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130B Beach Avenue  
Mamaroneck, NY 10543

January 16, 2021

Board of Appeals  
Village of Mamaroneck

Board of Trustees  
Village of Mamaroneck

On December 18, 2020, I filed a notice of appeal challenging the Building Inspector's October 22, 2020 determination concerning how I must remedy my third-floor space in light of violations upheld by the Board of Appeals. I assume that appeal will be calendared in February but I have not received any confirmation.

New York State Village Law §7-712-a paragraph 6 provides an automatic stay of enforcement to allow appeals to be resolved administratively by the Board of Appeals before any enforcement action is taken:

Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such local law, from whom the appeal is taken, certifies to the board of appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to health or property,

in which case proceedings shall not be stayed otherwise than by a restraining order or by the board of appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

The Board of Trustees has disregarded this provision of law by adopting a motion on Monday, January 11, 2021, to promptly enforce the violations that this Board upheld. The particulars came in a letter the next day. The Village will seek both civil penalties and “an injunction prohibiting your continued use of the premises at 130 Beach Avenue.” (See enclosed letter.) My tenant and I are apparently about to become homeless during a pandemic. The stated deadline for action is January 31, 2021.

Let me make several points:

- (1) My third floor configuration has been unchanged for more than 20 years when it was approved by a prior Village Building Inspector, Len Russo, as suitable for a tenant. Two adults live peacefully in a dwelling unit of 2400 square feet presenting no public health and safety violation that would support urgent action. Were we married, nobody would question how the space was used.
- (2) I have brought an article 78 petition challenging the Board of Appeals’ determination and sincerely believe the matter is ripe for rehearing because of material errors and omissions in the original resolution.
- (3) I have submitted an appeal to the NYS Department of State on whether my third floor is a “dwelling unit ” under the NYS Building Code.

- (4) I have located records in the document portal establishing that the electrical improvements for which violations were issued had been permitted and inspected, contrary to the Building Department's claims.
- (5) I have discovered that the ZBA overlooked the fact that former Village of Mamaroneck Code Chapter 226 "Housing Standards" defined "rooming unit" and my third floor satisfied that definition when it was inspected in 2000.
- (6) At the ZBA hearing, the Code Enforcement Officer testified that all I needed to do to cure the violations was remove a lock. But the October 22, 2021 letter requires demolition of all my third floor improvements, including electrical improvements that were permitted and inspected; a sink that was inspected and fully meets code, and interior walls and doors that were part of the condo that I purchased. At the ZBA hearing, the "cure" for my violations was minor but in reality, the Building Department is requiring me to destroy all code-compliant improvements.

I understand the Village Attorney's communication to mean the Village is seeking to evict me and my tenant without regard to the pandemic; without regard to the fact that doing interior work in the time of COVID is a public health risk; and without regard to the automatic stay in place while the Board of Appeals hears and decides my appeal.

I ask you to take immediate measures to recognize that this enforcement action is automatically stayed under law.

Thank you for your urgent consideration of this request.

Sincerely yours,

Stuart Tiekert