

# CRDA

Casino Reinvestment Development Authority



Philip D. Murphy  
*Governor*

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May 3, 2018

Robert E. Mulcahy, III  
*Chair*

BY: Email: and UPS

Elizabeth M. Muoio  
*State Treasurer*

Mr. Sean Reardon  
141 S. Texas Avenue  
Atlantic City NJ 08401

Gurbir S. Grewal  
*Attorney General*

Lt. Gov. Sheila Y. Oliver  
*DCA Commissioner*

RE: Request for Non-Conforming Use Certification  
138 S. Bellevue Avenue  
Block 36, Lot 75  
The "Property"

James T. Plousis  
*Casino Control Commission*

Mayor Frank M. Gilliam, Jr.  
*City of Atlantic City*

Dear Mr. Reardon:

Debra P. DiLorenzo

The Casino Reinvestment Development Authority (CRDA) (the "Authority") acknowledges receipt of a request for a Non-Conforming Use Certification in accordance with NJAC 19:66 – 12.1 for the "Property" referenced above.

Edward H. Gant

The Applicant seeks a Non-Conformity Use Certification pursuant to NJAC 19:66 -12.1 for an existing residential building with an interior that totally gutted on the property located at Block 36, Lot 75 in the city of Atlantic City, where such use is no longer permitted in the zoning district.

Mark Giannantonio

Michael I. Hanley

**Exhibits**

Gary L. Hill

Howard J. Kyle

Cover letter dated 4/11/2018; Re-issued 4/23/2018;

William T. Mullen

Non-Conforming Use Certification Application form dated 4/11/2018;

Kevin C. Ortzman

Property Tax Card dated 9/28/1981;

Frank G. Spencer

Building Record Card dated 1966;

Richard E. Tolson

Christopher Howard  
*Executive Director*

## FINDINGS OF FACT

Applicant seeks a of Non-Conformity Use Certification pursuant to NJAC 19:66 -12.1 for a duplex an existing gutted residential building on the property located at Block 36, Lot 75 in the city of Atlantic City, where such use is no longer permitted in the zoning district.

**The Applicant asserted the following through testimony based on the documents submitted in connection with the application:**

- The property is described as a Two Family on a Building Record Card dated 1966 through 1982.
- The zoning ordinance was amended in 1979. As a result of the amendment, the duplex use was rendered non-conforming.
- Property Tax Card, Note in margin – First floor - 1 den, 1 kitchen, 1 bathroom; second floor – 1 bathroom, 3 bedrooms; third floor – 1 bathroom, 1 kitchen, 2 bedrooms; Basement - 1 kitchen, unfinished;
- The Applicant intends to renovate into a duplex according to the Application for a Non-Conformity Use Certification, dated 04/11/2018.

**The following is offered based on additional research of public records not provided by the applicant. (See Land Use Timeline History of the Property below):**

As part of the review of the request for a Non-Conforming Use Certification, research of the public record and prior zoning history was reviewed along with the documents submitted.

- The property is described as apartments on the 1952 (updated 1964) Sanborn Insurance Map.
- The zoning ordinance was amended in 1979 and new land use regulations went into effect on 01/02/2018. As a result of the amendment, the existing use was rendered non-conforming.
- The property was acquired by the Applicant on 08/31/2017.
- The property has been operated as a triplex residential dwelling containing three units and recently has been completely gutted to the exterior brick walls for the renovation into a single family dwelling. Physical evidence of any prior use has been removed.

Land Use Timeline History of the Property:

1900 - Atlantic City Tax Records indicate building was constructed;

1952 - (Latest updated 1964) - Atlas prepared by Sanborn Map Company indicates the Property are apartments;

1966 to 1982- The Building Record Card indicates the property was used as a duplex.

09/28/1981 – Property Tax Card, Note in margin – First floor - 1 den, 1 kitchen, 1 bathroom; second floor – 1 bathroom, 3 bedrooms; third floor – 1 bathroom, 1 kitchen, 2 bedrooms; Basement - 1 kitchen, unfinished;

12/12/1998 – Certificate of Land Use Compliance was issued for Triplex with the requirement to submit architectural plans. Present use described as a Duplex. Proposal was to convert from Duplex to Triplex, with one unit on each floor;

06/04/2002 - Certificate of Land Use Compliance was issued for Triplex to add separate electric meter service;

04/18/2008 – Application for Occupancy Permit for 2 units issued;

06/12/2008 – Application for Re-Inspection for Apartments A and B issued;

06/18/2008 – Occupancy Permit issued for 2 Units for Sale of property;

06/18/2008 – Property Maintenance Inspection Report Issued for Units A & B. – Note “No Occupancy allow until all violations abated”;

11/13/2012 – Building Permit issued for alteration, remove and replace old brick;

06/18/2013 – Application for Occupancy Permit for Apartment A. No mention of number for units;

06/25/2013 – Electrical Permit issued;

07/07/2013 - Certificate of Land Use Compliance was denied for use as duplex;

07/12/2013 - Certificate of Land Use Compliance was issued for Triplex;

08/09/2013 – Construction Permit issued, remove and replace old brick;

08/31/2017 – Sean Reardon, Mitchell Hassman purchased Property.

