



City of Grand Island

Tuesday, September 27, 2016

Council Session

Item E-1

**Public Hearing on Request from Franco Entertainment, LLC dba
The Brick House, 115-117 West 3rd Street for a Class “I” Liquor
License**

Council action will take place under Resolutions item I-1.

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: September 27, 2016

Subject: Public Hearing on Request from Franco Entertainment, LLC dba The Brick House, 115-117 West 3rd Street for a Class “I” Liquor License

Presenter(s): RaNae Edwards, City Clerk

Background

Section 4-2 of the Grand Island City Code declares the intent of the City Council regarding liquor licenses and the sale of alcohol.

Declared Legislative Intent

- It is hereby declared to be the intent and purpose of the city council in adopting and administering the provisions of this chapter:
- (A) To express the community sentiment that the control of availability of alcoholic liquor to the public in general and to minors in particular promotes the public health, safety, and welfare;
 - (B) To encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the sale and distribution thereof; and
 - (C) To ensure that the number of retail outlets and the manner in which they are operated is such that they can be adequately policed by local law enforcement agencies so that the abuse of alcohol and the occurrence of alcohol-related crimes and offenses is kept to a minimum.

Discussion

Franco Entertainment, LLC dba The Brick House, 1115-117 West 3rd Street has submitted an application for a Class “I” Liquor License. A Class “I” Liquor License allows for the sale of alcohol on sale inside the corporate limits of the city.

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all licenses. This application has been reviewed by the Clerk, Building, Fire, Health, and Police Departments.

Also submitted with the application was a request from Maria Garcia, 644 East Meves for a Liquor Manager Designation.

On April 26, 2016, the City Council voted 6-3 to deny the request from Azteca Market, LLC dba The Brick House, 115-117 West 3rd Street for a Class “T” Liquor License based on Nebraska State Statutes 53-125 (2) & (13b); 53-132 (2a), (2b), & (2c); and 010.01 NCLL’s Rules and Regulations.

On July 6, 2016 the matter was heard before the Nebraska Liquor Control Commission. The matter was continued to allow Maria Garcia to be present and present a plan for operation. On August 9, 2016 the matter was heard again by the Nebraska Liquor Control Commission. After testimony the Commission voted to deny the liquor license. (See attached Order.)

On August 31, 2016 a letter was sent to Ms. Garcia notifying her of the September 27, 2016 hearing date and the requirement for her to contact the Building Department, Fire Department, and Health Department for inspections and interviews two weeks prior to the hearing. Failure to request inspections and/or complete interviews would result in a recommendation of denial from the staff to the City Council. No inspections have been requested to date; therefore staff recommends denial of this request.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the application.
2. Forward to the Nebraska Liquor Control Commission with no recommendation.
3. Forward to the Nebraska Liquor Control Commission with recommendations.
4. Deny the application.

Recommendation

Based on the Nebraska Liquor Control Commission’s criteria for the approval of Liquor Licenses, City Administration recommends that the Council **deny** this application.

Sample Motion

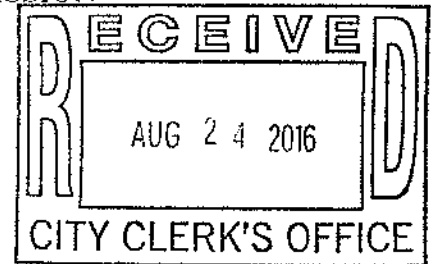
Move to **deny** the application for Franco Entertainment, LLC dba The Brick House, 115-117 West 3rd Street for a Class “T” Liquor License and Manager Designation for Maria Garcia, 644 East Meves based on failure to request inspections and/or complete interviews.

BEFORE THE NEBRASKA LIQUOR CONTROL COMMISSION

In Re: Azteca Market LLC
"The Brick House"
115-117 W 3rd Street
Grand Island NE 68801

ORDER

On Application for a Retail Class I-116929
Liquor License



Now on the 9th day of August, 2016, this matter came on for hearing before the Nebraska Liquor Control Commission upon the application of Azteca Market LLC, dba "The Brick House", for a Class I License at 115-117 W 3rd Street, Grand Island, Nebraska.

The applicant was present and represented by attorney Mark Porto. The City of Grand Island was present and represented by Sgt. Vitera of the Grand Island Police Department. The Commission was represented by Milissa Johnson-Wiles, Assistant Attorney General.

Evidence was introduced, oral arguments were heard and the matter submitted to the Commission.

