

CASINO REINVESTMENT DEVELOPMENT AUTHORITY

LAND USE REGULATION and ENFORCEMENT DIVISION

MOHAMMED HOMARY

SEEKING CERTIFICATE OF NON-CONFORMITY

TO ALLOW THE CONTINUED USE AS A

STRUCTURE WITH COMMERCIAL UNIT ON THE FIRST FLOOR

AND ONE APARTMENT ON THE SECOND FLOOR

BLOCK 339, LOT 62

2429 Arctic Avenue, Atlantic City, NJ

Thursday - June 1, 2017



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1 Public hearing in the
2 above-referenced matter, taken at the CASINO
3 REINVESTMENT DEVELOPMENT AUTHORITY, 15 South
4 Pennsylvania Avenue, Atlantic City, New Jersey,
5 before Karen A. Haworth, a New Jersey Certified
6 Court Reporter (CCR), nationally certified
7 Registered Professional Reporter (RPR),
8 nationally certified Certificate of Merit holder
9 (CM), nationally certified Certified Realtime
10 Reporter (CRR), a Delaware Certified Shorthand
11 Reporter (CSR), nationally certified Certified
12 LiveNote™ Reporter (CLR), and Notary Public of
13 the State of New Jersey, on the above date,
14 commencing at 10:01 A.M., there being present:

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18 APPEARANCES:

19 CASINO REINVESTMENT DEVELOPMENT AUTHORITY:

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21 LANCE B. LANDGRAF, JR.

Chairman

22 Director, Planning Department

23

24 ROBERT L. REID

Land Use Enforcement Officer

25

1 PROFESSIONALS TO THE BOARD FOR THIS HEARING:

2

3 SCOTT G. COLLINS, ESQUIRE

RIKER, DANZIG, SCHERER, HYLAND & PERRETTI

4 (Present via conference call)

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6 CHRISTINE NAZZARO COFONE

COFONE CONSULTING

7 (Present via conference call)

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1 COUNSEL FOR THE APPLICANT:

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3 BRIAN J. CALLAGHAN, ESQUIRE

CALLAGHAN, THOMPSON & THOMPSON, P.A.

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WITNESS (ES)

PAGE NO.

NONE

EXHIBITS MARKED AND/OR REFERRED TO:

A-1

B-1

1 (Time noted: 10:01 A.M.)

2

3 LANCE LANDGRAF: I'll call the June
4 1st, 2017 Land Use Regulation and Enforcement
5 Division hearing to order.

6 Please rise for the Pledge of
7 Allegiance.

8 (The Pledge of Allegiance was
9 recited at this time.)

10 LANCE LANDGRAF: I didn't hear
11 anybody, on the phone, participating on that.

12 CHRISTINE COFONE: What? I was
13 participating. I participated.

14 LANCE LANDGRAF: Okay.

15 CHRISTINE COFONE: Quietly.

16 LANCE LANDGRAF: Quiet.

17 ROBERT REID: Quietly she --

18 BRIAN CALLAGHAN: Taking -- taking
19 a knee?

20 LANCE LANDGRAF: Yeah. Right.
21 Taking a knee.

22 CHRISTINE COFONE: No. No.

23 LANCE LANDGRAF: This hearing has
24 been noticed in accordance with the Senator
25 Byron M. Baer Open Public Meetings Act.

1 We have one item on today's agenda,
2 and that is for Mohammed Homary. Application
3 2017-04-2172. 2429 Arctic Avenue. Block 339,
4 Lot 62.

5 We have attending, via conference
6 call, our solicitor, our attorney, Scott
7 Collins, and our planner, Christine Cofone.

8 Mr. Callaghan.

9 CHRISTINE COFONE: Good morning,
10 everyone.

11 ROBERT REID: Good morning.

12 SCOTT COLLINS: Good morning.

13 BRIAN CALLAGHAN: Good morning.

14 Brian Callaghan, of the law firm Callaghan,
15 Thompson & Thompson, on behalf of the applicant,
16 Mohammed Homary.

17 Just for the record, all
18 jurisdictional requirements have been met.

19 And this is an application for a
20 Certificate of Non-Conformity for the property
21 known as 2429 Arctic Avenue. Block 339, Lot 62.

