		
Group Living	residential occupancy of a structure by a group of people who do not meet the definition of "Household Living"		C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	P/C [E]	P/C [E]	P/C [E]	P	P/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	-	-	-		

Section 20-0916.G – Review and Action of Appeals by the Board of Adjustment

Appeals of Administrative Decisions shall be taken to the Board of Adjustment. The Board of Adjustment shall grant to the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant. In exercising the appeal power, the Board of Adjustment shall have all the powers of the official from whom the appeal is taken, and the Board of Adjustment may reverse or affirm wholly or partly or may modify the decision being appealed. If the Board of Adjustment determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence. A concurring vote of four members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official.

Staff Analysis

As referenced in Section 20-1202(25) of the LDC, there are four different categories of living arrangements that would constitute a Household. As noted in the appeal application, the appellant contends that two sets of siblings and a fifth person living together in a dwelling unit conforms with the definition of a Household. Specifically, the appellant believes that this living arrangement conforms to the category of a Household described as, "A group of not more than 3 persons not related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit."

Staff contends that two sets of siblings and a fifth person living together in a dwelling unit exceeds this definition of a Household because the group equates to a total of five persons (which is more than 3 persons) and—while select individual members of the group may be related—the group as a whole is not related. What's more, even if one were to consider the relationships of each member of the group individually, each member of the group would be living with at least three other persons that they are not related to, which also equates to more than 3 unrelated persons. For example, one sibling would be unrelated to the other set of siblings as well as the fifth person, and the fifth person would be unrelated to all four of the two sets of siblings. The City Attorney's legal opinion examines the definition of Household in much more detail. This legal opinion is attached to this staff report (Exhibit 1) and is included in the staff analysis by reference.

Ultimately, staff finds that two sets of siblings and a fifth person living together in a dwelling unit does not meet the definition of a Household. As referenced in Section 20-1203(C.1) of the LDC, Group Living is characterized by "the residential occupancy of a structure by a group of people who do not meet the definition

of Household Living.” Since Group Living is a conditional use within the SR-2 zoning district and the subject property does not have a Conditional Use Permit to allow Group Living, having two sets of siblings and a fifth person living together at the subject property is not permitted at the subject property.

Staff Recommendation

Staff recommends that the Board of Adjustment affirm staff’s decision that two sets of siblings and a fifth person does not qualify as a Household as defined by the LDC.



Office of the City Attorney


City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

MEMO

DATE: February 1, 2017

TO: Aaron Nelson, Planning Dept (Board of Adjustment appeal)

FROM: Erik Johnson, City Attorney 

RE: Household living—occupancy limit

You have asked for my opinion regarding a situation involving a single-family zoning district (presumably SR-3) in north Fargo. There is a single-family dwelling in which there are 6 occupants. The landlord has indicated a willingness to reduce the occupancy by one occupant—down to 5. Those five occupants would be comprised of two pairs of siblings (brother-brother or sister-brother) and a fifth occupant who is not related to any of the other four occupants (the sixth, current, occupant is also not related to any of the five other occupants).

ANALYSIS. The definition of Household—as used in the Use Table (Table 20-0401) in “household living” is as follows:

LDC Section 20-1202 Definitions: * * *

25. Household: Any one of the following:

- a. One or more persons related by blood, marriage, adoption, or legal guardianship, including foster children, living together in a dwelling unit; or
- b. A group of not more than 3 persons not related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit;**
- c. Two unrelated persons and their children living together in a dwelling unit; or
- d. Any group of people living together that meets the definition of “protected class,” as that term is defined in the North Dakota law.

[Emphasis added]

Subparagraph a is fairly simple to understand. It applies to two situations. A “household” can be a single individual or it can be any number of persons who are related by blood, marriage, adoption, or legal guardianship, including foster children.