FINDINGS OF FACT:

1. That the applicant can not conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act.
2. That the applicant has demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the act.
3. In making its determination, the Commission considered:
 - (a) The recommendation of the local governing body.

CONCLUSION:

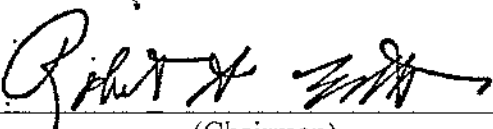
1. That the application should be denied.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED that the application Azteca Market LLC, dba "The Brick House", for a Retail Class I Liquor License at 115-117 W 3rd Street, Grand Island, Nebraska, should be, and the same hereby is, denied.

IT IS FURTHER ORDERED that the applicant shall pay costs of this action, assessed in the amount of \$25.00.

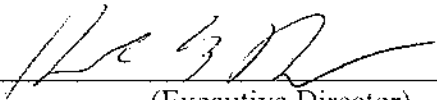
Dated this 22nd day of August, 2016.

NEBRASKA LIQUOR CONTROL COMMISSION

BY 
(Chairman)

I hereby certify this to be a true and correct copy of the original order entered herein, and further certify, that a copy was mailed by regular U.S. Mail, on this 22nd day of August, 2016.




(Executive Director)

09/22/16
12:35

Grand Island Police Department
LAW INCIDENT TABLE

Page: 450
1

City : Grand Island
Occurred after : 08:00:00 03/24/2016
Occurred before : 08:00:00 03/24/2016
When reported : 08:00:00 03/24/2016
Date disposition declared : 03/24/2016
Incident number : L16032600
Primary incident number :
Incident nature : Liquor Lic Inv Liquor Lic Inv
Incident address : 103 3rd St W
State abbreviation : NE
ZIP Code : 68801
Contact or caller :
Complainant name number :
Area location code : PCID Police - CID
Received by : Vitera D
How received :
Agency code : GIPD GIPD Grand Island Police Dept
Responsible officer : Vitera D
Offense as Taken :
Offense as Observed :
Disposition : CLO Closed Case
Misc. number : RaNae
Geobase address ID : 11227
Long-term call ID :
Clearance Code : CL CL Case Closed
Judicial Status :
=====

INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
LW	L16083019	08/31/16	Liquor Lic Inv	Related
LW	L16032606	04/21/16	Liquor Lic Inv	Related
NM	175276	09/22/16	Brickhouse,	Related
NM	143546	04/20/16	Garcia, Francisco J JR	Involved
NM	44522	04/19/16	Garcia, Juan Francisco	Maria's Husband
NM	61105	04/19/16	Garcia, Maria Dejesus	Owner/Manager
NM	209335	04/19/16	Azteca Banquet Hall,	Business Involved

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT12	LT12 Grocery/Supermarket	

LAW INCIDENT NARRATIVE:

09/22/16
12:35

Grand Island Police Department
LAW INCIDENT TABLE

450
Page: 2

Liquor License Investigation

Azteca Banquet Hall is applying for a Class I (beer, wine, distilled spirits, on sale only) LLC Retail Liquor license. Maria Garcia is applying to be the liquor manager.

~~~~~ (lwmain08444303252016)~~

mw

\*\*\*The first supplemental report is from the original investigation. The second and third supplemental reports are new. They were added to the first one because the first report provides foundation and background. All reports deal with The Brick House in some fashion.\*\*\*

LAW INCIDENT RESPONDERS DETAIL:

| Se | Responding offi | Unit n | Unit number |
|----|-----------------|--------|-------------|
|----|-----------------|--------|-------------|

|   |          |     |          |
|---|----------|-----|----------|
| 1 | Vitera D | 318 | Vitera D |
|---|----------|-----|----------|

LAW SUPPLEMENTAL NARRATIVE:

| Seq | Name |
|-----|------|
|-----|------|

| Date |
|------|
|------|

|   |          |                     |
|---|----------|---------------------|
| 1 | Vitera D | 12:45:27 04/19/2016 |
|---|----------|---------------------|



09/22/16  
12:35

Grand Island Police Department  
LAW INCIDENT TABLE

450  
Page: 3

318

Grand Island Police Department  
Supplemental Report

Date, Time: Tue Apr 19 12:45:38 CDT 2016  
Reporting Officer: Vitera  
Unit- CID

Azteca Banquet Hall is applying for a Class I (beer, wine, distilled spirits, on sale only) LLC Retail Liquor license. Maria Garcia is applying to be the liquor manager. Juan Francisco Garcia (Maria's husband) is also listed on the application, but he signed a Spousal Affidavit of Non-Participation form. The LLC is Azteca Market. It looks like Maria Garcia is the sole owner of the company on paper.

The Brick House is also applying for a Class I liquor license, and Maria is applying to be the liquor manager there as well. The LLC for The Brick House is also Azteca Market. Azteca Market LLC owns the property where Azteca Banquet Hall and The Brick House are located. Juan Garcia signed a Spousal Affidavit of Non-Participation form for The Brick House as well. The following report will cover the application for Azteca Banquet Hall and The Brick House.

While perusing the applications, the first thing I noticed is that Juan Francisco Garcia (husband) is listed as someone Maria will share the business profits with. Juan is later listed as a 50% partner in the company. However, Juan's 50% is crossed out, and Maria's 50% is crossed out and has 100% written beside it. The applications also include an additional form which appears to have been sent to the NLCC after the original applications. The additional form is entitled "Assignment of Ownership Interest." The form says that any interest Juan may have in the company is given to Maria.

Then next thing I noticed is the applications say that Maria and Juan have lived in Grand Island since 2003. However, the manager's applications say that Maria and Juan have lived in Grand Island since 1998. The manager's applications also say that a spouse need not fill out question #1, which asks about convictions, if he has filled out a Spousal Affidavit of Non-Participation form. Juan filled out the non-participation form but also listed his convictions.

I checked Maria and Juan through Spillman and NCJIS. According to Spillman, Maria may have an undisclosed traffic violation, and it appears that she currently has a code violation with a broken up sidewalk in front of the Azteca Market. NCJIS shows a speeding conviction and a conviction for not wearing her seatbelt and not having her license on her person. Juan has a couple of traffic violations in Spillman. According to NCJIS, he has an undisclosed DUI from 1996 along with four undisclosed traffic convictions.

Maria and Juan each have a valid Nebraska driver's license, and neither one of them have any outstanding warrants for their arrest. I searched a paid law enforcement-only database which tends to provide personal identifying information and information about civil issues. I found an entry for Maria and Juan and didn't find anything out of the ordinary. I also contacted ICE and was advised that Juan is a Lawful Permanent Resident.

Nebraska State Patrol Investigator Joe Hansen and I met with Maria and Francisco Garcia (Juan & Maria's son) at the Azteca Market on 4/20/16. I went over the Azteca Banquet Hall and The Brick House application with them. I asked Maria



09/22/16  
12:35

Grand Island Police Department  
LAW INCIDENT TABLE

450  
Page: 4

about Juan being listed on both applications as someone who will share in the business profits and be a 50% owner in the company only to later have his 50% scratched out giving Maria 100% ownership.

Maria said the change was made after her attorney was contacted by the NLCC saying Juan couldn't have ownership in the company because he's not a Citizen of the United States. Maria went on to explain that the Spousal Affidavit of Non-Participation form and the addendum assigning Juan's interest in Azteca Market, LLC were not part of the original application. Since Juan was originally planning on being part of the company, he disclosed some of his criminal convictions even though the instructions say he doesn't have to if he signs a Spousal Affidavit of Non-Participation form.

