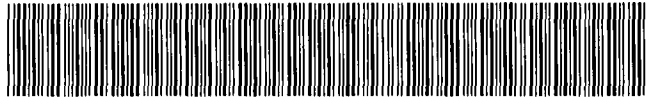


CITY 2010078512



AUG 31 2010 11:13 P 10

City  
 F 10/7  
 N/C  
 58-03280  
 FEE \_\_\_\_\_  
 BKP \_\_\_\_\_ GO \_\_\_\_\_ COMP \_\_\_\_\_  
 DEL \_\_\_\_\_ SCAN \_\_\_\_\_

Received - DIANE L. BATTIATO  
 Register of Deeds, Douglas County, NE  
 8/31/2010 11:13:58.81



2010078512

THIS PAGE INCLUDED FOR INDEXING

PAGE DOWN FOR BALANCE OF INSTRUMENT

Return To: City of Omaha  
 Planning Department  
 Code Enforcement  
 1819 Farnam St, Rm. 1003  
 Omaha, NE 68183

Check Number

\_\_\_\_\_



City of Omaha  
Jim Suttle, Mayor

## Planning Department

Omaha/Douglas Civic Center  
1819 Farnam Street, Suite 1003  
Omaha, Nebraska 68183  
(402) 444-5150  
Telefax (402) 546-0714

## NOTICE OF VIOLATION

August 4, 2010

R. E. Cunningham, RA, F.SAME  
Director

AJV Properties LLC  
13227 B St.  
Omaha, NE 68144

Parcel No.: 3408000006  
Legal Description: Lots 209, 210, 211, 212, 213, 214 &  
215, Benson Gardens

This notice concerns the Property at: **2251 BENSON GARDENS BD Apt. No. 3 J Apartment Interior.**

The Property is in violation of the Omaha Municipal Code. The violations currently known to exist on this Property are listed in the attached Violations List.

You are ordered to repair or cure the said violations by October 3, 2010. A follow-up inspection, to determine whether the violations have been repaired or cured and whether the Property can thereby be released, will be scheduled on or shortly after that date, or sooner if you so request.

This occupied Property is declared to be unsafe, unfit for human occupancy, or unlawful, because of the violations so designated in the attached Violations List. If any of those designated violations are not cured within the time period stated above, the Property will be placarded, and occupancy will be prohibited until the violations are cured and released.

While the necessity of City permits to conduct the necessary work will depend on the method of repair chosen by the Property owner, it presently appears that the following types of permits will have to be obtained from the City to perform the necessary work:

Any person directly affected by this notice may appeal to the Omaha Building Board of Review by filing a written appeal application form and \$100.00 filing fee with the office of the City Permits and Inspections Division, Omaha/Douglas Civic Center, 1819 Farnam Street, Suite 1100, Omaha, Nebraska, within 20 days of the date of this notice (add an additional three business days if this notice was sent by regular mail). The appeal application shall state all grounds for objection to this notice.

If you desire clarification of this notice or of any of the violations listed, please call the undersigned between the hours of 8:00 a.m. and 9:30 a.m. and arrangements will be made to assist you.

Sincerely,

Kevin Mulcahy  
Code Inspector, 444-4227

Kevin J. Denker  
Chief Code Inspector

C: Fannie Mae c/o Greystone Servicing Corp. Inc., 419 Belle Air Lane, Warrenton, VA 20186  
Thomas J. Malicki, 8712 W. Dodge Rd., Suite 300, Omaha, NE 68114  
Commonwealth Land Title Insurance Co., 2019 Walton Rd., St. Louis, MO 63114  
Christine Lindsey, 2251 Benson Garden Blvd. #3J, Omaha, NE 68134

The City of Omaha Planning Department  
Housing Division

Permits and Code Requirements

for property address: 2251 BENSON GARDENS BD Apt. No. 3 J

Structure Type: Apartment-Interior-Apt.3 J

August 4, 2010

---

\$2,000.00

<u>Y</u> General Repair	Window Replacement	Interior Inspection.
Fire	Soffits, Gutters, etc.	Requested for the following reason(s) :
<u>Y</u> Reroof	Kitchen Remodel	
<u>Y</u> Remove Existing Roof	Bath Remodel	
Reside	Plans required	
Remove existing siding	Fence	
Basement Finish	Decks/Porches	
Retaining Wall	Fire Escape	

Separate Permits required for the following:

Electrical      Plumbing      Mechanical      Wreck

Other requirements: A Mold Analysis of the suspected mold in the living room ceiling is required.  
General Repair-Building permit required when repair labor and materials are valued over \$500.

