

# Board of Zoning Adjustment Staff Report

June 2, 2014



<b>Case No:</b>	14Appeal1002
<b>Project Name:</b>	Non-Conforming Use
<b>Location:</b>	2123 Grand Avenue
<b>Owner:</b>	Russell and Harriet Patrick
<b>Appellant:</b>	Russell and Harriet Patrick
<b>Lot Size:</b>	0.139 acres
<b>Existing Zoning District:</b>	R-5
<b>Existing Form District:</b>	Traditional Neighborhood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	6 – David James
<b>Case Manager:</b>	Steve Hendrix, Planning Supervisor

This item was continued from the April 7, 2014 hearing, in order for the appellant to obtain more documentation that the structure has been a tri-plex since 1971.

The appellant submitted a personal affidavit along with additional affidavits, some of which were revised from the original submittal and pictures.

A letter was received from neighbor, Mr. Debow .

Additional research was received from the Louisville Division of Fire.

## REQUEST

An Appeal of a determination issued by the Department of Codes and Regulations concerning nonconforming rights for a multi-family (3 units) structure.

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The 0.139 acre property is located on the north side of Grand Avenue between South 21<sup>st</sup> Street and South 22<sup>nd</sup> Street. Land uses on that particular side of the street range from apartments in a commercial building on the corner of Grand Avenue and South 22<sup>nd</sup> Street which has a CN zoning classification to mixed residential and a church in an R-5 district. The structure was built in 1910 and now contains three separate dwelling units; one in the basement, one on the main floor and one on the second floor. Each apartment has dual access. The electric and water bills are paid by the appellant. The Caron's directory lists only one family name from 1971 to 1991, but subsequent entries note earlier years of occupancy.

The property is zoned single family and since 1971, "R-5" Residential Single Family.

PVA has the property listed as a single family dwelling.

Submitted affidavits note that in the 60s and 70s rooms and separate dwelling units were being rented, but since 1993, solely rented as a tri-plex.

The Louisville Division of Fire has not made inspections, since they were not aware the structure contained three dwelling units.

Since the property is within the former city, 1971, would be the year that is used to determine if non-conforming rights exist.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	3 Dwelling Unit Structure	R-5	Traditional Neighborhood
<b>Proposed</b>	Same	R-5	Same
<b>Surrounding Properties</b>			
<b>North</b>	Residential Mix	R-5	TN
<b>South</b>	Residential Mix	R-5	TN
<b>East</b>	Residential Mix, Church	R-5	TN
<b>West</b>	Residential Mix	R-5, CN	TN

**PREVIOUS CASES ON SITE**

**14Nonconforming1000**

February 7, 2014

Letter from the Department of Codes and Regulations stating that Nonconforming Use Rights had not been established for three dwelling units.

**INTERESTED PARTY COMMENTS**

No comments have been received by staff.

**APPLICABLE PLANS AND POLICIES**

**STAFF ANALYSIS:** The following sections of the Land Development Code appear to be applicable to this case. The full text of these sections may be found within the Land Development Code for all of Jefferson County.

- Chapter 1.2.2.                      Definitions
- Chapter 1.3.                        Nonconformance
- Chapter 2.1.3.B.                 The Use of Land and Buildings

In addition, KRS 100.253 is the State statute that deals with non-conforming uses.

The Land Development Code and state law indicate that a non-conforming use is an established lawful activity conducted on a parcel at the time of enactment any zoning regulation which would not permit such activity on that parcel. A non-conforming use may be continued as then established until it is abandoned. However, such a use shall not be enlarged or extended beyond the scope and area that existed at the time the non-conformity began. There shall be no change from one non-conforming use to a second non-conforming use unless the new use is in a same or more restrictive classification than the prior use and is no more odious or offensive to surrounding properties than was the first non-conforming use.

The abandonment of a nonconforming use terminates the nonconforming use status. The burden of proof in a hearing before the Board of Zoning Adjustment on whether a nonconforming use has been abandoned shall be on the party asserting that the nonconforming use has been abandoned. However, a showing that the subject property has not been regularly used for the purposes for which the nonconforming use status is claimed for a period of one year shall create a presumption of such abandonment, and thereupon the burden of proof shall shift to the party asserting that the nonconforming use had not been abandoned.

The Board may accept any substantial evidence sufficient to show that the nonconforming use has been discontinued for a period of one year or more. To rebut the presumption, the property owner must show by clear and convincing evidence that:

1. The property owner has undertaken to reinstate the discontinued nonconforming use on the property by such acts as would be undertaken by a reasonable person with the intent to reinstate said nonconforming use; and
2. There is a reasonable prospect that the nonconforming use will be reinstated in the foreseeable future.

### TECHNICAL REVIEW

There are no outstanding technical review issues that need to be addressed.

### STAFF CONCLUSIONS

In order to have nonconformance, the three dwelling units would have to have been in continual existence since 1971. Information gathered by staff and affidavits submitted by the appellant show different land uses for this location since that time.

The appellant has stated that prior to sale that each “room” was separately locked with a deadbolt. As mentioned earlier, the Caron’s directory lists a single family use from 1971 until 1991, and then apartments from 1993.

The PVA lists the property as R- Res 1 Family Dwelling, 2,304 finished square feet, central air, with 1.5 bathrooms.

The Division of Fire had listed the address as a single family dwelling.

Submitted affidavits note that in the 60s and 70s, rooms and separate dwelling units were being rented. Affidavits submitted on May 19, 2014, are from some of the same people that were initially submitted with some changes.

Since 1993, the structure has been solely used as a tri-plex, however, before that time, the exact number of rooms and/or dwelling units is unknown.

A timeline from 1971 to the present showing this property being used exclusively as three dwelling units does not appear to have been established, especially from 1971 to 1993. It appears that taxes were being paid for a single family dwelling and the apartments were not being inspected for safety issues from the Division of Fire. Building Codes were not addresses by staff, since records are only kept for five years.