Later in the afternoon on 4/20/16, I had the opportunity to speak with the attorney (Mark Porto) who helped fill out the applications. I asked Mark about originally having Juan as part owner of the company and then switching all of it to Maria. Mark recalled that the NLCC may have mentioned something about Juan's lack of citizenship, but Mark also said that Juan wanted to be part of the company but also sign a Spousal Affidavit of Non-Participation form. Mark said the NLCC told him that a person who signs a non-participation form can't be part of the company.

I also asked Maria why the liquor license applications state that she and Juan have lived in Grand Island since 2003, and the same question on the liquor manager forms say she and Juan have lived in Grand Island since 1998. Maria advised that the 2003 date is specific to their current address in Grand Island while the 1998 date is just for Grand Island in general. The question is the same. I'm still not clear why Maria and her attorney chose to give different answers.

Even though Maria is the liquor license applicant and liquor manager applicant for the banquet hall and the nightclub, Francisco will be running the club. He advised that he is a DJ and will be responsible for the entertainment and the lighting. When we toured The Brick House, he showed us where he had put up strobe lights above the dance floor and where he had put speakers in the DJ booth. Francisco also told us about all the work he had done stripping and refinishing the floors. Francisco advised that he is trying to attract the younger crowd from twenty-one years old up to about forty years old. I spent a long time warning Francisco and Maria about all of the problems they could encounter if the nightclub isn't run properly. I asked what their plans are for security. Francisco said he has talked to a guy who is a corrections officer here in town about providing security, but Francisco didn't know the guy's name or his phone number. Francisco didn't have a plan as to how many security personnel he would need and what their individual responsibilities would be.

I continued to ask Maria about some information in Spillman regarding her. I found a report in February 2012 where a GIPD officer was called by an employee of the Central District Health Department. Two health department employees had done an inspection at the Azteca Market the day before and seen three different types of antibiotics for sale in a glass display case. One of the employees spoke Spanish. The three antibiotics were Penicillin, Amoxicillin, and Bactrim. According to the health department employee reporting to the police officer, Maria denied having any antibiotics for sale. However, she asked how much trouble she would be in if she were selling them. The health department employees continued with their inspection. Before they left, they walked by the display case where they had seen the antibiotics, and they were gone.



09/22/16  
12:35

Grand Island Police Department  
LAW INCIDENT TABLE

450  
Page: 5

I asked Maria about the incident in 2012 with the antibiotics and the health department. She acknowledged that she had some antibiotics for sale in the store but didn't know it was illegal. She added that the someone from the health department told her some other drugs she was selling were illegal but later found out they weren't. No criminal action was taken against Maria.

I also found a GIPD arrest report in August of 2013 where Maria's husband (Juan) was arrested for DUI, and Maria was referred to the county attorney on a criminal charge of obstructing a police officer. According to the arresting officer's report, when he stopped the vehicle Juan was driving for an illegal turn, Maria and Juan switched seats to make it look like Maria had been driving. The officer asked Maria if she switched seats with Juan because he had been drinking, she said that she had, and it was her idea. I did not find that Maria was convicted of that charge, but I asked her about it. Maria said Juan had just bought her a brand new car and wanted her to drive it. She told him to drive it first. He told her that he had been drinking, and she should drive. Maria convinced Juan to drive and felt guilty when he got pulled over, so she tried to switch seats with him.

I found another report in Spillman where a GIPD Code Enforcement Officer (CSO) received a complaint about a broken up sidewalk on the east side of Azteca Market. The CSO inspected the sidewalk and found damage. The CSO then called the public works department and gave the information to them. The public works department asked an engineer to look at it. The engineer said the sidewalk would have to be repaired. The CSO went back to Maria on 3/30/16 and told her she has thirty days to repair or replace the damaged portion of the sidewalk. Maria told the CSO that she wouldn't be able to do that because she has to replace the sprinkler system in her building. I contacted the CSO on 4/21/16 and asked him about this complaint. He said he went by Azteca Market on 4/20/16, and the repairs still haven't been made. However, Maria still has eight days to complete the task.

I was also informed by Grand Island Fire Department Division Chief (Fire Marshal) Fred Hotz that about one year ago, he was aware of a complaint about Maria using an unlicensed electrician to do work above the Azteca Market. Division Chief Hotz did an inspection and found construction on the second floor which needed a work permit that Maria did not have. Division Chief Hotz put a stop work order on it. When I spoke with Maria and toured her buildings on 4/20/16, I observed what Division Chief Hotz had described to me. I asked Maria what all the construction was about. She said she was trying to put in apartments but got shut down.