Subparagraph c addresses a somewhat common situation in modern times. One person and his/her children can live in a dwelling with another person and his/her children, regardless of the number. The key, here, is that with the exception of the two “persons”



(usually two “adults”), everyone else in the dwelling must be a child of one or the other adult. In effect, this situation allows two single-parent families to live together regardless of the total number of occupants.

I will ignore analysis of subparagraph d, regarding protected classes, as this is clearly not in issue here.

This brings us to subparagraph b, which describes yet another situation. In subparagraph b, the subject of the phrase, “group living together in a dwelling unit” is modified by two separate conditions. The first condition is the phrase “of not more than 3 persons” and the second condition is the phrase “not related by blood, marriage, adoption, or legal guardianship”. As applied to the present facts, therefore, the five (or six occupants) living together in the dwelling unit is “a group of MORE THAN 3 PERSONS” and, thus, the first condition is met, period. Next one must determine whether the second condition has been met. In other words, are any persons in the group not related to any other persons in the group? As presented, the answer is “yes”. Therefore, the second condition is NOT met and, therefore, the dwelling is not lawfully occupied as “household” living.¹ One might argue that the only way the answer could be “no” is if every occupant were related to every other occupant by blood, marriage, adoption or legal guardianship and, if so, then how is that test any different than the “everyone is related” test of subparagraph “a”. While this is true under the instant facts, if we truly had two or three occupants who were unrelated, those facts would not meet the definition under subparagraph “a” but WOULD meet the definition under subparagraph “b”.

Before moving on; however, we should determine whether a different result would occur if the two conditions were addressed in the reverse order. For purposes of this analysis, assume there is not a fifth or sixth occupant—only the two sets of siblings. With that assumption in mind, then, what if we FIRST determine whether there are any occupants in the dwelling unit who ARE related somehow and THEN we determine how many persons are in the group of unrelated persons. As such, under the assumed facts, the answer to the first question is “yes”, there are occupants in the dwelling who are not related to other occupants. From the perspective of one of the siblings, he/she is unrelated to two others (the other set of siblings). In order to satisfy the definition of “household”, there must be a group of three (3) or fewer unrelated occupants. This approach or interpretation does not stand up; however, when facts have been slightly altered. For example, what if instead of two sets of two siblings living in a single dwelling, there was one set of two siblings and another set of five siblings? If we apply the same approach, the answer to the question changes depending upon the perspective of the occupant. If we take the perspective of one of the five siblings, then he/she is only unrelated to two other occupants (the set of two siblings) and the “three unrelated occupants” test has been met. If, however, we take the perspective of one of the two

¹ Even if the number of occupants were reduced to four in number—the four being the two sets of siblings—the above-stated second condition would not be met. The two sets of siblings alone would be a group of more than 3 persons who were unrelated and this exceeds the limit of unrelated people for a household.

Memo to Planning and BoA
Erik Johnson, City Attorney

siblings, then he/she is unrelated to five other occupants (the set of five siblings) and clearly the "three unrelated occupants" test has not been met. In other words, this "test" has differing results depending upon the perspective of the particular occupant being selected from which one begins the analysis. A test in which the answer changes with the point of view is an absurd result and an absurd interpretation and such an interpretation could not stand.

Summary. It is my opinion that a dwelling unit occupied by two sets of two siblings and a fifth, and possibly sixth, unrelated occupant is not a "household" as defined by the Fargo Municipal Code and the Fargo Land Development Code. Please bear in mind, of course, that the analysis should not end with the determination that the "household" size is exceeded. Since group living is a "C/C" in SR zoning districts under LDC Section 20-0401, the landlord would have the option of requesting a conditional use permit under Section 20-0402.E.



PLANNING AND DEVELOPMENT

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APPEAL OF AN ADMINISTRATIVE DECISION

We, the undersigned, do hereby submit an application to the Board of Adjustment of the City of Fargo, North Dakota, to hear and decide an appeal of a decision made by an administrative official of the City of Fargo.

