

DOUMAR MARTIN PLLC

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June 20, 2014

VIA HAND DELIVERY/E-MAIL FILING

District of Columbia Board of
Zoning Adjustment
441 4th Street NW
2nd Floor South
Washington, D.C. 20001

**Re: Notice of Appeal and Request for Hearing - Notice to Revoke Certificates of
Occupancy to Senior Dwelling, Inc. (Certificate Nos. CO169076 and CO169061)**

Dear Sir or Madam:

Senior Dwelling, Inc. ("Senior Dwelling"), pursuant to the District of Columbia municipal regulations, files this Notice of Appeal of a notice of revocation received on April 21, 2014, and requests a hearing on this matter.

Rosemary Ogbenna, owner of Senior Dwelling, actually has never received a Notice to Revoke Licenses ("Notice") with respect to Certificate Nos. CO169076 and CO169061 (collectively, "Certificates"), which permit her to operate 223 56th Place NE and 225 56th Place NE in the District of Columbia (hereinafter collectively referred to as "223 and 225") as rooming houses, but undersigned counsel received and accepted such notice effective as of April 21, 2013. See Exhibit A. The Notice comes after months characterized at times by almost daily visits from multiple District of Columbia government officials, including a barrage of unannounced inspections by various agencies (sometimes multiple inspections on the same day) meant to harass Senior Dwelling and Ms. Ogbenna, and displace 223 and 225 residents who depend on Senior Dwelling for affordable housing.

By way of background, and as a summary of the expected testimony of Ms. Ogbenna, President of Senior Dwelling, Senior Dwelling operates rooming houses in the District of Columbia that provide affordable housing for lower income residents, including many on fixed income, some of which who are elderly veterans. These individuals do not receive services

through Senior Dwelling, however, given their age, a majority of residents receive some form of government assistance or benefits, with services being provided by various organizations in the District of Columbia unrelated to Senior Dwelling.

The Notice references a December 3, 2014 investigation that “revealed that the 223 and 225 were being operated as assisted living residences and/or community residences facilities.” Notice, p. 2. The Notice also states “it was discovered” that the residents of 223 and 225 are “provided assisted living services and supervision from outside sources unrelated to Senior Dwelling, Inc. In particular, a clinical staff provided meals and medication to the tenants.” Notice, p. 2.

As detailed fully below, it is conceded that many residents of 223 and 225 receive benefits and services from outside organizations, however, these services are not provided by Ms. Ogbenna or Senior Dwelling, and are wholly separate from their living arrangements. Ms. Ogbenna should not be penalized for providing affordable housing to District residents, simply because her tenants receive government assistance and benefits. There are many buildings in the District that house individuals that receive government assistance without subjecting their landlords to additional housing regulations. Before Senior Dwelling’s Certificates are revoked, it should have an opportunity to review the results of any purported “investigation” and be allowed to address the allegations that it is running 223 and 225 as assisted living residences (“ALR”) or community resident facilities (“CRF”).

Senior Dwelling provides an important service by providing affordable housing to elderly persons and/or veterans. Senior Dwelling obtains referrals from social service providers who are discharging residents from homes or facilities where such residents do need enhanced services, to a place where they can live independently. To the extent that any official considers that Senior Dwelling is a CRF, Senior Dwelling would limit in the future the types of residents who could be eligible to live in Senior Dwelling’s rooming houses.

A. 223 and 225 are in Full Compliance With All Applicable Building and Zoning Codes

As of March 19, 2014, a building inspector has inspected both 223 and 225 and reported there are no code violations. See Exhibit B for his report, including resume of Sheldon Faison. Various District of Columbia inspectors had visited 223 and 225 in the past, and noted violations, but Senior Dwelling corrected any violations that existed. Ms. Ogbenna

If there are any code violations, Senior Dwelling would be more than happy to correct it immediately. However, Ms. Ogbenna has a right to full disclosure regarding exactly what violations are pending against 223 and 225, a chance to correct any remaining violations, as well as an opportunity to demonstrate that both properties are in full compliance so that she may maintain the Certificates and the residents of 223 and 225 can stay in their homes.

Over the years, Senior Dwelling has cooperated with all inspections, and corrected matters brought to Ms. Ogbenna’s attention. Even when Ms. Ogbenna thought claimed

violations were incorrectly noted, or even just without basis, she still fixed the issues and cooperated with the District.

Late last year, in December 2013, given a flurry of visits, Senior Dwelling served various FOIA requests to the District government try to obtain information as to any inspections or issues. Senior Dwelling received no internal documents whatsoever, but has received this Notice in April 2014.

B. 223 and 225 Are Licensed and Operated as Rooming Houses, and Have Operated As Such

Ms. Ogbenna has obtained the appropriate rooming house license for both 223 and 225. She, through Senior Dwelling, operates both as a rooming house, defined in the District of Columbia Code of Municipal Regulations as “a building or part thereof that provides sleeping accommodations for three (3) or more persons who are not members of the immediate family of the resident operator or manager, and in which accommodations are not under the exclusive control of the occupants.” 11 DCMR §199.1. These are precisely the type of accommodations Senior Dwelling provides at 223 and 225. Each property has nine (9) rooms, shared restrooms and a shared kitchen, and a common kitchen.