In June of 2015, I did an informational report regarding a conversation I had with Francisco about needing a liquor license or at least a Special Designated License (SDL) for some of the events that were being held at the banquet hall. The reason for the conversation was because I had received an e-mail from a GIPD patrol sergeant who told me there were lots of drunk people coming out of there at night and stumbling around in the streets and impeding traffic. The patrol sergeant asked me if the business had or needed a liquor license. I told him that they didn't have one, but it sounded like they needed one. Francisco told me that his parents own the banquet hall, but he helps them run it. He was receptive to what I had to say, and I didn't get anymore complaints from the patrol sergeant.

While I didn't receive anymore complaints from the patrol sergeant, Division Chief Hotz told me that he had fielded a complaint from a business owner in the area of The Brick House saying that kids were coming out of there, going out to



09/22/16  
12:35

Grand Island Police Department  
LAW INCIDENT TABLE

450  
Page: 6

their cars and drinking, and going back into The Brick House. When I spoke to Maria on 4/20/16, she mentioned that they used to have some teen dances for middle school and high school kids, but she said they caused a lot of problems. I didn't ask her to describe the problems.

While speaking with Maria on 4/20/16, NSP Investigator Hansen asked her if she is behind on any of her financial obligations. Maria said that her business is supposed to pay \$1,000 a year for downtown parking. She said that bill was due January 1st, but she hasn't paid it. She also said that as part of a Downtown Improvement District, she is supposed to pay an additional \$600 per year for other services of the Downtown Improvement District. That bill was also due on 1/1/16, and she said she has not paid it.

I spoke to the person in the City of Grand Island Finance Department who keeps track of the money collected by the district to confirm Maria's statement, she advised that Azteca Market has paid \$640 to the Downtown Business Improvement District. The money was due on 10/1/15. It was paid on 3/29/16. The \$1,000 that Maria spoke about is for Parking District #1. The fee for Azteca Market is actually \$1,250. It has not been paid, and it was also due on 10/1/15. I was also told by a different person in the City of Grand Island Finance Department that Azteca Market has not paid any of their food and beverage tax since the business has been in operation. He said the finance department will be investigating that issue and attempting to collect three year's worth of the tax plus interest.

All in all, Maria's criminal record does not preclude her from receiving a liquor license. Strictly on criminal record and citizenship, I believe Juan could be part of the company. It also appears that Francisco will be heavily involved in The Brick House, and I don't think his criminal record would preclude him from receiving a liquor license. The concern is Maria's propensity to operate just outside the law which it appears she has done to some degree with little consequence. She sold prescription medication in the Azteca Market and was only warned about it and told not to do it again. She switched seats with her husband in an attempt to prevent him from being arrested for DUI. A criminal charge of obstructing a police officer was referred to the county attorney's office but never prosecuted. It sounds like she used an unlicensed electrician for a building project that at the very least, she didn't have a required permit for.

By her own admission, Maria is behind \$1,250 (she thought \$1,600) on paying the Downtown Business Improvement District. She also has a sidewalk outside her business that she told a CSO she's sure she won't get done or probably even start in the allotted thirty day period. The CSO advised that Maria told him that when she first bought the building where the Azteca Market is located, she was told that it would cost a few thousand dollars to fix or replace the sidewalk.

With the complaint I received from the patrol sergeant and the complaint Division Chief Hotz fielded, the banquet hall was operating without a liquor license when one was needed, and The Brick House had problems with kids which may have included drinking outside the business.

The Grand Island Police Department will remain neutral in our recommendation to the Council concerning The Brick House. If the council votes to deny the license, it can be done under Nebraska State Statute 53-125 (2) & (13b); 53-132 (2a), (2b), & (2c); and 010.01 under the NLCC's Rules and Regulations. The statutes are attached.



09/22/16  
12:35

Grand Island Police Department  
LAW INCIDENT TABLE

450  
Page: 7

The Azteca Banquet Hall doesn't have bathrooms on the licensed premises, and according to Division Chief Hotz, it still isn't compliant with fire sprinkler requirements (53-125 [14]). Division Chief Hotz is recommending a denial on Azteca Banquet Hall. The GIPD will defer to Division Chief Hotz's expertise on the fire sprinkler issue but will remain neutral for the reasons and statutes listed above if and when the property passes Division Chief Hotz's inspection.

2 Vitera D 10:31:37 08/17/2016

318

Grand Island Police Department  
Supplemental Report

Date, Time: Wed Aug 17 10:31:53 CDT 2016  
Reporting Officer: Vitera  
Unit- CID

I attended an NLCC hearing for The Brick House on 8/9/16 at 1000 hours. As a result of this hearing, I have two pieces of information that need to be documented. First, the attorney (Mark Porto) for The Brick House said in his opening statement that Maria and her son Francisco had purchased an ID machine. In my testimony, I pointed out that Maria is the sole applicant and sole owner of the company. If Francisco is contributing money to the business, that should have been disclosed on the application. Otherwise, it appears that Francisco is a "silent partner."