Property Owner Information	Representation Information (if applicable)
Name (printed): <u>GREG WENTZ</u>	Name (printed): _____
Address: <u>5156 LARIAT LOOP</u> <u>BISMARCK ND 58503</u>	Address: _____
Primary Phone: <u>701 226 2403</u>	Company: _____
Alternative Phone: _____	Primary Phone: _____
Fax: <u>701 355 2263</u>	Alternative Phone: _____
Email: <u>greg.wentz@icloud.com</u>	Fax: _____
	Email: _____
	<input type="checkbox"/> Same as property owner

Location of property involved in the appealed decision (if applicable)
Address: <u>1640 5TH STREET N.</u>
Legal Description (attach separate sheet if more space is needed): <u>LOTS 77 & 78</u> <u>NORTH BROADWAY Addition - FARGO</u>

Item for Appeal (attach separate sheet if more space is needed)
<u>NOTICE & ORDER OF BUILDING OFFICIAL</u> <u>OVER OCCUPANCY</u>

Reason for Appeal (attach separate sheet if more space is needed)
<u>CODE, AS CURRENT WRITTEN, CREATES</u> <u>MUCH CONFUSION AND ROOM FOR ARBITRARY</u> <u>APPLICATION - attachment.</u>



PLANNING AND DEVELOPMENT

200 Third Street North
Fargo, North Dakota 58102

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E-Mail: planning@cityoffargo.comwww.cityoffargo.com

Acknowledgement – We hereby acknowledge that we have familiarized ourselves with the rules and regulations to the preparation of this submittal and that the forgoing information is true and complete to the best of our knowledge.

Owner (Signature):

A handwritten signature in black ink, appearing to read "J. W. Wanta", written over a horizontal line.

Date:

2-13-17

Representative (Signature):

Date:

Office Use Only

Date Filed:

Pre-Application Meeting Date:

Application Complete:

☐

Yes

☐

No

Reviewed By:

Appeal:

1640 N. 5th Street is a 6 bedroom, 3 bathroom home with a 100ft, double wide driveway. With 6 persons, each with a bedroom, and ample room for off-street parking, the complaint for "over occupancy" is an arbitrary a capricious application of the code.

When I purchased the home it was to be for my daughters who are college freshmen this year. Freshmen are required to live in dorms for the first year, so I rented the house to 6 young adults for one year.

This being my first rental property, I gave no thought to zoning restrictions. It was not my intention to sidestep my legal obligations as landlord; I was simply ignorant of the city's code.

Now that I have been made aware, I am quite confused. I believe that the Code is in need of reconsideration.

As renters, there are two sets of siblings and a fifth person. I believe that three discrete last names among the five renters satisfies the code. According to the City Attorney this arrangement fails the test, ostensibly because the fifth person is not related to four others in the household. The City Attorney goes on to state that even four residents, two sets of siblings, does not meet code. At that point the City Attorney loses me.

As I understand the City Attorney's rationale, a family of 12, two parents and 10 offspring meets code. However, two unmarried couples living in a household do not meet code. Under a rigorous application of the City Attorney's analysis, a family of three, who host a foreign exchange student is in violation... the visiting student is not related to any of the other three.

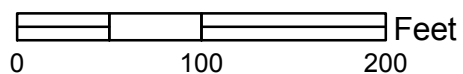
I have reduced occupancy to 5, two sets of siblings plus 1. The City Attorney states that this arrangement does not qualify. If this is "over-occupancy," then every family of three housing a foreign exchange student is also "over-occupied".



Zoning Districts

AG	LC	MHP	SR-2
DMU	LI	NC	SR-3
GC	MR-1	NO	SR-4
GI	MR-2	P/I	SR-5
GO	MR-3	UMU	

1640 5th Street North





Parcel Information Report

Parcel Number: 01-2100-00430-000

General Information

Segment Id: 1
Owner 1: IWE INC
Owner 2:
Property Address: 1640 5 ST N
Mailing Address: 5956 LARIAT LOOP BISMARCK, ND 58503
Addition Name: North Broadway
Block:
Lot: 77 & 78

Additional Description:

Estimated Flood Stage Levels For River Flooding:

If your property is outside the city limits or your property and structure are not affected by a 25 to 44 foot flood stage data will be not available (N/A).