Based upon the file of this case, this staff report, and the evidence and testimony submitted at the public hearing, the Board must determine:

1. If non-conforming rights exist for three dwelling units at this location ?

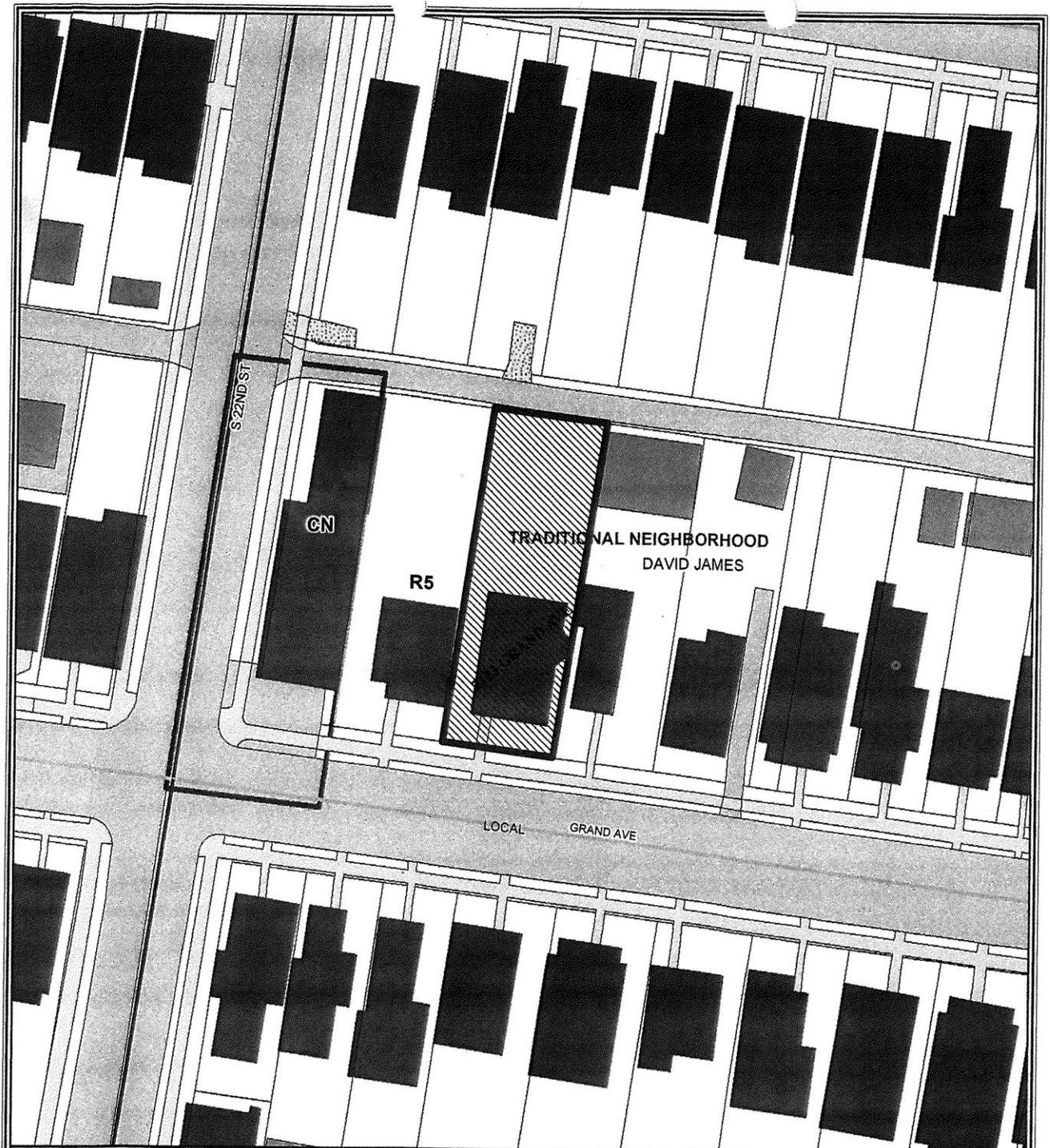
### NOTIFICATION

Date	Purpose of Notice	Recipients
3.28.14	Sign Posting	Neighbors
3.21.14	Postcards Ready	1 <sup>st</sup> tier APO Interested Registered Parties
3.28.14	Legal Advertisement	Community Wide
5.15.14	Email Notices	Interested Registered Parties
5.20.14	Sign Posting	Neighbors

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Nonconformance Letter
4. Appellant's Justification
5. Affidavits
6. Staff Directory Research
7. **April 7, 2014 BOZA Minutes**
8. **Letter from Joseph Debow**
9. **PVA Sheet**
10. **Louisville Division of Fire Letter**
11. **Appellant's Affidavit**
12. **Affidavits submitted on May 19, 2014**





R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
R-1 RES. S.FAM.	R-5A RES. M-FAM.	OR-2 OFF./RES.	C-2 COMM.	M-3 IND.	W-2 WATERFRONT
R-2 RES. S.FAM.	R-5B TWO-FAM.	OR-3 OFF./RES.	C-3 CBD	CRO CRO. REVIEW OV	W-3 WATERFRONT
R-3 RES. S.FAM.	R-6 RES. M-FAM.	OTF OFF./TOUR	C-M COMM. MAN.	PRO PLAN. RESEARCH	WRO WATER. REVIEW OV.
R-4 RES. S.FAM.	R-7 RES. M-FAM.	C-N NEIGH. COMM.	EZ-1 ENTERPRISE	PEC PLAN. EMP. CEN.	



**Zoning District Map**  
 Louisville/Jefferson Metro Government  
 Planning and Design  
 Services

**14APP1002**  
**APPEAL**  
 Scale: 1:653 Date: 02/25/2014





R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
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R-3 RES. S.FAM.	R-6 RES. M-FAM.	OTF OFF./TOUR	C-M COMM. MAN.	PRO PLAN. RESEARCH	WRO WATER. REVIEW OV.
R-4 RES. S.FAM.	R-7 RES. M-FAM.	C-N NEIGH. COMM.	EZ-1 ENTERPRISE	PEC PLAN. EMP. CEN.	