The second piece of information obtained at the hearing is from Brian Schultz's testimony. Brian works for the City of Grand Island in the finance department. After the finance department received a food and beverage tax payment from Azteca Market which they said was for the last three years, Brian wants to audit them and has been trying to get Maria to bring in her books. After several failed attempts to get in touch with Maria, Brian testified that he had a meeting set up with Maria on 8/8/16. However, Maria called and cancelled because she had an emergency with some pigeons making a mess in the upstairs portion of the Azteca Market.

When NSP Investigator Joe Hansen and I met with Maria on 4/20/16 for this liquor license investigation, we toured the buildings. When we got upstairs above the Azteca Market, a pigeon buzzed my head as it flew into the building through a broken window. I could see where the pigeon had been roosting, and there was pigeon poop all over the floor beneath. The problem had been going on for almost four months, so it's kind of hard to believe that it was an emergency on 8/8/16 to where Maria had to cancel her meeting with Brian.



09/22/16  
12:35

Grand Island Police Department  
LAW INCIDENT TABLE

Page: 450  
8

3 Vitera D

11:50:19 09/22/2016



09/22/16  
12:35

Grand Island Police Department  
LAW INCIDENT TABLE

450  
Page: 9

318

Grand Island Police Department  
Supplemental Report

Date, Time: Thu Sep 22 11:50:34 CDT 2016  
Reporting Officer: Vitera  
Unit- CID

Nebraska State Patrol Investigator Joe Hansen and I met with Maria and Francisco Garcia on 9/16/16 at 1000 hours. Francisco advised that he is going to be the manager of the club even though his mother is listed as the manager on the application. Maria assured us that she will also be at The Brick House when it is open. The hours of operation are slated to be Friday and Saturday from 1800 until 0100 hours. Francisco said they may try to open it on Thursdays as well.

We asked Francisco again about his plans for security. Francisco said he plans on employing five people for security and having three of them working at a time. Francisco said that his attorney had the applications for security personnel, but Francisco was able to give me four names of the applicants along with phone numbers. He said some of them have military experience, and some of them have or still work in bars. I called two guys on the list, and they each verified what Francisco told me about them.

Francisco said he helps his parents out at the market/restaurant, and his mom helps him pay bills. Francisco also said he earns some money by "DJing" parties. After speaking with Maria and Francisco, I asked them to see the area upstairs where the pigeons had been coming in through a broken window and pooping all over. They complied and showed me that the window was boarded up, and the poop was cleaned up.

On 9/16/16, I also contacted Brian Schultz from the City of Grand Island Finance Department. Brian said that Francisco came in and paid the food and beverage tax that they were behind on that was brought up at the NLCC hearing. Brian is still looking at the amounts to see if they are correct. Brian also said that he has received some more paperwork from Maria's new accountant in Omaha. However, Brian hasn't had time to look at it yet.

I was told by Grand Island City Clerk RaNae Edwards that as of 9/22/16, neither Maria or Francisco have contacted city staff about inspections. I was also informed that Grand Island Fire Department Division Chief Fred Hotz may still have some issues with Maria Garcia and The Brick House.

From the Grand Island Police Department's perspective, we still have reservations about Maria Garcia and her ability to comply with the Nebraska Liquor Control Act for the reasons that were previously stated in this report and were part of the reasons the application for The Brick House was originally denied by the Grand Island City Council and the Nebraska Liquor Control Commission. However, this new application includes Francisco Garcia as a half owner in the company. While Francisco couldn't answer questions about his security plans for his mother's first application, he was able to provide more specific information on this application. Since the last application, Maria has also fixed the sidewalk by the Azteca Market, boarded up the window and cleaned up the pigeon mess, and paid her food and beverage tax (whether the amount is correct is yet to be determined).

The Grand Island Police Department will remain neutral on our recommendation to



09/22/16  
12:35

Grand Island Police Department  
LAW INCIDENT TABLE

450  
Page: 10

the Council after supplying information to be considered in the decision-making process and defer to the Fire Department and the Finance Department.



*Working Together for a  
Better Tomorrow. Today.*

Fire Report:

Re: 115 W. 3<sup>rd</sup> St. - The Brick House

In April of 2015, a routine inspection of the building was conducted and it was determined that the building was not safe for occupancy under the current conditions. Owners were conducting "parties" in building and this activity was ordered to be stopped.

A couple weeks later it was discovered construction remodel work was being conducted but no application was submitted nor was a permit issued.