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02/15/2018 – Site Inspection – Interior of building recently has been completely gutted to the exterior brick walls. Physical evidence of any prior use has been removed. Expansion proposed with the new roof top deck being constructed.

02/27/2018 – Stop Work order issued per NJAC 5:23-2.14 for work being done without permits.

03/02/2018 – Sean Reardon submitted Construction Permit Application for Single Family Dwelling with new second floor deck.

03/13/2018 – City of Atlantic City Dept. of Licensing & Inspections requested Drawings and CLUC be submitted for Construction Permit Application for Single Family Dwelling.

03/22/2018 – City of Atlantic City Dept. of Licensing & Inspections requested Drawings and CLUC be submitted for Construction Permit Application for Single Family Dwelling.

04/10/2018 – City of Atlantic City Dept. of Licensing & Inspections requested Drawings and CLUC be submitted for Construction Permit Application for Single Family Dwelling.

04/11/2018 – Sean Reardon submitted Application for Non-Conforming Use Certification for Single Family / Duplex.

04/23/2018 - Sean Reardon re-submitted Cover letter (dated 4/11/2018) as supplement to Application for Non-Conforming Use Certification for a Duplex.

04/24/2018 – City of Atlantic City Dept. of Licensing & Inspections requested Drawings and CLUC be submitted for Construction Permit Application for Single Family Dwelling.

05/3/2018 – Site Inspection – Interior of building has been completely gutted to the exterior brick walls. Physical evidence of any prior use has been removed. New interior walls being constructed to convert into single family dwelling. Room layout appears to match plans for single family dwelling submitted to the Atlantic City Construction Office. Expansion also proposed with the new roof top deck being constructed. The prior duplex use has been abandon.

#### CONCLUSIONS OF LAW

The Applicant seek an Application for Non-Conforming Use Certification Approval for a Duplex pursuant to NJAC 19:66 -12.1. A nonconforming use is one which existed on the property prior to the adoption of a zoning ordinance, but which the ordinance does not now permit in the particular zone.

The burden of proving the existence of a nonconforming use is always on the applicant asserting such use. The Applicant must provide evidence that the non-conforming use lawfully existed prior to the adoption of Ordinance and/or State Regulation which rendered the use nonconforming. Applicant must also provide evidence that such use has been continuous, unchanged and was not abandoned. *Ferraro v. Zoning Bd. of Keansburg*, 321 N.J. Super. 288, 291 (App. Div. 1999); *Weber v. Pieretti*, 72 N.J. Super. 184, 195 (Ch. Div. 1962), *aff'd* 77 N.J. Super. 423 (App. Div. 1962), *certif. den.* 39 N.J. 236 (1963); *Grundlehner v. Dangler*, 51 N.J. Super. 53 (App. Div. 1958), *aff'd* 29 N.J. 256 (1959). The Applicant must show through testimony and documentary evidence what the use, including its character, extent, intensity, and incidents, on the property was at the time of the adoption of the zoning ordinance which rendered it prohibited. After the Applicant has established that the use was lawful at the time of the adoption of zoning, such use must be shown to have been continuous, unchanged and not have been abandoned during the period in which it was made nonconforming. See *Villari v. Zoning Bd. of Adj.*, 277 N.J. Super. 130, 135 (App. Div. 1994); *Poulathas v. Atlantic City Zoning Bd. of Adj.*, 282 N.J. Super. 310, 313 (App. Div. 1995); *Camara v. Bd. of Adj. of Tp. of Belleville*, 239 N.J. Super. 51, 57 (App. Div. 1990); *Borough of Saddle River v. Bobinski*, 108 N.J. Super. 6, 13 (Ch. Div. 1969); *Cox, Zoning and Land Use Administration*, §27-3, 590 (2018).

The Land Use Regulation Enforcement Officer concludes that the Applicant's evidence, site inspection and research of the public record documents, demonstrate that the use of the subject property as a residential duplex dwelling may have lawfully existed at the time the amendment of the zoning district regulations in 1979, which rendered such use nonconforming. The reference to apartments on the 1952 (updated 1964) Sanborn Insurance Map and the notation of three kitchens casts a cloud on the possibility of a continuous duplex use. The evidence further demonstrate the continuation of such use from such time to present was disrupted with the permitted use as a triplex and that the current is a building with the interior gutted for the purpose of renovation with an application recently submitted the city of Atlantic City Construction Office for the use as a single family dwelling. Such an application is contrary to this application for a duplex. The application for the Single family use on file with the city of Atlantic City Construction Office also includes an expansion with the addition of a new roof top deck. The prior use as a duplex has been removed by the total gutting of the interior, and abandoned (if it actually existed). Accordingly, the Applicant has not satisfied the legal requirements for the grant of the requested relief.

#### DECISION

For all of the foregoing reasons, the Land Use Regulation Enforcement Officer denies the request for a Non-Conformity Use Certification to allow a Duplex use.

Respectfully,



Robert L. Reid, AICP, PP  
Land Use Regulation Enforcement Officer