**Zoning District Map**  
 Louisville/Jefferson Metro Government  
 Planning and Design  
 Services

**14APP1002  
 APPEAL**

Scale: 1:311 Date: 02/25/2014



DEPARTMENT OF CODES & REGULATIONS  
DIVISION OF PLANNING & DESIGN SERVICES

LOUISVILLE, KENTUCKY

GREG FISCHER  
MAYOR

YU "EMILY" LIU, AICP  
DIRECTOR

February 7, 2014

Mr. & Mrs. Russell Patrick  
122 North 42<sup>nd</sup> Street  
Louisville, Kentucky 40212

Re: Case # 14Nonconforming1000  
2123 Grand Avenue

Dear Mr. & Mrs. Patrick,

This letter will serve notice that nonconforming use rights have not been established for the property mentioned above for three dwelling units.

The submitted information and the research conducted by staff does not result in a continuous timeline from 1971 to the present showing three units at this property.

Staff's conclusion can be appealed by any interested party to the Board of Zoning Adjustment within 30 days, pursuant to Kentucky Revised Statutes, Section 100.257.

Sincerely,



Steve Hendrix  
Planning Supervisor, Codes & Regulations

Cc:

April Robbins, Zoning Supervisor, Codes & Regulations  
George Pate, Plan Review Supervisor, Codes & Regulations

[www.louisvilleky.gov](http://www.louisvilleky.gov)

METRO DEVELOPMENT CENTER 444 S. FIFTH STREET, STE 300, LOUISVILLE, KENTUCKY 40202 502.574.6230 FAX 574.8129

Feb. 20, 2014

To: Officers of the Zoning Board

My husband (Russell Patrick) and I (Harriet Patrick) are asking that you reconsider your decision to deny us legal non-conforming status.

If you would allow I would like to tell you a little about us. Russell Patrick (age 79) retired with a medical disability from Metro Parks Dept. as a swimming pool maintenance supervisor for the city of Louisville and Jefferson County. He gave 30 years of service in that capacity. He would have given more, but his long term exposure to chlorine and other chemicals resulted in him having serious upper respiratory disease.

Harriet Patrick (age 67) was a hair-dresser for 20+years when she was disappointedly diagnosed with Lupus. She slowly became allergic to all chemicals in the salon. Her health continued to decline and her alternative for income became social security disability.

When we heard about this auction taking place at 2123 Grand Ave., It seemed like the ideal opportunity for us, so we decided to participate. What caught our eye was the sign in the yard that read:

" AUCTION !!! AS IS CONDITION!!!, INCOME POTENTIAL!!!

As stated in our previous letter we got the bid. We preceded to find a lender. The lender {Bank of Louisville} had their appraiser come out and do an appraisal. He used other multi-family dwellings, in a certain radius, as comps. One I remember in particular was at Cecil and Greenwood. We were approved for the loan and passed all necessary inspections.

This all took place in late summer 1993. When we put out the for rent signs, we were sure we were operating in the confines of the law. We were not trying to hide anything because it was obvious this was a multi-family dwelling and the auction sign said it had income potential.

It is a severe shock to us that for twenty-one years we have been operating without proper zoning compliance. Russell and I have never been cited for anything . We carry a commercial insurance policy on the property, and we pay the property taxes. When the tenants have an issue, we address them without delay.

We are both in ill health now, unable to properly care for the property. This is unfair to the families that reside there. We have someone who is very interested in purchasing this property. We are asking that you please take our position in consideration and allow us to obtain the zoning requirement necessary for this sale to go through.

Respectfully,

Russell & Harriet Patrick

RECEIVED

FEB 21 2014

PLANNING &  
DESIGN SERVICES

VLADEKAL 1000

1-12-14

My family moved to  
2208 Grand Ave in the late  
40's. My parents George and  
Pearly Burks who are deceased.  
And I Armita Burks-Wingfield  
Still lives here today.

2123 Grand Ave. had rented  
rooms to men and very few  
kids stayed there,

RECEIVED

JAN 24 2014  
PLANNING &  
DESIGN SERVICES

Armita Burks-Wingfield

P.S.

I can be reached by phone  
502) 778-5614 or mail 2208  
Grand Ave. 40210

1.15.14

Adriene R. Taylor, NP

EXPIRES: 2.25.2015

~~Adriene R. Taylor, NP~~

14NONCONFORM1000

In the late 1960s part of  
of the seventies, 2123 Grand Ave  
was a multi-family dwelling  
we call it the white house  
the people who live there  
were friendly and kept to  
themselves, the property was  
always kept very clean  
I lived at 2201 Grand Ave since  
1965 to 1985  
I live at 1834 Grand

Teroy Duncan

J. 10.2014

My Grand mother Florence  
Jackson, own the house

1.15.14

RECEIVED

JAN 24 2014

PLANNING &

DESIGN SERVICES

EXPIRES: 2.25.2015

Adriene R. Taylor, NP  
~~NP~~, NP  
14NONCONF05EM1000

1-15-14

In the late sixties + early seventies  
my father, Mr. Edward Teran, owned  
and operated a soul food restaurant  
at 2129 Grand Ave. One of his  
employees rented a room at  
2123 Grand Ave.

RECEIVED

JAN 24 2014  
PLANNING &  
DESIGN SERVICES

*Emma Teran*

(502) 408-0594

1.15.14

EXPIRES: 2.25.2015

Adriene R Taylor  
NP

~~NP~~

14NON CONFORM 1000

Feb 19, 2014

To whom ever this may concern,  
my name is Demisha Mills,  
and my family has lived in this  
Neighborhood for over 50 years.  
We live at 2217 Grand Ave. I  
can certainly verify that 2123  
Grand Ave. has always been a  
Multi-family dwelling house  
hold. There were families living  
in the basement, middle, and  
up stairs levels of the home.  
For more information I can  
be reached at (502) 776-1170

Thank you,  
Demisha Mills

2-19-14

~~NP~~

RECEIVED

FEB 21 2014  
PLANNING &  
DESIGN SERVICES

expires: 2-25-2015

1964

14APPEAL1002

Feb 19, 2014

My name is Allie Quarks.  
2123 Grand is a big house. I don't  
know how many rooms, but I do  
know a lot of different people have  
lived there over the years. I  
know a couple of people who rented  
there and lived there for quite some  
time. My address is 2223 Grand Ave,  
I have lived here since 1980 and I  
am 65 years old. Reach me at  
(502) 774-4122.

Allie Quarks

2.19.14

~~XXXXXXXXXX~~

EXPIRES: 2.25.2015

1980

RECEIVED

FEB 21 2014  
PLANNING &  
DESIGN SERVICES

14APPEAL1002

RECEIVED

FEB 21 2014  
PLANNING &  
DESIGN SERVICES

Feb 18, 2014

I grew up at 2116 Grand Ave.