In July of 2015 a permit was issued. Within the time frame from July thru the rest of the year, the remodel was either postponed or abandoned.

I have attached the list of identified fire code violations of an inspection report mailed out on the 9<sup>th</sup> of August, 2016 after an application for a liquor license was denied by the Liquor Commission. I have not been contacted since, however I did contact Francisco by phone on the 15 of Sept. 2016 informing him he needed to address these issues and that he needed to come in to discuss them.

Among a number of violations, the one issue that certainly needs to be addressed for the building to be issued an occupancy permit is the question of occupant load. The original plans submitted in July of 2015 are not representative of the current actual setup. The concern is that the occupant load may have significantly increased so that an automatic sprinkler system is required.

A handwritten signature in blue ink, appearing to read "Fred Hotz". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Fred Hotz, Fire Prevention Division Chief  
City of Grand Island Fire Department  
100 East 1st Street  
Grand Island, NE 68801  
office (308) 385-5444 ext. 228  
fax# (308) 385-5423  
[fhotz@grand-island.com](mailto:fhotz@grand-island.com)

*City Hall • 100 East First Street • Box 1968 • Grand Island, Nebraska 68802-1968  
(308)385-5444 Ext. 220 • FAX: 385-5423 • Emergency: 385-5000*





## Inspection

### Periodic

Grand Island Fire Department  
100 E. 1st Street  
Grand Island, NE 68801  
Phone: 308-389-0228  
Fax: 308-385-5423  
Email: fhotz@grand-island.com

Activity Date: 09/15/16 12:00:00 AM  
Activity Number: I-smurphy-15-0073.G  
Activity Cause: Reinspection  
Inspector 1 Name: Hotz, Fred  
Inspector 1 Phone: 389-0228

### Business Name

Brickhouse  
115 W 3rd St  
Grand Island, NE 68801

Occupancy Type: Assembly  
Total Violations: 0  
Corrected Violations: 0

Phone:

An inspection of your business/facility has revealed the violation(s) listed on the enclosed Inspection Report. Please review the violations listed and make the proper corrections. If you have questions concerning any of the violations or you have corrected the violations, please make a call to the inspector listed in the upper right hand corner of the report.

Code Enforcement is a proven method of preventing fires and or reducing fire spread in the event of a fire. With your co-operation, you help to make a safer community as well as contributing your part in helping to curb rising insurance rates and taxes. Insurance rates are based upon incident costs. If the incidents are reduced, the rates reflect this. In addition, fewer fires can reflect less of a need and cost for the expansion of your local fire suppression equipment and personnel as the city continues to grow.

PLEASE note that a \$50 fee will be assessed per re-inspection if the cited violations are not corrected after repeated inspection visits.

### Pre Existing Inspection Details

Reference Number: IFC (2012) 904.6.1 System test.

Systems shall be inspected and tested for proper operation at 6-month intervals. Tests shall include a check of the detection system, alarms and releasing devices, including manual stations and other associated equipment. Extinguishing system units shall be weighed, and the required amount of agent verified. Stored pressure- type units shall be checked for the required pressure. The cartridge of cartridge-operated units shall be weighed and replaced at intervals indicated by the manufacturer.

*Comment: The extinguishment system has not been tested since 2011. If the system is present it must be operable. A submitted plan for the use of the building is required to determine the extinguishment system use, or necessity.*

Reference Number: IFC (2012) 605.1 Abatement of electrical hazards.

Identified electrical hazards shall be abated. Identified hazardous electrical conditions in permanent wiring shall be brought to the attention of the responsible code official. Electrical wiring, devices, appliances and other equipment that is modified or damaged and constitutes an electrical shock or fire hazard shall not be used.

*Comment: Unable to test/check emergency lighting and exit signs due to electricity being off.*

Reference Number: NFPA 10 (2002) 6.3.1 Frequency.

Fire extinguishers shall be subjected to maintenance at intervals of not more than 1 year, at the time of hydrostatic test, or when specifically indicated by an inspection or electronic notification.

*Comment: Extinguisher require annual maintenance.*

**Business Name**  
Brickhouse  
115 W 3rd St  
Grand Island, NE 68801

Occupancy Type: Assembly  
Total Violations: 0  
Corrected Violations: 0

Phone:

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Reference Number: IFC (2012) 605.6 Unapproved conditions.

Open junction boxes and open-wiring splices shall be prohibited. Approved covers shall be provided for all switch and electrical outlet boxes.

Comment: Junction box covers loose and missing.

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Reference Number: IFC (2012) 904.11.5 Portable fire extinguishers for commercial cooking equipment.

Portable fire extinguishers shall be provided within a 30-foot (9144 mm) travel distance of commercial-type cooking equipment. Cooking equipment involving solid fuels or vegetable or animal oils and fats shall be protected by a Class K rated portable extinguisher in accordance with Sections 904.11.5.1 or 904.11.5.2, as applicable.

Comment: If cooking is going to be done and the hood system used a Class K fire extinguisher will be required.