The definition for ALR provided in the District of Columbia Code is clearly in contrast to the way 223 and 225 are operated. District of Columbia Code § 44-102.01 provides that ALR “means an entity, whether public or private, for profit or not for profit, that combines housing, health, and personalized assistance, in accordance to individually developed service plans, for the support of individuals who are unrelated to the owner or operator of the entity.”

Neither 223 or 225 combine “housing , health, and personalized assistance, in accordance with individually developed service plans” The residents of 223 and 225 are able to live independently and affordably at 223 and 225. Ms. Ogbenna does not operate either facility according to an individually developed service plan, and does no more than provide her tenants with an affordable place to live comfortably and independently. Neither property constitutes an ALR. Ms. Ogbenna should be given the right to demonstrate that to DCRA and keep the Certificates.

C. 223 and 225 Are Licensed and Operated as Rooming Houses and Are Not Community Residence Facilities

As stated above, Ms. Ogbenna has obtained the appropriate license to operate 223 and 225 and rooming houses and has done so for over five years in compliance with law. District of Columbia Code § 44-501 defines a Community Residence Facility (“CRF”) as “a facility that provides a sheltered living environment for individuals who desire or need such an environment because of their physical, mental, familial, social, or other circumstances, and who are not in the custody of the Department of Corrections.”

Ms. Ogbenna does not provide a “sheltered living environment” for the individual residents of 223 and 225, nor does she cater to any specific group of individuals. The residents of 223 and 225 sought out Ms. Ogbenna rooming house because she provides affordable rooms

and the ability for her residents to live independently. Many of the residents of 223 and 225 are elderly, and have limited income and cannot afford to live in an apartment of their own. At 223 and 225, they are able to enjoy the independence of having their own space on their income. As noted above, many residents receive various government benefits, however, no services are provided by Ms. Ogbenna. All residents of 223 and 225 work with outside organizations who provide various services to the residents based on their benefits.

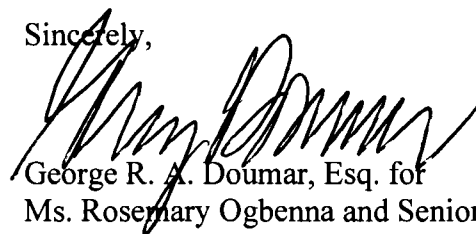
It should be noted that Ms. Ogbenna received a Notice to Revoke Licenses on March 18, 2014 with respect to License Nos. 680003734 and 680003735 (collectively, "Licenses"), which permit her to 223 and 225 as rooming houses. See Exhibit C. Ms. Ogbenna filed an appeal and requested a hearing in that matter, which is currently pending before the District of Columbia Office of Administrative Hearings.¹ DCRA is doing everything in its power to harass and put Senior Dwelling out of business. Ms. Ogbenna would like to continue operating 223 and 225, providing affordable housing to District residents in need. Ms. Ogbenna is open to restructuring the way the properties are run, and to be more conscious of the types of tenants she takes on for each property. But Senior Dwelling complies with applicable housing requirements for rooming houses.

The foregoing summarizes the expected testimony known at this time of Ms. Ogbenna, and the home inspector expert, Mr. Faison. Ms. Ogbenna reserves the right to list an additional witness, or witnesses, and to cross-examine witness from the District of Columbia government.

Based on the foregoing, Ms. Ogbenna appeals the Notice and requests a hearing on behalf of Senior Dwelling so that she can be provided with full information on the allegations in the Notice and have a chance to defend against them. Ms. Ogbenna provides affordable housing, a valuable resource, to lower income residence in the District and would like to continue to do so.

Please communicate a hearing date and time with this office at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "George R. A. Doumar". The signature is fluid and cursive, with a large, stylized "G" and "D".

George R. A. Doumar, Esq. for
Ms. Rosemary Ogbenna and Senior Dwelling, Inc.

¹ The second status conference in this matter is currently set for July 24, 2014 at 11 a.m. at the Office of Administrative Hearings, 441 4th Street, Suite 450 North, Washington DC.

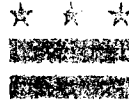
**Notice of Appeal and Request for Hearing - Notice to Revoke Certificates of Occupancy to
Senior Dwelling, Inc. (Certificate Nos. CO169076 and CO169061)**

EXHIBIT INDEX

- A. Notice to Revoke Certificates of Occupancy**
- B. Faces Inspectors Report for 223 & 225 56th Place NE Washington, DC 20019,
including resume of Mr. Faison**
- C. Notice to Revoke Licenses**

EXHIBIT A

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs
1100 4th Street S.W, 4th Floor
Washington, DC 20024



VIA PERSONAL SERVICE or
U.S. CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Senior Dwelling Inc.
Attn: Rosemary Ogbenna
223 56th Place NE
Washington, DC 20019

Senior Dwelling Inc.
Attn: Rosemary Ogbenna
225 56th Place NE
Washington, DC 20019

NOTICE TO REVOKE CERTIFICATES OF OCCUPANCY

This is official notice ("Notice") from the Department of Consumer and Regulatory Affairs ("DCRA") that Certificates of Occupancy Numbers CO169076 and CO169061 are revoked effective sixty (60) days from the mailing of this Notice.