Right across the street from 2123

Grand Ave, the Bush family on speaking

terms only, maybe a wave or two in

passing. I do know Mr. Bush rented

out rooms mostly to men. But

when he died around early 80's I

think his wife stopped and just rented

the basement apartment to a family

That's the best I can remember. I

think they still rent the apartments

~~NP~~  
2.18.14  
NP  
EXPIRES: 2.25.2015  
Richard M. Bar Jr  
502.224.5420

14APPEAL1002

Feb. 16, 2014

To Whom it may concern:

My name is Cheryl Spence Nickerson. As a young child, I grew up at 2119 Grand Avenue. My father James Spence, were neighbors with the Bush's. They talked across the back fence a lot. There have always been multi-families living at 2123 Grand Avenue.

My father told me once that the Bush's paid for their kids college with the rent money they received from their tenants. I still live at 2119 Grand Avenue, Lou, Ky. 40210. I can be reached at 502 712-7287.

Sincerely,  
by: Cheryl Spence Nickerson

2.16.14  
~~NP~~

EXPIRES: 2.25.2015

RECEIVED  
FEB 21 2014  
PLANNING &  
SERVICES  
+APPEAL1002  
TIME  
FRAME  
answered  
1978



**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 7, 2014**

**NEW BUSINESS:**

**CASE NO. 14APPEAL1002**

**Appellant:** Russell & Harriet Patrick  
122 N. 42<sup>nd</sup> Street  
Louisville, Kentucky 40212

**Subject:** An Appeal of a determination issued by the Department of Codes and Regulations concerning non-conforming use right for a multi-family structure with 3 units.

**Premises affected:** On property known as 2123 Grand Avenue and being in Louisville Metro.

**COUNCIL DISTRICT 6—David James**  
**Staff Case Manager: Steve Hendrix, Planning Supervisor**

**Appearances Opposing the Appeal:**  
Joseph Debow, 2116 Grand Avenue, Louisville, Kentucky 40210.

Phyllis Smith, 2128 Grand Avenue, Louisville, Kentucky 40210.

**Appearances Interested Party:**  
No one.

**Appearances in Support of the Appeal:**  
Russell & Harriet Patrick, 122 N. 42<sup>nd</sup> Street, Louisville, Kentucky 40212.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the office of Planning & Design Services, located at 444 South Fifth Street, Louisville, Kentucky.

A determination letter was issued by the Department of Codes and Regulations concerning non-conforming use rights for 3 apartments was sent to the owner of the subject property. The owners and appellant filed an appeal of this action on February 21, 2014.

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 7, 2014**

**NEW BUSINESS:**

**CASE NO. 14APPEAL1002**

On April 7, 2014, at a meeting of the Board, a hearing was held on the case. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

In accordance with the Board Bylaws, the staff report prepared for this case was incorporated into the record. The Board members had received this report in advance of the hearing and it was available to any interested party prior to the public hearing. See Addendum for staff report in full.

The recording of this hearing will be found on the DVD of the April 7, 2014 proceedings.

**SUMMARY OF STAFF PRESENTATION:**

Staff case manager, Steve Hendrix gave a brief presentation of the case to the Board, which included a PowerPoint presentation. He said the subject structure was built in 1910 and now contains three separate dwelling units. Since the property is within the former city, June 16, 1971 would be the year used to determine if non-conforming rights exist since zoning mistakenly didn't exist in the city this date. Mr. Hendrix said the Caron's directory lists only one family name from 1971 to 1991, but subsequent entries note earlier years of occupancy. The Property Valuation Administration (PVA) lists the property as a single family dwelling; and is zoned R-5, Residential Single Family. Mr. Hendrix said he received numerous affidavits that explain that separate dwelling units did exist and were being rented since the 60's and 70's.

**SUMMARY OF TESTIMONY OF OPPONENTS:**

Joseph Debow said his parents purchased the home he currently lives in the 60's, when he was just 13. He said he only knew of one lady that lived in the subject home for many years; and the neighborhood was quiet and peaceful. He said the property was auctioned at a very low price; and now has 3 apartment units. He said he has to wait till someone moves to park on the street; and that people even block the street so no one can get through. Mr. Debow said they have 10-20 people in the yard during the holidays; and the neighborhood has become unruly. Mr. Debow said the new owner offered him \$50.00 to sign an affidavit that the property has had 3 units since the 60's or 70's.

Phyllis Smith she has lived in her house for 32 years; and that the previous owner, Mrs. Bush, invited her into her home where she noticed stairs going up to

**MINUTES OF THE MEETING  
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**APRIL 7, 2014**

**NEW BUSINESS:**

**CASE NO. 14APPEAL1002**

the second floor. Ms. Smith said parking is bad and that she has a handicapped parking space that the tenants use unlawfully.

One of the Board members questioned why Mr. Debow's brother signed an affidavit stating that the house was used as a rental property. Mr. Debow said his brother is not in good terms with the family; and hasn't lived in this house since the 70's.

Chair Proffitt asked Ms. Smith about all the other affidavits stating that the property has been used for rental units. Ms. Smith said she has only seen one older woman live there and that her daughter's would come and visit on Sunday's. Member Liggin asked Ms. Smith if the appellant asked her to sign an affidavit for \$50.00. Ms. Smith said no. Ms. Smith concluded that the neighborhood has become unpleasant to live in with not enough parking; and people throwing trash into her yard.

**SUMMARY OF TESTIMONY OF INTERESTED PARTIES:**

No one spoke as an interested party.

**SUMMARY OF TESTIMONY OF APPELLANT(S):**

Harriet Patrick, the owner of the property, said there are only two cars from people that rent from her. She said she canvassed the neighborhood to get information, but never offered anyone any money. Chair Proffitt asked why there are only two meters since there are three apartment units. Ms. Patrick said there used to be radiator heaters and she upgraded the heating and air and is when LG&E added the second meter. She said LG&E wouldn't give her any information prior to her purchasing the property to verify three separate dwelling units. She said the property was auctioned as "Income Potential". The Board asked many questions regarding access to the three apartments. Ms. Patrick said she bought it as is, with separate access to each apartment. Member Tharp asked how she came in contact with Mr. Debow's brother to sign the affidavit. Ms. Patrick said she thought he lived with his brother and was on their porch.