22 We have a commercial unit at the
23 ground floor and we have one apartment above.

24 Our test year is 1979.

25 And this just falls within one of

1 those weird zoning categories, --

2 LANCE LANDGRAF: Right.

3 BRIAN CALLAGHAN: -- because if I
4 had three apartments above, I'm permitted, but
5 if I have less than three apartments, I'm not
6 permitted.

7 LANCE LANDGRAF: Yeah.

8 BRIAN CALLAGHAN: This is a
9 property, it's only 16 and a half feet wide by
10 about 75 feet deep.

11 We have --

12 The commercial '61 property record
13 card shows the commercial with the apartment.
14 The '81 property record card shows commercial
15 with apartment. Housing report shows commercial
16 with the apartment.

17 I can testify that it's been a
18 commercial and apartment. I used to sell ice
19 cream for Ven Vet's (phonetic) Ice Cream, which
20 was two doors down. And at that time, it was
21 Moon's Tavern on the corner. It has been in the
22 Floriani -- Sheriff Floriani's family for going
23 back to the '60s all the way through, when they
24 sold it, right now, to Mr. Homary. So, it's
25 always had Moon's Tavern down below and it was

1 upstairs.

2 Right now, the upstairs is used by
3 Mr. Homary. The downstairs is empty. So, he'll
4 be renting that out to an NC-1.

5 The upstairs unit, according to
6 Mr. Homary, is in good shape right now.

7 LANCE LANDGRAF: "MC-1"?

8 BRIAN CALLAGHAN: N. N.

9 LANCE LANDGRAF: NC-1. All right.

10 BRIAN CALLAGHAN: NC-1.

11 LANCE LANDGRAF: Compliant use.

12 CHRISTINE COFONE: NC-1.

13 BRIAN CALLAGHAN: Yes.

14 CHRISTINE COFONE: Right. That's
15 the zoning.

16 BRIAN CALLAGHAN: With a compliant
17 use.

18 CHRISTINE COFONE: In the NC
19 District.

20 BRIAN CALLAGHAN: So, we're asking
21 for a Certificate of Non-Conformity to maintain
22 the commercial, which is a permitted use in the
23 NC-1 District, at the ground level, with just
24 the one apartment above.

25 I have Mr. Homary here in the event

1 that you have any questions.

2 As indicated, the downstairs is
3 currently empty. The upstairs he uses.

4 LANCE LANDGRAF: Okay. And the
5 only reason for -- to come here today is the
6 change of property ownership?

7 BRIAN CALLAGHAN: The change of
8 property ownership and the fact that we don't
9 have three apartments upstairs. If we had three
10 apartments, you would be able to give us a land
11 use.

12 LANCE LANDGRAF: Right. I knew
13 that part.

14 BRIAN CALLAGHAN: Yep.

15 LANCE LANDGRAF: I mean, just the
16 impetus of it --

17 BRIAN CALLAGHAN: Yes.

18 LANCE LANDGRAF: -- was a change of
19 property owners.

20 BRIAN CALLAGHAN: Change of
21 property ownership.

22 LANCE LANDGRAF: All right. With
23 that, I guess --

24 Does your client have anything that
25 he needs to say or just --

1 Any questions?

2 BRIAN CALLAGHAN: I don't think so.
3 I think -- I think that we can rely on all the
4 documentation we turned in.

5 LANCE LANDGRAF: All right. Rob,
6 he -- Brian testified to -- or indicated that
7 the notice has been provided. And we're good
8 with that?

9 ROBERT REID: Yes. I agree.

10 LANCE LANDGRAF: The --
11 Christine, at this point, maybe
12 I'll ask you if you can just briefly go through
13 your report.

14 CHRISTINE COFONE: Yes. Good
15 morning. For the record, Christine Cofone.

16 We issued a report dated May 11th,
17 2017.

18 I would agree with Mr. Callaghan
19 that the test year appears to be 1979.

20 And we did review documentation
21 submitted by the application -- by the
22 applicant, and it was a bar and one-family use
23 on the property as early as 1961. So, we seem
24 to have met the test year with relative ease.