Certificates of Occupancy Numbers CO169076 and CO169061 were issued to Senior Dwelling Inc. for 223 and 225 56th Place NE. The Certificates of Occupancy allowed the buildings to be operated as rooming houses.

Subsequent to the issuance of the Certificates of Occupancy, DCRA became aware of allegations that the buildings were being operated not as rooming houses but as community residence facilities and/or assisted living residences. A December 3, 2013 investigation confirmed that the buildings are being operated as assisted living residences and/or community residence facilities.

A facility qualifies as a community residence facility if it "provides a sheltered living environment for individuals who desire or need such an environment because of their physical, mental, familial, social, or other circumstances, and who are not in the custody

of the Department of Corrections.” D.C. Code § 44-501. Assisted living residence “means an entity, whether public or private, for profit or not for profit, that combines housing, health, and personalized assistance, in accordance to individually developed service plans, for the support of individuals who are unrelated to the owner or operator of the entity.” D.C. Code § 44-102.01.

The December 3 investigation revealed that 223 and 225 56th Place NE are being operated as assisted living residences and/or community residence facilities. It was discovered that the residents of 223 and 225 56th Place NE are provided assisted living services and supervision from outside sources unrelated to Senior Dwelling Inc. In particular, a clinical staff provided meals and medication to the tenants.

Pursuant to 11 D.C.M.R. § 3203.1, no person may use any structure for any purpose until a Certificate of Occupancy has been issued stating that the proposed use is allowable. Per 14 D.C.M.R. § 1406.1, a Certificate of Occupancy “may be revoked by the Director, after notice, if the actual occupancy does not conform with that permitted.” Based on the above described violations, DCRA has determined that the premises are not being used as provided for in the Certificates of Occupancy. Therefore, DCRA revokes Certificates of Occupancy Numbers CO169076 and CO169061. This revocation will be effective sixty days from the mailing of this Notice.

RIGHT TO APPEAL

You have the right to appeal the revocation of License Nos. 68006374 and 68006375 by filing an appeal with the District of Columbia Board of Zoning Adjustment, 441 4th Street NW, 2nd Floor South, Washington, DC 20001 within sixty (60) days of receipt of this Notice. See 11 D.C.M.R. § 3112.2; 14 D.C.M.R. § 1407; D.C. Code § 6-641.07(f). If you do not request a hearing within the time and manner specified in this notice your permit will be immediately revoked without any further written notice.

Any questions about this Notice may be directed to my office at 202-442-4652.

1/23/14
Date

Matt LeGrant
Matt LeGrant, Zoning Administrator

EXHIBIT B

FACES INSPECTORS

Inspection Report

Rosemary Ogbenna

Property Address:
223 & 225 56 th Place NE
Washington DC 20019



FACES INSPECTORS

SHELDON FAISON #30274

202 327 3276
WEB SITE FACESLLCNOW.COM

EMAIL faison@facesllcnow.com

Home



Table of Contents

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Table of Contents

Intro Page

General Summary

1 4 Point Inspection

Invoice

Attachments

Agreement

Date: 3/19/2014	Time:	Report ID:
Property: 223 & 225 56 th Place NE Washington DC 20019	Customer: Rosemyarry Ogbenna	Real Estate Professional:

Comment Key or Definitions

The following definitions of comment descriptions represent this inspection report. All comments by the inspector should be considered before purchasing this home. Any recommendations by the inspector to repair or replace suggests a second opinion or further inspection by a qualified contractor. All costs associated with further inspection fees and repair or replacement of item, component or unit should be considered before you purchase the property.

Inspected (IN) = I visually observed the item, component or unit and if no other comments were made then it appeared to be functioning as intended allowing for normal wear and tear.

Not Inspected (NI) = I did not inspect this item, component or unit and made no representations of whether or not it was functioning as intended and will state a reason for not inspecting.

Not Present (NP) = This item, component or unit is not in this home or building.

Repair or Replace (RR) = The item, component or unit is not functioning as intended, or needs further inspection by a qualified contractor. Items, components or units that can be repaired to satisfactory condition may not need replacement.

In Attendance:
Customer

Type of building:
Townhome

Approximate age of building:
Under 10 Years

Temperature:
Below 65

Weather:
Clear

Ground/Soil surface condition:
Damp

Rain in last 3 days:
Yes

Radon Test:
No

Water Test:
No

General Summary

FACES INSPECTORS

SHELDON FAISON

202 327-3276

faison@facesllcnw.com

FACESLLCNOW.COM

Customer

Rosemyarry Ogbenna

Address

223 & 225 56 th Place NE
Washington DC 20019

The following items or discoveries indicate that these systems or components **do not function as intended** or **adversely affects the habitability of the dwelling**; or **warrants further investigation by a specialist**, or **requires subsequent observation**. This summary shall not contain recommendations for routine upkeep of a system or component to keep it in proper functioning condition or recommendations to upgrade or enhance the function or efficiency of the home. This Summary is not the entire report. The complete report may include additional information of concern to the customer. It is recommended that the customer read the complete report.