Russell Patrick said everything his wife has said is true. Member Liggin asked if the property has always been insured as commercial. Mr. Patrick said no, but after they bought it, insured it as commercial. Mr. Patrick said they've made the house look nice by installing new windows and doors; and said they even pick up trash in the area. Mr. Patrick said he thinks Mr. Debow has got the wrong house

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from where trouble has arisen. He said that he has COPD and his wife has Lupus, and they need to sell the property for these health reasons. Ms. Fishman asked Ms. Patrick about gathering information from LG&E. Ms. Patrick submitted a letter from LG&E into the record. Chair Proffitt said the letter is just a transfer of service. Member Fishman asked again if they could get records from LG&E. Mr. Hendrix interjected and said they won't even give Planning & Design records of this type.

**REBUTTAL:**

Mr. Debow said the people that live at the subject property have a lot of company with numerous cars.

**BUSINESS SESSION:**

Member Allendorf said there are 7 affidavits stating that the property was used as multi-family residential back to the 60's and 70's; but two people here say it has not. He said the stairs to the upper unit look relatively old. He said the Louisville Fire Department wouldn't have any records. He said he realizes there are contract issues, but was auctioned as an "income potential" property so feels it is multi-family residential.

Member Tharp said there was only one gas meter until the appellant's bought the property from auction; and realize they've made some improvements to the property adding new HVAC; new windows and doors, but still feels it's a single family home.

Member Fishman said the people that signed the affidavits stated that they used to rent out rooms in the house, but the appellant doesn't have any information to prove this. She said the owners also pay for the heat and electric, so there wouldn't be any separate bills for proof. She said she understands they bought this at auction assuming it was multi-family residential; and the only proof the Board could rely on is the affidavits.

Member Liggin said a lot of people rented out rooms in large homes to help pay bills. He said he believes it was sold to the owners as apartments; and also knows that the opposition wants the home back to single family.

Chair Proffitt said he could believe both sides considering the affidavits and testimony. He said the only thing he feels the Board can rely on is the

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**APRIL 7, 2014**

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**CASE NO. 14APPEAL1002**

information in the Caron's Directory. He said the appellant's need to produce more concrete evidence such as a cancelled check from a tenant or anything else that might persuade him otherwise.

Jon Baker, the Board's legal counsel, said it is the appellant's job to prove that the property has been used as multi-family residential since 1971; and according to the Board, haven't produced enough evidence. He said information in the Caron's Directory is based on voluntary information; and suggested giving the appellant more time to gather more information. Chair Proffitt said they could get previous renters to testify and the Bush family.

**BACK INTO PUBLIC HEARING:**

Chair Proffitt asked Ms. Patrick if it would give her enough time if they continued to May 19, 2014. Ms. Patrick said the Bush family has died off; and this is all they can do. Chair Proffitt said they should make an attempt.

**BACK INTO BUSINESS SESSION:**

After the public hearing in open business session, Member Liggin made a motion to approve the appeal, establishing non-conforming use rights for a three-plex based on information in the affidavits; and was seconded by Member Fishman.

**The vote was as follows:**

**YES: Members Fishman, and Liggin.**

**NO: Members Proffitt and Tharp.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe.**

**ABSTAINING: Member Allendorf.**

**The motion died for lack of majority.**

**DISCUSSION:**

Member Liggin feels they've done their due diligence. One of the affidavits states that someone rented there in 1965 and in the 80's. Chair Proffitt said he still feels there is not enough information to make a proper decision. Member Liggin said it was sold to the owners' as multi-family and is unfair if the Board votes otherwise. Chair Proffitt said they have to go by the law; and reiterated that the Caron's Directory is really the only thing they have to rely on.

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**APRIL 7, 2014**

**NEW BUSINESS:**

**CASE NO. 14APPEAL1002**

After the discussion, Member Liggin made a motion to approve the appeal, establishing non-conforming use rights for 3 apartments based on the affidavits and testimony; and was seconded by Member Fishman.

**The vote was as follows:**

**YES: Members Fishman, and Liggin.**

**NO: Members Proffitt, Allendorf and Tharp.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe.**

**ABSTAINING: No one.**

**DISCUSSION:**

Chair Proffitt said they could now either make a motion to deny or continue the case.

After the discussion, in open business session, on a motion by Member Fishman, seconded by Member Liggin the following resolution was adopted:

**RESOLVED**, the Board does hereby **CONTINUE** Case No. 14APPEAL1002 to **JUNE 2, 2014**, to allow the appellant more time to obtain more concrete evidence to support approving the appeal. The appellant shall also submit this information to staff by May 19, 2014.

**The vote was as follows:**

**YES: Members Proffitt, Fishman, Tharp, Allendorf and Liggin.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe.**

**ABSTAINING: No one.**

RE: PROPERTY LOCATED AT: 2123 GRAND AVE., LOUISVILLE, KY. 40210

I, JOSEPH DEBOW, HAVE BEEN IN TOUCH WITH THE PREVIOUS OWNERS OF 2123 GRAND AVE. & THEY WILL VERIFY THAT THE PROPERTY HAVE ALWAYS BEEN A SINGLE DWELLING & HAVE NEVER BEEN RENTED OR BOARDED OUT, UNTIL AFTER IT WAS SOLD AT AUCTION.

JOSEPH S. BUSH, WHO RESIDES AT, 3744 GLENMEAD, LOUISVILLE, KY. 40218 IS THE SON OF MRS. BUSH, WHO LIVED AT, 2123 GRAND AVE. HIS PHONE NUMBER IS: 238-2581. JOSEPH BUSH'S DAUGHTER, GRETCHEN, WILL ALSO VERIFY THIS INFORMATION. HER PHONE NUMBER IS: 721-0103.

  
JOSEPH DEBOW

PS: I GAVE THIS INFORMATION TO , STEVE HENDRICKS, AFTER THE HEARING ON, MONDAY, APRIL 7, 2014.

