



## Sabri v. City of Minneapolis

2004 | Cited 0 times | Court of Appeals of Minnesota | December 28, 2004

This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2002).

Affirmed

### UNPUBLISHED OPINION

Relator Basim Omar Sabri argues that there was insufficient evidence to support a hearing officer's decision that relator violated two City of Minneapolis administrative, non-criminal ordinances. We affirm.

### DECISION

This court's review of quasi-judicial decisions by writ of certiorari is limited to an inspection of the record of the proceedings, and we are confined to (1) questions affecting jurisdiction; (2) regularity of proceedings; and (3) whether the order in question was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it. *Dietz v. Dodge County*, 487 N.W.2d 237, 239 (Minn. 1992). This court will not retry facts or make independent credibility determinations. *Senior v. City of Edina*, 547 N.W.2d 411, 416 (Minn. App. 1996).

Relator, operating under the business name Sabri Properties, is a property owner and landlord in the Lake Street area of South Minneapolis. Respondents are the City of Minneapolis and the Department of Regulatory Services - Division of Licenses and Consumer Services. On the evening of August 30, 2003, a large gathering took place in a building owned by relator. Respondents determined that the gathering involved a dance on the building's second floor, with an admission fee. Because the dance violated license and code requirements, respondents issued administrative citations to relator for (1) allowing an unlicensed dance hall in an unauthorized place of assembly, in violation of Minneapolis, Minn., Code of Ordinances § 267.1300 (2003); and (2) operating an assembly use without a certificate of occupancy, in violation of Minneapolis, Minn., Code of Ordinances § 85.20 (2003) (incorporating the Minnesota State Building Code into Minneapolis' Code of Ordinances).

Relator challenged these citations at an administrative hearing. After hearing testimony from two city inspectors and relator, the hearing officer found that relator had violated the ordinances in question, and issued civil fines for the violations. On appeal before this court, relator concedes that a gathering occurred in his building, but neither admits nor denies that a dance occurred. Instead,



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relator argues that the evidence before the hearing officer was insufficient to establish that appellant violated the ordinances by allowing a dance with an admission fee to occur on the second floor of his building. We disagree.

At the hearing, a city licensing inspector testified that there were no certificates of occupancy or permits for the second floor of relator's building. A city electrical inspector testified that she inspected the second floor of relator's building on August 21, and observed that interior remodeling was about 80% complete with numerous visible improvements, including a stage and a disco ball. The electrical inspector also testified that on August 28, she heard a radio advertisement for a concert and a dance to take place in relator's building on August 30 with a \$25 admission fee.

As part of her testimony, the electrical inspector read into the record an e-mail from a police officer who observed the gathering from the street, stating that he noticed what appeared to be a large party in relator's building and that a security guard told him that a dance was taking place inside the building. The hearing officer admitted the e-mail as reliable hearsay over relator's objection. See Minneapolis, Minn., Code of Ordinances § 2.100(f) (stating that a "hearing officer will receive and give weight to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs"). Relator does not contest this evidentiary ruling on appeal, and acknowledges that the procedures for administrative hearings do not require strict compliance with the rules of evidence.

The electrical inspector testified that she had a phone conversation with relator on September 2 and asked for the names of the individuals responsible for the dance, because she intended to issue citations. Relator told the inspector that if she wanted to tag anyone, she should tag him. The inspector also read a letter into the record that relator wrote to the city building supervisor on September 4 wherein relator admitted that (1) a party took place on the second floor of his building; (2) the party was hosted by a promotional group in conjunction with Sabri properties; (3) relator understood that it was advertised on both the radio and flyers as an open party; (4) people were dancing; and (5) he took full responsibility for the party as the owner of the building. The hearing officer received the letter into evidence without objection from relator.

We conclude that the testimonial record provides sufficient evidence to support the hearing officer's decision that relator violated the ordinances in question by allowing a dance with an admission fee to occur on the second floor of his building. And, on this record, we cannot say the hearing officer's decision was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidentiary support.

Affirmed.

1. Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