1. 4 Point Inspection

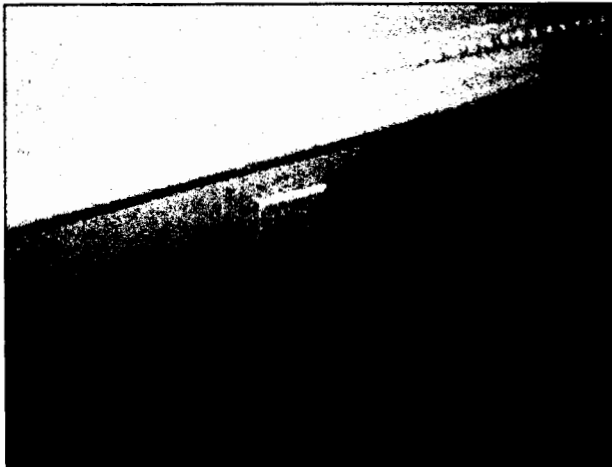
A. ELECTRICAL SYSTEM, GROUNDING, CONNECTED DEVICES and FIXTURES

Inspected

(1) Violation #2

The electrical outlets were inspected during the inspection and the damaged outlet have been replaced. No current problems were found at the time of the inspection.

1. 4 Point Inspection



A. Picture 1

(2) Violation #3

The smoke detectors were inspected in each of the two individual units and the systems are hard wired. Each unit is wired to all of the individual smoke detectors of the units. The smoke detectors worked when tested at the time of the inspection and no problems were found.



A. Picture 2

B. OTHER**Inspected**

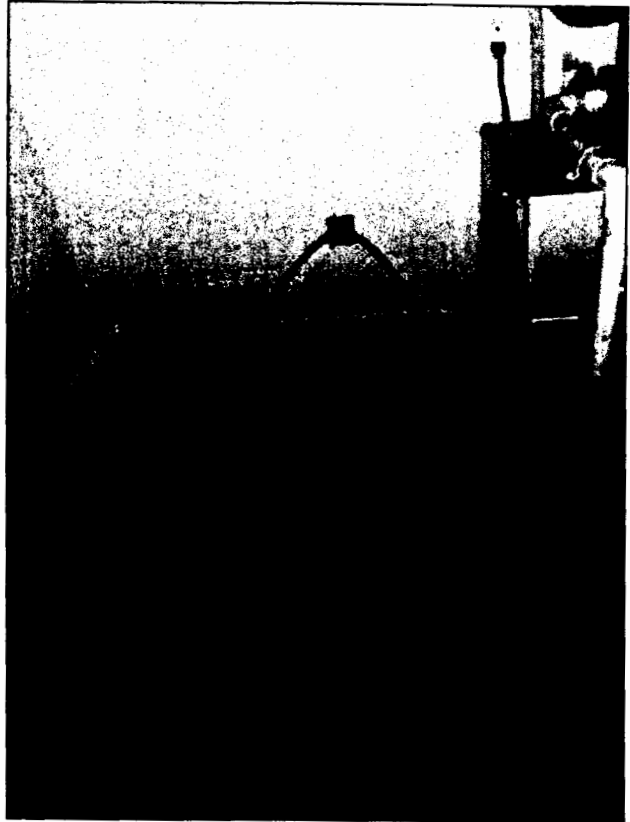
(1) Violation #3

The utility rooms were inspected in each unit at the time of the inspection and the area appears safe. No combustibles and or debris were observed. The stored items are stored to the back of the closet and do not present a hazard.