RECEIVED  
APR 21 2014  
PLANNING &  
DESIGN SERVICES



TONY LINDAUER  
PROPERTY VALUATION ADMINISTRATOR  
JEFFERSON COUNTY, KY

**Owner Information**

PATRICK, RUSSELL V & HARRIET L

120 N 42ND ST

LOUISVILLE, KY. 40212-2606

**Assessment Info**

Land: \$2,500.00  
Improvement: \$36,140.00  
Total: \$38,640.00

Assessed Year: 2013

**Property Information**

Parcel ID: 038F - 0116 - 0000

Property Location: 2123 GRAND AVE

Parent Parcel: 07

GIS Acres: 0.13970

Property Class: R - Res 1 Family Dwelling

Homestead:

**District Information**

Satellite City: N

Neighborhood: 106107

School District:

Fire District: 23

Old District: 07

**Character Information**

Year Built: 1910

Finished Sq Feet: 2304

Construction Type: 2.0 STORY

Wall Type: FRAME

Bathrooms: 1.5

Central Air: YES

Basement: FULL

Fireplaces: NONE

Garage Type: NONE

Garage Size: NONE

**Transfer History**

Owner:	Previous Owner:	Deed Book/Page:	Sale Date:	Sale Price:
PATRICK RUSSELL V & HARRIET L	BUSH JOSEPH S	6338 - 0591	7/29/1993	\$31,680.00
BUSH JOSEPH S	BUSH JAMES R & HELEN	6301 - 0962	4/27/1993	\$33,690.00

\*The property data does not supersede deed records and should not be used for purposes other than general property reference and identification.

## Thomas, Regina

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**From:** Scrivener, Drane  
**Sent:** Tuesday, May 20, 2014 9:37 AM  
**To:** Thomas, Regina  
**Cc:** Sheehan Sr., Thomas  
**Subject:** 2123 Grand

Ms. Thomas

I visited the property at 2123 Grand last Friday for Captain Tom Sheehan. The property is a 3-plex apartment building with no common areas. The basement unit is a full 2 bedroom apartment with 2 exits out of the basement. The 1<sup>st</sup> floor unit has a front/rear exit . The 2<sup>nd</sup> floor unit has an exterior entrance on the side.

- The tenant on the 1<sup>st</sup> floor indicated she had been living there for 6 years and her neighbors may have been there for about 5 years.
- Our office did not have a previous file on this property. Hope this information helps.

*Sergeant Drane Scrivener  
Fire Inspector I  
Louisville Division of Fire  
O- 502-574-2956  
C- 502-817-2375  
1135 W. Jefferson Street  
Louisville, KY 40203*

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Facebook



BOARD OF ZONING ADJUSTMENT  
CASE NO. 14Appeal1002  
PROJECT NAME: Non-Conforming Use  
LOCATION: 2123 Grand Avenue  
OWNER/APPELLANT: Russell and Harriet Patrick  
CASE MANAGER: Steve Hendrix, Planning Supervisor

RECEIVED  
MAY 19 2014  
5/19/14  
PLANNING &  
DESIGN SERVICES

AFFIDAVIT

Comes the Affiants, Russell V. and Harriet L. Patrick, his wife, and after being duly sworn states as follows:

1. That these Affiants currently reside at 122 North 42<sup>nd</sup> Street, Louisville, Kentucky 40212.
2. That we purchased the real estate and improvements thereon at 2123 Grand Avenue, Louisville, Kentucky 40210, on July 28, 1993, from Joseph S. Bush and Gloria Bush, his wife.
3. That we purchased the subject property at a public auction which was held on site. That the advertisement for the auction described the property to be sold "As is, income potential."
4. That prior to the auction our inspection of the premises revealed that each room in the house was separately locked with a deadbolt. Additionally the door at the top of the staircase from the first floor to the second floor had a deadbolt on each side indicating that the second floor premises could be completely closed off from the first floor premises by simply locking the two (2) deadbolts on either side of the staircase door. That we were told by the representative of the auctioneer that the property had been used as a multi family unit.
5. That we immediately utilized the premises as a tri-plex renting the first floor premises as Apartment No. 1, the basement premises as Apartment No. 2, and the second floor premises as Apartment No. 3. That we have maintained these three (3) separate units from July or August 1993 to the present.
6. The first floor premises or Apartment No. 1 is accessed by the door on the front porch and has a back door with ingress and egress to the back porch and back yard. The basement premises or Apartment No. 2 has ingress and egress from both a side door and a rear door which provides ingress and egress to the back yard. The second floor premises or Apartment No. 3 has ingress and egress from a side door. In addition, Apartment No. 3 has access to a large back porch through a permanent door and that porch has an emergency exit ladder.
7. That we have been advised by a number of neighbors that the subject property has always been maintained as a three (3) plex or a rooming house with more than three (3) separate units since 1970.

Received: May 19, 2014

14appeal1002

Further, Affiants sayeth naught.

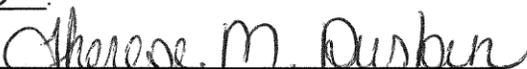
  
RUSSELL V. PATRICK

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

Subscribed and sworn to before me by Russell V. Patrick this 19 day of May, 2014.

My Commission expires: 10-8-2015

  
NOTARY PUBLIC, STATE AT LARGE, KY

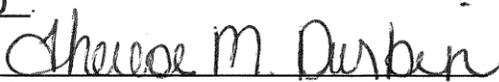
  
HARRIET L. PATRICK

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

Subscribed and sworn to before me by Harriet L. Patrick this 19 day of May, 2014.

My Commission expires: 10-8-2015

  
NOTARY PUBLIC, STATE AT LARGE, KY

Received: May 19, 2014

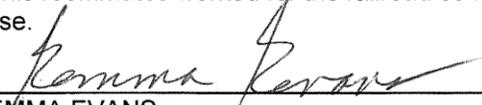
14appeal1002

BOARD OF ZONING ADJUSTMENT  
CASE NO. 14Appeal1002  
PROJECT NAME: Non-Conforming Use  
LOCATION: 2123 Grand Avenue  
OWNER/APPELLANT: Russell and Harriet Patrick  
CASE MANAGER: Steve Hendrix, Planning Supervisor

AFFIDAVIT

Comes the Affiant, Emma Evans, and after being duly sworn states as follows:

1. That my father, Edward Evans, owned and operated a soul food restaurant called Evans' Soul Food Restaurant at 2129 Grand Avenue in the late 1960s and early 1970s. This restaurant was located on the corner of 22<sup>nd</sup> and Grand Avenue about three doors from the property located at 2123 Grand Avenue.
2. That one of my father's employees, a man named either Jeffrey Williams or William Jeffreys, rented an apartment at the property known as 2123 Grand Avenue. The employee rented this apartment from the late 60's into the early 70's. I heard this employee mention the fact that several of his roommates worked for the railroad so I know he had other roommates in that house.