25 I would just like Mr. Callaghan,

1 for the record, would you just be able to state
2 that, to your knowledge or, to the best of your
3 client's knowledge, there has been no
4 intervening use, no sort of change from the one
5 apartment upstairs to another use and then back?
6 There has never been an intervening use, to your
7 or your client's knowledge, in that apartment?

8 BRIAN CALLAGHAN: That is true to
9 --

10 CHRISTINE COFONE: Has it ever been
11 used for any other purposes?

12 BRIAN CALLAGHAN: To the best of
13 our knowledge, it's -- it has always remained as
14 one apartment.

15 CHRISTINE COFONE: Right. But,
16 there's been never an overt act or intention to
17 abandon or an intervening use. So, I think that
18 that's important for the record.

19 I mean, and with that, I think the
20 record is clear that there was no overt act to
21 -- overt intent or -- to abandon and no
22 intervening use. So, I think that that
23 certainly helps them substantiate their burden
24 of proof.

25 LANCE LANDGRAF: Okay.

1 BRIAN CALLAGHAN: Correct.

2 LANCE LANDGRAF: Scott, does --
3 should we have Christine retroactively sworn,
4 just to make sure the record's clear?

5 SCOTT COLLINS: I think we can note
6 for the record that she is our planning
7 consultant and has been qualified as such --

8 LANCE LANDGRAF: Okay.

9 SCOTT COLLINS: -- and sworn, under
10 oath, previously and remains under oath.

11 LANCE LANDGRAF: Okay. That covers
12 it for me.

13 CHRISTINE COFONE: Yes. Let the
14 record reflect I have no --

15 SCOTT COLLINS: I should note
16 Mr. Callaghan referenced a lot of documents, all
17 of which were attached to the application
18 materials?

19 BRIAN CALLAGHAN: Yes.

20 LANCE LANDGRAF: Yes.

21 SCOTT COLLINS: Okay. And we'll
22 mark that as A-1 and all the attachments
23 included.

24 And then Christine's letter will be
25 B-1, the May 11, 2017 letter.

1 LANCE LANDGRAF: Okay.

2 CHRISTINE COFONE: Okay.

3 LANCE LANDGRAF: And I already
4 marked that. Good.

5 And with that, I'll open it up to
6 the public. Anyone here having any comments on
7 this application, please come forward.

8 Seeing none, we'll close the public
9 portion.

10 Anything else, Mr. Callaghan?

11 BRIAN CALLAGHAN: Nothing at all.

12 LANCE LANDGRAF: Okay. Rob, do you
13 have anything on this?

14 ROBERT REID: Just that I have
15 personal knowledge of what the testimony was
16 regarding the property, also, and that any
17 future use for the downstairs, they'll need to
18 come in, get a Certificate of Land Use, for that
19 particular use, and the signage.

20 BRIAN CALLAGHAN: Correct.

21 ROBERT REID: Thank you.

22 LANCE LANDGRAF: Okay. And, with
23 that, I'll --

24 If there's nothing else,
25 Mr. Callaghan, we'll close it. And we'll get a

1 hearing officer report out to you as soon as
2 possible. And then we'll get it on the agenda
3 as soon as possible. And we'll shoot for the
4 June 20th board meeting.

5 I can't promise that, --

6 BRIAN CALLAGHAN: Okay.

7 LANCE LANDGRAF: -- but we will try
8 and get it done by then.

9 BRIAN CALLAGHAN: Very good.

10 LANCE LANDGRAF: Our next land use
11 hearing here is June 15th, at 10 A.M.

12 And, as I said, the next board
13 meeting is June 20th.

14 So, thank you.

15 With that, we'll close the hearing.

16 BRIAN CALLAGHAN: Thank you very
17 much.

18 LANCE LANDGRAF: Thanks, Brian.

19 MOHAMMED HOMARY: Thank you, sir.

20 LANCE LANDGRAF: Thank you. Take
21 it easy.

22 Thanks, guys, for being on the
23 phone.

24 SCOTT COLLINS: Okay. Thank you
25 all. I'll talk to you soon.

1 CHRISTINE COFONE: Thank you. Have
2 a great day. Bye.

3

4 (This public hearing concluded at
5 10:08 A.M.)

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