7. 4 Point Inspection



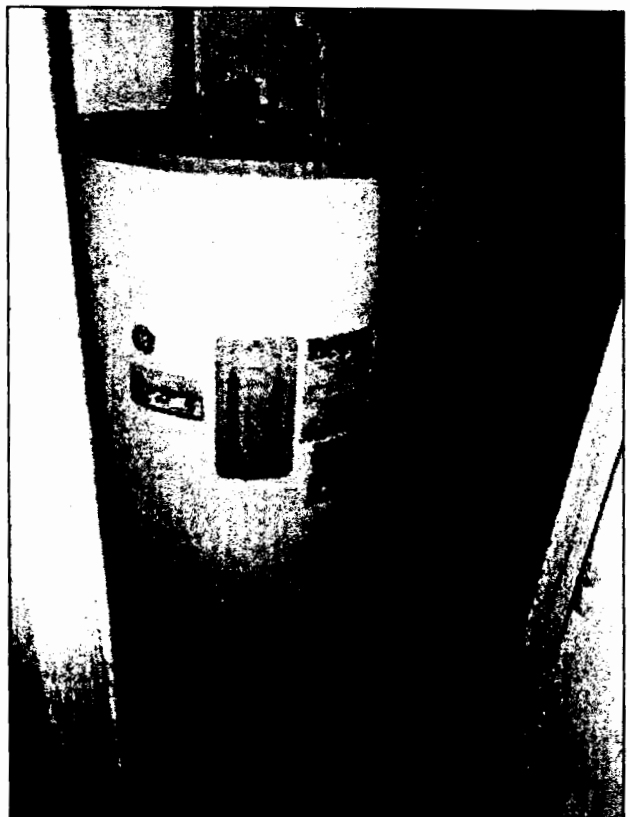
B. Picture 1



B. Picture 2



B. Picture 3

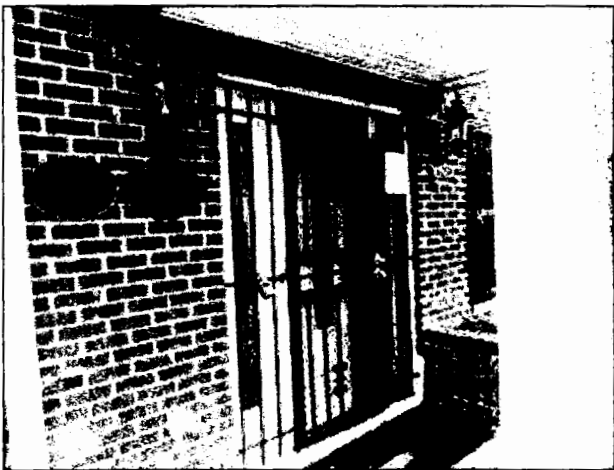


B. Picture 4

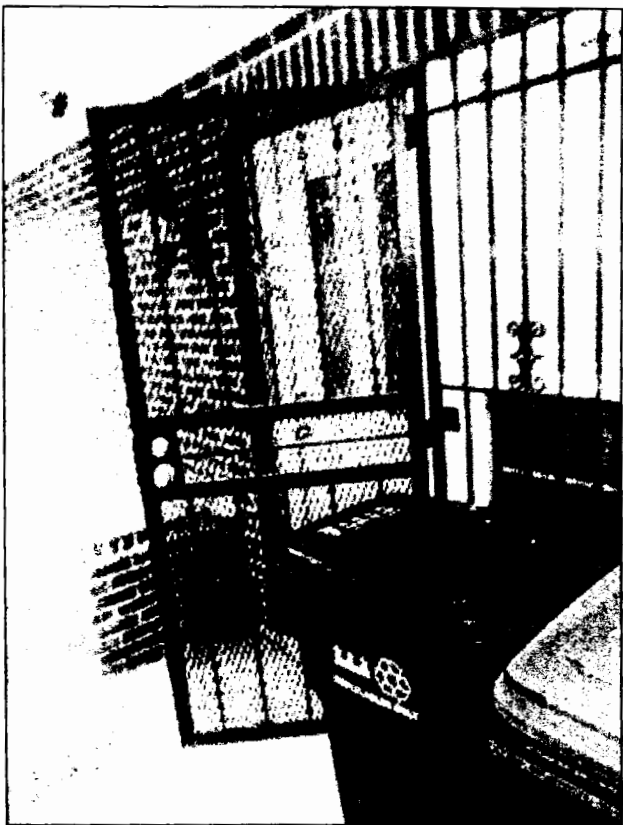
4 Point Inspection

(2) violation #

The properties have two exits present each on the main level and one exit each of the second level. The units have a total of three exits each; one at the front one at the side and one at the rear of each unit. The exits are not obstructed and can be easily existed.



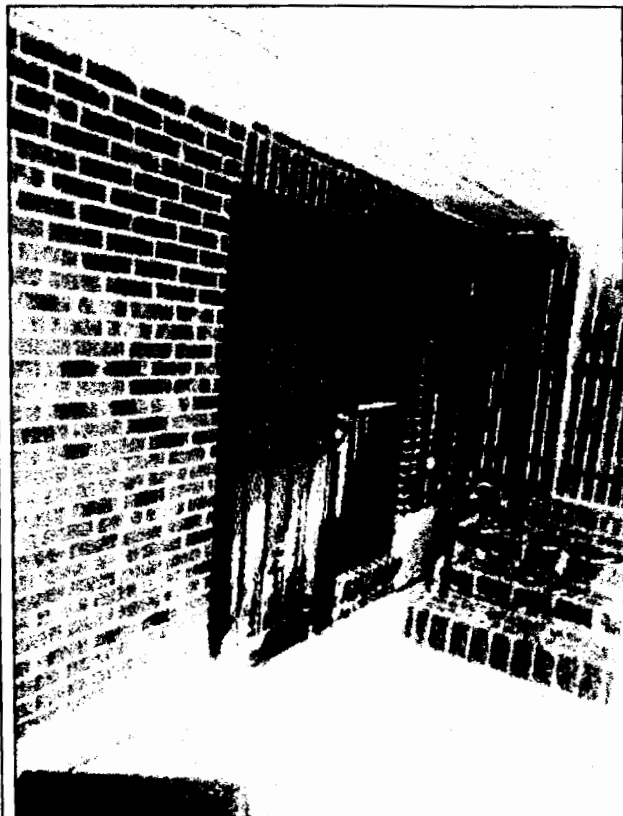
B. Picture 5



B. Picture 6

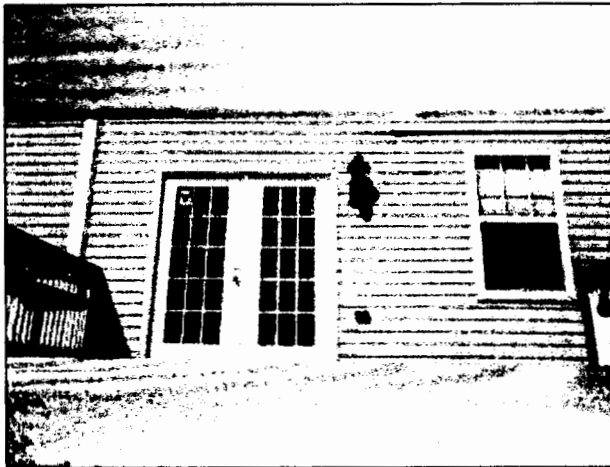


B. Picture 7



B. Picture 8

1. 4 Point Inspection:



B. Picture 9



B. Picture 10

Home inspectors are not required to report on the following: Life expectancy of any component or system; The causes of the need for a repair; The methods, materials, and costs of corrections; The suitability of the property for any specialized use; Compliance or non-compliance with codes, ordinances, statutes, regulatory requirements or restrictions; The market value of the property or its marketability; The advisability or inadvisability of purchase of the property; Any component or system that was not observed; The presence or absence of pests such as wood damaging organisms, rodents, or insects; or Cosmetic items, underground items, or items not permanently installed. Home inspectors are not required to: Offer warranties or guarantees of any kind; Calculate the strength, adequacy, or efficiency of any system or component; Enter any area or perform any procedure that may damage the property or its components or be dangerous to the home inspector or other persons; Operate any system or component that is shut down or otherwise inoperable; Operate any system or component that does not respond to normal operating controls; Disturb insulation, move personal items, panels, furniture, equipment, plant life, soil, snow, ice, or debris that obstructs access or visibility; Determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including but not limited to mold, toxins, carcinogens, noise, contaminants in the building or in soil, water, and air; Determine the effectiveness of any system installed to control or remove suspected hazardous substances; Predict future condition, including but not limited to failure of components; Since this report is provided for the specific benefit of the customer(s), secondary readers of this information should hire a licensed inspector to perform an inspection to meet their specific needs and to obtain current information concerning this property.

Prepared Using HomeGauge <http://www.HomeGauge.com> : Licensed To Sheldon Faison

1. 4 Point Inspection

This 4 point inspection is at the insurance companies request and is not the entire report. There was no exact criteria list to determine what information the insurance company wanted from the original inspection except for Plumbing, Electrical, Heat/Air conditioning and Roofing. Other deficiencies may exist in this home which could effect value or safety and may not be included in this minimal inspection. It is recommended that the interested party review the entire report.

Inspection Items

A. ELECTRICAL SYSTEM, GROUNDING, CONNECTED DEVICES and FIXTURES

Comments: Inspected

(1) Violation #2

The electrical outlets were inspected during the inspection and the damaged outlet have been replaced. No current problems were found at the time of the inspection.



A. Picture 1

(2) Violation #3

The smoke detectors were inspected in each of the two individual units and the systems are hard wired. Each unit is wired to all of the individual smoke detectors of the units. The smoke detectors worked when tested at the time of the inspection and no problems were found.



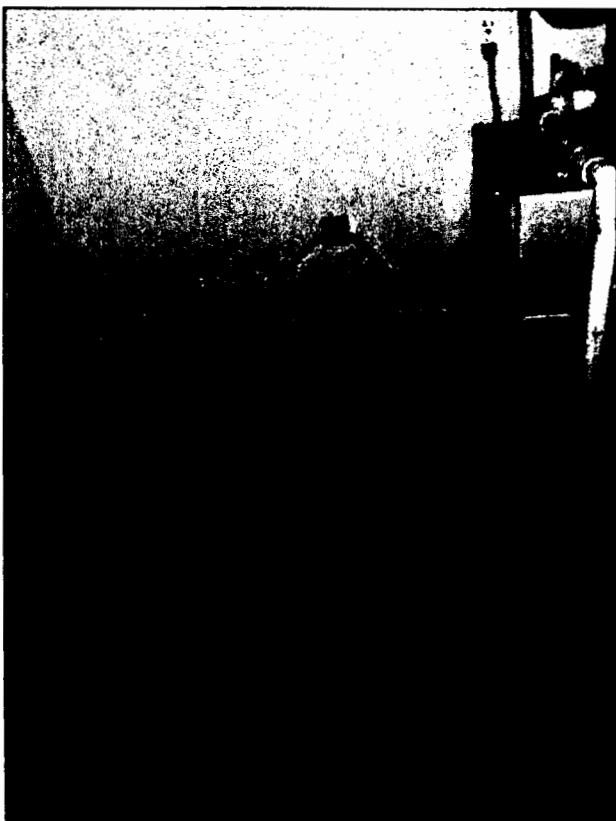
A. Picture 2

B. OTHER**Comments:** Inspected☐ (1) Violation #3

The utility rooms were inspected in each unit at the time of the inspection and the area appears safe. No combustibles and or debris were observed. The stored items are stored to the back of the closet and do not present a hazard.