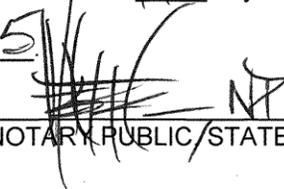
  
EMMA EVANS

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

Subscribed and sworn to before me by Emma Evans this 14<sup>th</sup> day of May, 2014.

My Commission expires: 2.25.2015

  
NOTARY PUBLIC, STATE AT LARGE, KY

Received: May 19, 2014

14appeal1002

BOARD OF ZONING ADJUSTMENT  
CASE NO. 14Appeal1002  
PROJECT NAME: Non-Conforming Use  
LOCATION: 2123 Grand Avenue  
OWNER/APPELLANT: Russell and Harriet Patrick  
CASE MANAGER: Steve Hendrix, Planning Supervisor

AFFIDAVIT

Comes the Affiant, Allie Quarls, and after being duly sworn states as follows:

1. My name is Allie Quarls and I am 65 years of age. I live at 2203 Grand Avenue. I have lived there since 1970.
2. That the property known as 2123 Grand Avenue is a big house and rooms were rented out to different people over the years.
3. That I knew a couple of people who rented rooms at 2123 Grand Avenue.
4. There were always more than three (3) rental units in this house from 1970 to the present.

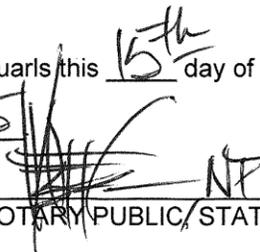
  
ALLIE QUARLS

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

Subscribed and sworn to before me by Allie Quarls this 15<sup>th</sup> day of May, 2014.

My Commission expires: 2-25-2015

  
NOTARY PUBLIC, STATE AT LARGE, KY.

Received: May 19, 2014

14appeal1002

BOARD OF ZONING ADJUSTMENT  
CASE NO. 14Appeal1002  
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LOCATION: 2123 Grand Avenue  
OWNER/APPELLANT: Russell and Harriet Patrick  
CASE MANAGER: Steve Hendrix, Planning Supervisor

AFFIDAVIT

Comes the Affiant, Leroy Duncan, and after being duly sworn states as follows:

1. That I lived at 2201 Grand Avenue from 1965 to 1985.
2. That I now live at 1834 Grand Avenue. My grandmother, Florence Jackson, owns the property at 1834 Grand Avenue.
3. In the late 1960s and much of the 1970s, 2123 Grand Avenue was always a multi-family dwelling. We called it the white house.
4. The people who lived there were friendly and kept to themselves. The property was kept very clean.

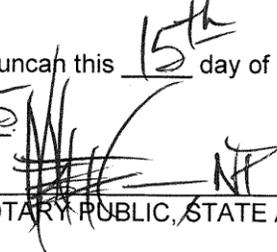
  
\_\_\_\_\_  
LEROY DUNCAN

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

Subscribed and sworn to before me by Leroy Duncan this 15<sup>th</sup> day of May, 2014.

My Commission expires: 2.25.2015

  
\_\_\_\_\_  
NOTARY PUBLIC, STATE AT LARGE, KY.

Received: May 19, 2014

14appeal1002

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CASE MANAGER: Steve Hendrix, Planning Supervisor

AFFIDAVIT

Comes the Affiant, Anita Burks Wingfield, and after being duly sworn states as follows:

1. That my family moved to 2208 Grand Avenue in the late 1960s. My parents, George and Pearly Burks, who are now deceased, lived with me at 2208 Grand Avenue.
2. That presently I still live at 2208 Grand Avenue.
3. That all during the time I have lived at 2208 Grand Avenue there were more than three (3) different people or men that lived in the house at 2123 Grand Avenue.

  
ANITA BURKS WINGFIELD

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

Subscribed and sworn to before me by Anita Burks Wingfield this 16<sup>th</sup> day of May, 2014.

My Commission expires: 2-25-2015

  
NOTARY PUBLIC, STATE AT LARGE, KY.

Received: May 19, 2014

14appeal1002

BOARD OF ZONING ADJUSTMENT  
CASE NO. 14Appeal1002  
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LOCATION: 2123 Grand Avenue  
OWNER/APPELLANT: Russell and Harriet Patrick  
CASE MANAGER: Steve Hendrix, Planning Supervisor

AFFIDAVIT

Comes the Affiant, Richard De-Bow, Sr. and after being duly sworn states as follows:

1. That I was born on February 13, 1953, in Louisville, Kentucky. That I lived at 2116 Grand Avenue which is right across the street from 2123 Grand Avenue from the time I was born until 1992.
2. The Bush family who lived at the property known as 2123 Grand Avenue rented out rooms mostly to men; the house was divided into at least three (3) separate units from 1970s to the present.
3. Mr. Bush died in the early 1980s and his wife stopped renting rooms to men and rented the basement apartment and another apartment to separate families.

  
RICHARD DE-BOW, SR.

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

Subscribed and sworn to before me by Richard De-Bow, Sr. this 16<sup>th</sup> day of May, 2014.

My Commission expires: 2-25-2015

  
NOTARY PUBLIC, STATE AT LARGE, KY.

Received: May 19, 2014

14appeal1002

BOARD OF ZONING ADJUSTMENT  
CASE NO. 14Appeal1002  
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CASE MANAGER: Steve Hendrix, Planning Supervisor

AFFIDAVIT

Comes the Affiant, Demisha Mills, and after being duly sworn states as follows:

1. That my family and I live at 2217 Grand Avenue. We have lived in this neighborhood for over 50 years.
2. That I can verify that the property known as 2123 Grand Avenue has always been a multi-family dwelling at least three (3) separate rental units.
3. That families lived in the basement, middle and upstairs levels at the property known as 2123 Grand Avenue from the mid 70's to the present.