# Violations List

August 4, 2010

AJV Properties LLC  
13227 B St.  
Omaha, NE 68144

Re: 2251 BENSON GARDENS BD Apt. No. 3 J  
Inspected by: Kevin Mulcahy  
Structure Type: Apartment

Violations and corrective action:

## Owner Violation List items

<u>Code Section Violated</u>	<u>Location and Nature of Violation</u>	<u>Unsafe/Unfit Designation</u> <u>Repaired</u>
<b>043-101. Generally.</b> All construction or work for which a permit is required shall be subject to inspection by the building official and all such construction or work shall remain accessible and exposed for inspection purposes until approved by the building official. In addition, certain types of construction shall have special inspection as specified in the building code as adopted by this jurisdiction.	Construction work shall remain accessible & exposed for inspections until approved.	
Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of the building code, this Code or other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of the building code, this Code or other ordinances of the jurisdiction shall not be valid.		
It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.		
A survey of the lot may be required by the building official to verify that the structure is located in accordance with the approved plans. (Ord. No 33582, SS 1(43-101), 6-27-95)		
<b>043-71. Required.</b> Except as specified in section 43-72 of this Code, no building or structure regulated by this Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained from the building official. (Ord. No. 33582 SS 1(43-71), 6-27-95)	General repair permits are required for gutter and downspout installation, any roof repair or replacement, exterior and interior wall surface repair, siding, all fences, window and door repair, and any non-structural window or door replacement.	

<u>Code Section Violated</u>	<u>Location and Nature of Violation</u>	<u>Unsafe/Unfit Designation</u> <u>Repaired</u>
<p><b>043-71. Required.</b> Except as specified in section 43-72 of this Code, no building or structure regulated by this Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained from the building official. (Ord. No. 33582 SS 1(43-71), 6-27-95)</p>	<p>. General Repair-Building permit required when repair labor and materials are valued over \$500.</p>	
<p><b>043-91. Permit Fees.</b> Fees shall be assessed in accordance with the provisions of this section. The fee for each building permit shall be as set forth in Table 43-91.</p>	<p>. Fee shall be assessed in accordance with the provisions of this sections.</p>	
<p>The determination of value or valuation for the purpose of assessing the permit fee shall be made by the building official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued.</p>		
<p>Penalty fees: When construction begins before the permit has been issued, the applicant shall pay a penalty fee. Said fee shall be quadruple the amount of the regular fee.</p>		
<p>No quadruple fee penalty set forth in this chapter shall be imposed if the work is of an emergency nature where a delay in performing the work may cause a risk to life or health or will significantly increase the risk of property damage, provided a permit is applied for within 48 hours of the start of the work, in which case no penalty shall be imposed.</p>		
<p><b>043-94. Commencing work without permit.</b> Whenever any work for which a permit is required has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued. A penalty fee shall be assessed in accordance with table 43-91. Payment of the penalty fee shall not exempt the applicant from making any changes that may be required to bring the work into compliance with the city's building, zoning and other codes. (Ord. No 33582, SS 1(43-94), 6-27-95)</p>	<p>. Whenever any work for which a permit is required has been commenced without first obtaining said permit a penalty fee shall be assessed.</p>	
<p><b>048-13. Application of other codes.</b> Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the City's Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Fire Code and Electrical Code, all as defined in this code. Nothing in this code shall be construed to cancel, modify or set aside any provisions of Chapter 55 of the Omaha Municipal Code.</p>	<p>. All City codes apply. Building code, plumbing code, electrical code, mechanical code, fire code.</p>	
<p><b>048-15. Workmanship.</b> Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.</p>	<p>. All repairs, alterations, maintenance work &amp; installations shall be made in a workmanlike manner, and in accordance with manufacturer's installation instructions.</p>	

<u>Code Section Violated</u>	<u>Location and Nature of Violation</u>	<u>Unsafe/Unfit Designation</u> <u>Repaired</u>
<p><b>048-25. Fees.</b> The fees for activities and services performed by the city in carrying out its responsibilities under this code shall be as indicated in the following schedule:</p>	<p>. Owner. Fee shall apply.</p>	
<p>Reinspection, charged once for each notice per dwelling unit \$41.00</p>		
<p><b>048-34. Right of entry.</b> The code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.</p>	<p>. The code official is authorized to enter the structure or premises at reasonable times.</p>	
<p><b>048-43. Required testing.</b> Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the city.</p>	<p>Apartment 3 J . A mold analysis of the suspected mold in the living room ceiling must be inspected by a qualified mold remediator and an analysis report given to the inspector stating if additional testing is required, and remediation needed.</p>	
<p>a) Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official or building board of review shall determine the testing procedures.</p>		
<p>b) Testing agency. All tests shall be performed by an approved agency.</p>		
<p>c) Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.</p>		
<p><b>048-43. Required testing.</b> Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the city.</p>	<p>Apartment 3 J . A roof inspection by a reputable roofing contractor registered with the State of Nebraska is required and the report given to inspector.</p>	
<p>a) Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official or building board of review shall determine the testing procedures.</p>		
<p>b) Testing agency. All tests shall be performed by an approved agency.</p>		
<p>c) Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.</p>		