B. Picture 1



B. Picture 2



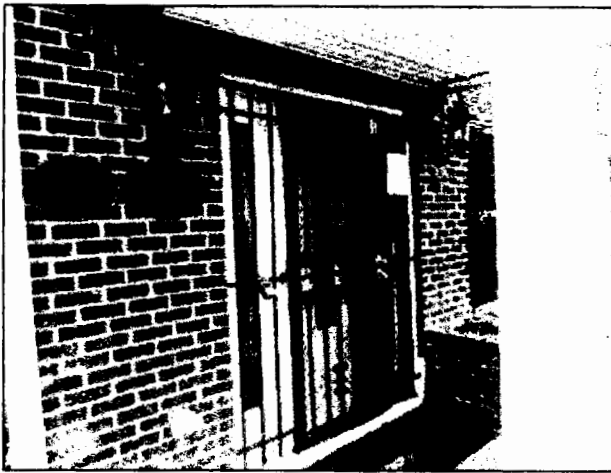
B. Picture 3



B. Picture 4

(2) violation #

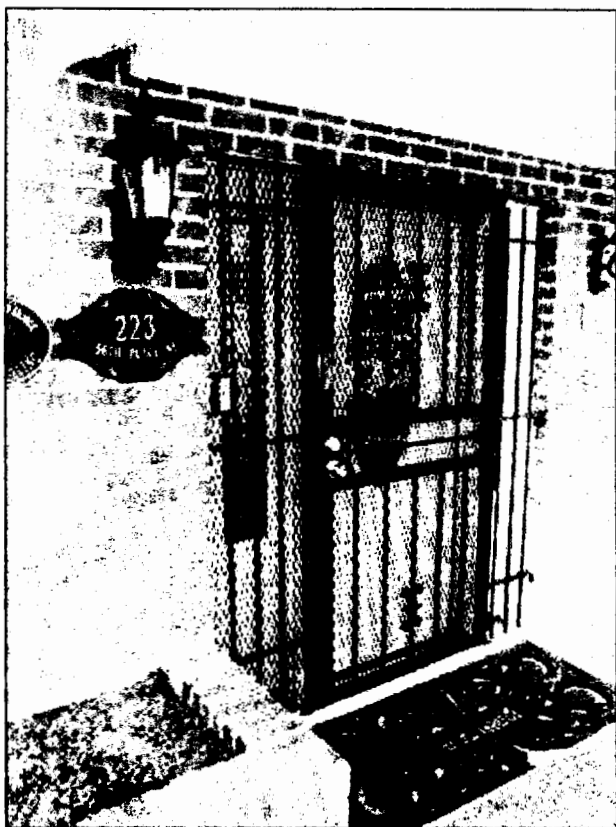
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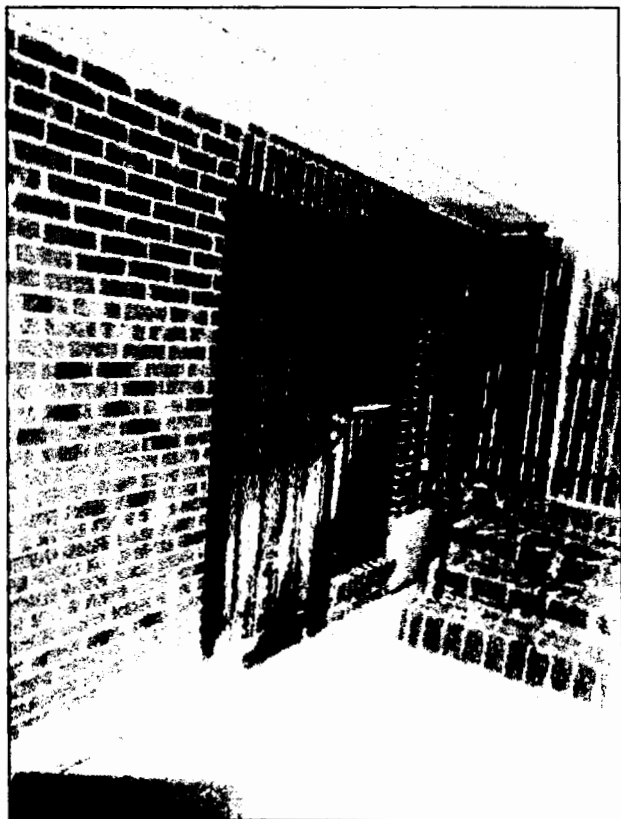
B. Picture 5



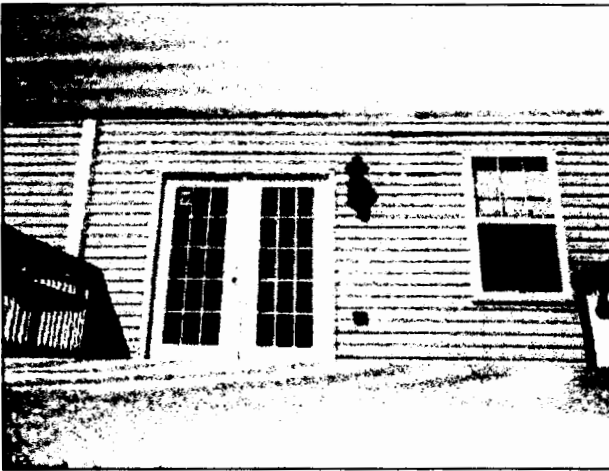
B. Picture 6



B. Picture 7



B. Picture 8



B. Picture 9



B. Picture 10



F.A.C.E.S. Inspectors

202 327 3276 faison@facesllcnw.com

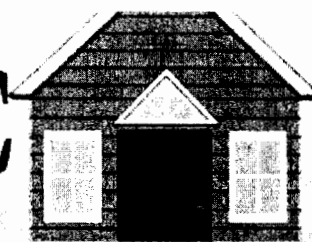
Report Attachments

ATTENTION: This inspection report is incomplete without reading the information included herein at these links/attachments. Note If you received a printed version of this page and did not receive a copy of the report through the internet please contact your inspector for a printed copy of the attachments