Property may be affected by an approximate flood stage of 39 or higher.

Structure may be affected by an approximate flood stage of 40 or higher.

Please note that this approximation does not take into account any local issues such as ice and debris jams or localized flooding from intense rainfall events.

District Information

Cass School District: 1
Elem. School District: Washington

Property Valuation

	Land	Improvements	Total
Current Appraised Value:	\$28,900.00	\$179,300.00	\$208,200.00

Building Information

Year Built:	1950	No. of Apartment Units:	
Total Building SqFt:	1944	Residential Story Height:	7 (2 Story)

Lot Size

Front Width:	60.00	Land Use:	R (Residential)
Back Width:	60.00	Property Type:	1 (Single Family)
Depth Side 1:	150.00		
Depth Side 2:	150.00	Square Footage:	9000.00

DISCLAIMER: The City of Fargo provides property information to the public "as is" without warranty of any kind, expressed or implied. Assessed values are subject to change by the City of Fargo. In no event will the City of Fargo be liable to anyone for damages arising from the use of the property data. You assume responsibility for the selection of data to achieve your intended results, and for the installation and use of the results obtained from the property data.

Assessment records are for the sole purpose of identifying the land being taxed. In some cases to attain efficiency, Assessment Department legal descriptions may be shortened yet will retain sufficient information to identify the land. Since tax statements and records are not deeds and may contain abbreviated descriptions, they should not be used as a basis for a survey or a legal document and should not be used by surveyors or others as the primary source of a property description.

Zoning

Zone 1: SR-2

Zone 2:

Conditional Use Permit:

Planned Unit Devel #:

Planned Unit Devel Date:

Conditional Overlay Number:

Conditional Overlay Date:

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Building Inspections Department

**Housing Inspections
200 3rd Street North
Fargo, ND 58102
(701) 476-6708**

11/8/2016

Notice and Order of the Building Official

IWE INC
5956 LARIAT LOOP
BISMARCK, ND 58503

RE: 1640 5 ST N

Next Appointment: 10:30 AM, 12/5/2016

Dear IWE INC:

This letter is to inform you that an initial housing inspection was performed on 11/1/2016 at the above property and that the following violations were found:

Location:	1640 5 St N over occupied - tenant said 6 were living there
Item Inspected:	Over-occupancy of dwelling unit, Over-occupancy
Code:	LDC 20-1202 25 B. Definition of a household: A group of not more than 3 persons not related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit
Remedy:	Reduce occupancy to meet Zoning definitions

Please make repairs to correct all violations and to bring them into compliance with the applicable codes immediately, as per International Property Maintenance Code and Fargo Municipal Code (FMC) 31-0101. Remember that all electrical, plumbing, and heating – including air conditioning, gas or fuel operated appliances, water heaters, and other than minor maintenance – must be done by properly licensed contractors obtaining required permits. We will return to this property at 10:30 AM, 12/5/2016 to perform a re-inspection. If there are any areas that require a key to access please have either your manager or building caretaker present at the above time. **There is no charge for this first inspection and no charge for the first re-inspection. However, subsequent inspections (3rd, 4th, etc.) each carry a fee of \$100.00 and are billed to the property owner.**

Any person having any record, title, or legal interest in the building described above has the right to appeal this notice and order within 20 days by filing an appeal form with the Housing Inspections office. This letter is a notice and order to the owner or persons responsible for the property. If you have any questions about this letter or the results of the inspection you may contact me at 701-476-6708.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John Arens".

John Arens
Fargo Housing Inspections Department

Encl: New Fee Schedule