<u>Code Section Violated</u>	<u>Location and Nature of Violation</u>	<u>Unsafe/Unfit</u>	<u>Designation</u>	<u>Repaired</u>
<p><b>048-53. Prosecution of violation.</b> Any person failing to comply with a notice of violation or order served in accordance with this code shall be deemed guilty of a misdemeanor, as provided in Section 1-10 of the Omaha Municipal Code. If the notice of violation is not complied with, the code official may institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.</p>	<p>. Any person failing to comply with a notice shall be prosecuted.</p>			
<p><b>048-54. Violation penalties.</b> Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.</p>	<p>. Any person who violates a provision of this code shall be prosecuted within the limits provided by state or locals laws.</p>			
<p><b>048-61. Notice to owner or to person or persons responsible.</b> Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed in sections 48-62 and 48-63. Not more than one notice of violations shall be issued for the same violation. Notices for procedures declaring property unsafe or unfit for human occupancy shall also comply with Division 8.</p>	<p>. Owner</p>			
<p><b>048-65. Transfer of ownership.</b> If the ownership of a property subject to a pending notice or order under this code is to be transferred, the transferring owner shall report to the city housing division the impending transfer of the property and the name and address of the transferee, at least seven (7) days prior to the transfer.</p>	<p>. Inspector must be noticed of pending transfer of ownership seven (7) days prior to transfer.</p>			
<p><b>048-71a. General.</b> When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be declared as such by notice pursuant to the provisions of this code.</p>	<p>Apartment 3 J . Open hole and penetrations through ceiling.</p>			Yes
<p>a. <b>Unsafe Structure.</b> An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible.</p>				

<u>Code Section Violated</u>	<u>Location and Nature of Violation</u>	<u>Unsafe/Unfit Designation</u> <u>Repaired</u>
<p><b>048-71a. General.</b> When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be declared as such by notice pursuant to the provisions of this code.</p> <p>a. <b>Unsafe Structure.</b> An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible.</p>	<p>Apartment 3 J . A mold analysis of the suspected mold in the living room ceiling must be inspected by a qualified mold remediator and an analysis report given to the inspector stating if additional testing is required, and remediation needed.</p>	<p>Yes</p>
<p><b>048-71c. General.</b> When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be declared as such by notice pursuant to the provisions of this code.</p> <p>c) <b>Structure unfit for human occupancy.</b> A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.</p>	<p>Apartment 3 J . A mold analysis of the suspected mold in the living room ceiling must be inspected by a qualified mold remediator and an analysis report given to the inspector stating if additional testing is required, and remediation needed.</p>	<p>Yes</p>
<p><b>048-71c. General.</b> When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be declared as such by notice pursuant to the provisions of this code.</p> <p>c) <b>Structure unfit for human occupancy.</b> A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.</p>	<p>Apartment 3 J . Dwelling is insanitary, water damaged ceiling.</p>	<p>Yes</p>



<u>Code Section Violated</u>	<u>Location and Nature of Violation</u>	<u>Unsafe/Unfit Designation</u>	<u>Repaired</u>
<b>048-71c. General.</b> When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be declared as such by notice pursuant to the provisions of this code.	Porch / Deck. Deteriorated and/or broken porch / deck guardrail.		
c) Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.			
<b>048-74. Placarding.</b> Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard reading "Danger - Closed" or similar language, and a statement of the penalties provided for occupying the premises, operating the equipment, removing the placard, or failing to close the premises or keep the premises closed.	. Upon failure to comply within the time given, structure shall be placarded.		
<b>048-75. Prohibited occupancy.</b> It shall be unlawful for any person to occupy a placarded premises or to operate placarded equipment, and for any owner or any person responsible for the premises to let anyone occupy a placarded premises or operate placarded equipment. Such persons shall be subject to the penalties set out in section 1-10 of this Code.	. Upon failure to comply with repairs as ordered within the time directed in this Notice of Violation, structure may be vacated.		
<b>301.3. Vacant structures and land.</b> All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.	. Owner. If structure is to be vacated, it must be maintained in a clean, safe, secure, and sanitary condition.		
<b>304.10. Stairways, decks, porches and balconies.</b> Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.	Porch / Deck. Deteriorated and/or broken porch / deck guardrail.	Yes	
<b>304.10. Stairways, decks, porches and balconies.</b> Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.	Porch / Deck. Guardrailing is not attached to the building.	Yes	
<b>305.3. Interior surfaces.</b> All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.	Living Room. Ceiling is deteriorated and stained from water coming through from above.	Yes	
<b>305.3. Interior surfaces.</b> All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.	Living Room. Unsanitary conditions, apparent mold or mildew in ceiling.		

<u>Code Section Violated</u>	<u>Location and Nature of Violation</u>	<u>Unsafe/Unfit Designation</u> <u>Repaired</u>
<p><b>305.3. Interior surfaces.</b> All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.</p>	Living Room. Hole in ceiling.	Yes
<p><b>305.3. Interior surfaces.</b> All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.</p>	Living Room. Soiled surface on floors and ceilings.	Yes
<p><b>305.3. Interior surfaces.</b> All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.</p>	Living Room. Unsanitary conditions, apparent vegetation growing out of the ceiling.	Yes