[Maryland Pest Form](#)

F.A.C.E.S. LLC

FAISON & ASSOCIATES CONSULTING AND ENVIRONMENTAL SERVICES



Home

Home Inspection

Pest Control

Environmental Services

Construction/Remodeling

Contact Us

Share your experience

WELCOME TO F.A.C.E.S. LLC



ABOUT US

Sheldon Faison is a proud member of NCHI, IAC2, and NAMI. He is a 10-year veteran of the residential construction and inspection industry and has performed over hundreds of inspections since 2007. He holds certifications for Mold Inspection, Mold Remediation, 203k Consultation and is a Lead Risk

Assessor.

LICENSES

Licensed Home Inspector

Licensed Termite Company

Licensed Contractor

Over 10 years of contracting experience

CERTIFICATIONS

Mold Inspector

Mold Remediator

Lead Risk Assessor

203k Consultant

MEMBER OF:

NCHI National Association of Certified Home Inspectors

IAC2 National Association of Certified Indoor Air Quality

Consultants

NAMI National Association of Mold Inspectors

THANK YOU FOR VISITING!



IAC2 Mold Certified

F.A.C.E.S. LLC

EXHIBIT C

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
Business and Professional Licensing Administration



OFFICE OF THE ADMINISTRATOR

PERSONAL SERVICE

Senior Dwelling Inc
Attn: Rosemary Ogbenna
223 56th Place NE
Washington, DC 20019

Senior Dwelling Inc.
Attn: Rosemary Ogbenna
225 56th Place NE
Washington, DC 20019

NOTICE TO REVOKE LICENSES

This is official notice ("Notice") from the Department of Consumer and Regulatory Affairs ("DCRA") that License Nos. 68006374 and 68006375 are revoked effective ten (10) business days from the mailing of this Notice.

Basic business license numbers 68006374 and 68006375 were issued to Senior Dwelling Inc. for 223 and 225 56th Place NE. The licenses contained endorsements which allowed the buildings to be operated as rooming houses. Certificates of occupancy were also issued for use of the buildings as rooming houses.

Subsequent to the issuance of the Licenses, DCRA became aware of allegations that the buildings were being operated not as rooming houses but as a community residence facilities and/or assisted living residences. A December 3, 2013 investigation confirmed that the buildings were being operated as assisted living residences and/or community residence facilities.

A facility qualifies as a community residence facility if it "provides a sheltered living environment for individuals who desire or need such an environment because of their physical, mental, familial, social, or other circumstances, and who are not in the custody of the Department of Corrections." D.C. Code § 44-501. Assisted living residence "means an entity, whether public or private, for profit or not for profit, that combines housing, health, and personalized assistance, in accordance to individually developed service plans, for the support of individuals who are unrelated to the owner or operator of the entity." D.C. Code § 44-102.01. A license is required to operate community residence facilities and/or assisted living residences. D.C. Code § 44-502; D.C. Code § 44-103.01. A certificate of occupancy is also generally required allowing for the use of the facility as a community residence facility and/or an assisted living establishment. 11 D.C.M.R. § 3203.1; 22B D.C.M.R. § 3102.3.

The December 3 investigation revealed that 223 and 225 56th Place NE were being operated as assisted living residences and/or community residence facilities. It was discovered that the residents of 223 and 225 56th Place NE are provided assisted living services and supervision from outside sources unrelated to Senior Dwelling Inc. In particular, a clinical staff provided meals and medication to the tenants.

The investigation additionally uncovered various other violations. It was found that 223 and 225 56th Place NE are connected by an opening in a first floor wall. This illegally constructed opening improperly converted the two buildings into one facility. Various fire code violations were also noted including a non-interconnected smoke detector system, lack of a physical fire alarm system, an improperly affixed outlet, excess combustibles in storage room, lack of automatic sprinkler system, lack of 2nd exit, and outdated fire extinguishers.

Pursuant to D.C. Code § 47-2844, D.C. Code § 47-2851.02, and D.C. Code § 47-2851.03c and on the basis of the above described violations, DCRA is revoking License Nos. 68006374 and 68006375. This revocation will be effective ten (10) business days from the mailing of this Notice.

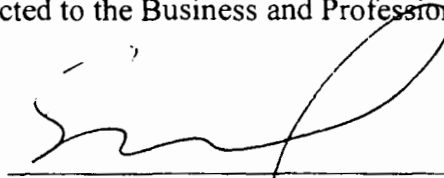
RIGHT TO APPEAL

You have the right to appeal the revocation of License Nos. 68006374 and 68006375 by filing an appeal with the District of Columbia Office of Administrative Hearings, 441 4th Street NW, Suite 450 North, Washington, DC 20001 within ten (10) business days of receipt of this Notice. See 14 D.C.M.R. § 107; D.C. Code § 2-1831.03(a). If you do not request a hearing within the time and manner specified in this notice your permit will be immediately revoked without any further written notice.

Any questions about this Notice may be directed to the Business and Professional Licensing Administration at (202) 442-4508.

3/11/14

Date



Eric Rogers, Administrator
Business and Professional
Licensing Administration