*Demisha Mills*  
\_\_\_\_\_  
DEMISHA MILLS

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

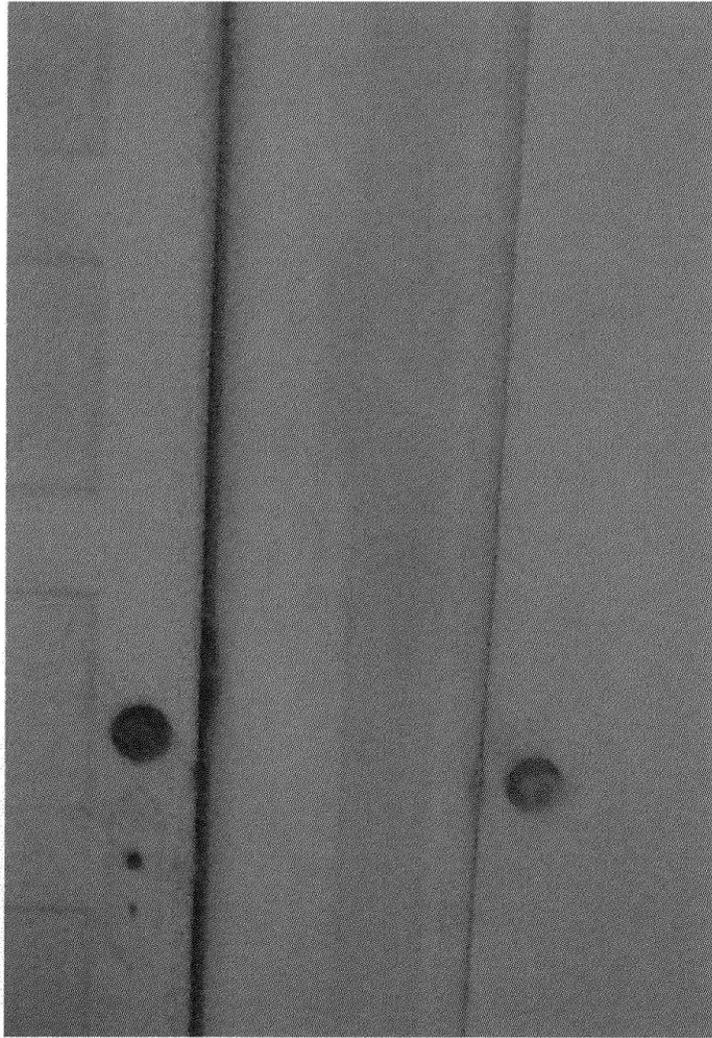
Subscribed and sworn to before me by Demisha Mills this 14<sup>th</sup> day of May, 2014.

My Commission expires: 2-25-2015

*[Signature]*  
\_\_\_\_\_  
NOTARY PUBLIC, STATE AT LARGE, KY.

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14appeal1002



2123 Grand Avenue - Deadbolts on inside doors. There were deadbolts on almost all rooms when property was purchased in 1993

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14appeal1002



2123 Grand Avenue-Entrance to Unit No. 1

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14appeal1002



2123 Grand Avenue - Entrance to Unit No. 1

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14appeal1002



2123 Grand Avenue - Entrance to Unit No. 1  
from inside apartment

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14appeal1002



2123 Grand Avenue - Back door of Unit No. 1

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14appeal1002



2123 Grand Avenue - Entrance to Unit No. 2

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2123 Grand Avenue - Backdoor entrance to  
Unit No. 2

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2123 Grand Avenue - former door from Unit  
No. 3 to Unit No. 1 (see deadbolt)

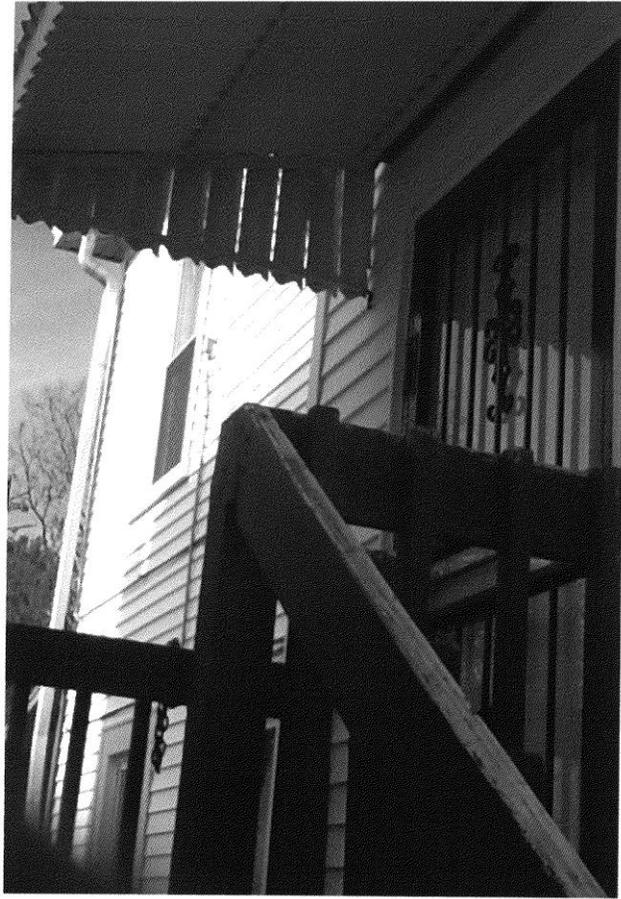
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14appeal1002



2123 Grand Avenue - Entrance to Unit No. 3  
from the inside

On left former door to Unit 1 (deadbolted  
from both sides)



2123 Grand Avenue - Entrance to Unit No. 3

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14appeal1002



2123 Grand Avenue - Entrance to Unit No. 3

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14appeal1002



2123 Grand Avenue - Entrance to Unit No. 3  
(above)  
Entrance to Unit No. 1 (below)

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2123 Grand Avenue - Living Room and former  
staircase to Unit No. 3

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2123 Grand Avenue - door from Unit No. 3 to  
backporch from inside apartment

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2123 Grand Avenue - backporch of Unit No. 3

Received: May 19, 2014

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