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Reference Number: IFC (2012) 605.1 Abatement of electrical hazards.

Identified electrical hazards shall be abated. Identified hazardous electrical conditions in permanent wiring shall be brought to the attention of the responsible code official. Electrical wiring, devices, appliances and other equipment that is modified or damaged and constitutes an electrical shock or fire hazard shall not be used.

Comment: Several areas of exposed wiring, electrical wiring through the floor.... however unable to check for energy due to the electricity being off. A reinspection with a licensed electrician is recommended.

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Reference Number: IFC (2012) 609.1 General.

Commercial kitchen exhaust hoods shall comply with the requirements of the International Mechanical Code.

Comment: The commercial hood is to be updated, maintained and tested or removed. At the initial time of inspection over a year ago, it was allowed to remain unused and un-maintained for a period of time while owner determines if the system will be used or removed. That time period has expired.

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**Business Name**

Brickhouse  
115 W 3rd St  
Grand Island, NE 68801

Occupancy Type: Assembly

Total Violations: 0

Corrected Violations: 0

Phone:

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Reference Number: IFC (2012) 105.1.1 Permits required.

Any property owner or authorized agent who intends to conduct an operation or business, or install or modify systems and equipment which is regulated by this code, or to cause any such work to be done, shall first make application to the fire code official and obtain the required permit.

Comment: Plans were "submitted" in 2015 after this violation was cited. However, the changes did not end up being in accordance with the plans. Therefore, although the violation was complied with and corrected, consequent actions make it necessary that new plans be submitted that illustrate the changes actually made. Los planes fueron "presentados" en 2015 después de esta violación fue citado. Sin embargo, los cambios no terminan siendo de acuerdo con los planes. Por lo tanto, aunque la violación fue atendida y corregida, consecuentes acciones hacen que sea necesario que se presentarán nuevos planes que ilustran los cambios efectivamente realizadas. An occupant load was determined based upon the original design of the remodel. This plan was not followed, so a new plan demonstrating the use of the building, where the dance floor will be, how much area is used and for what it will be used for, must be submitted in order to determine a new occupancy load. If the occupancy load increases the number of allowed people in the building, a sprinkler system will be required to be installed. If the occupant load does not increase the previous occupant load limits, then the building will be allowed to be occupied under a legal non-conforming status. Un número de ocupantes se determinó con base en el diseño original de la remodelación. Este plan no fue seguido, por lo que un nuevo plan que demuestra el uso del edificio, donde será la pista de baile, la cantidad de área se utiliza y para qué se va a utilizar para, debe ser presentada con el fin de determinar una nueva carga de ocupación. Si la carga de ocupación aumenta el número de personas permitidas en el edificio, se requiere un sistema de rociadores para ser instalado. Si el número de ocupantes no aumenta los límites de carga de los ocupantes anteriores, a continuación, se permitirá que el edificio sea ocupada en relación con una situación jurídica no conforme. The legal non-conforming status of the occupancy is approved as long as the building continues to be in use. If the building sits empty or if owner does not bring the building into compliance and open the doors for business with permit, then the legal non-conforming status expires. I am setting an expiration date for this status to end on Aug. 31, 2016. The building has either been vacant, or used without permit for well over a year. La situación jurídica disconforme de la ocupación es aprobada, siempre y cuando el edificio sigue siendo en uso. Si el edificio se encuentra vacío o si el propietario no trae el edificio en el cumplimiento y abrir las puertas para los negocios con permiso, entonces la condición de no conforming legal expira. Estoy fijando una fecha de caducidad para este estado para terminar el 31 de agosto de 2016. El edificio ha sido o vacante, o se usa sin permiso durante más de un año.

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Comments:

Contacted Francisco Garcia and reminded him of numerous issues and code violations that still needed to be addressed. I advised him that he would need to come in with floor plan, as is spelled out in the inspection report, so that an accurate occupant load could be determined.

To my knowledge, none of the violations still recorded in the inspection report have been corrected. Also, I have received no notification of corrections or request for inspections.

There has been no documented progress.

The next "Periodic" is due on or before: 9/18/2016

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Hotz, Fred  
Grand Island Fire Department  
100 E. 1st Street  
Grand Island, Nebraska 68801  
389-0228

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Page 3 of 3





## Inspection

### Periodic

Grand Island Fire Department  
100 E. 1st Street  
Grand Island, NE 68801  
Phone: 308-389-0228  
Fax: 308-385-5423  
Email: fhotz@grand-island.com

Activity Date: 08/09/16 10:00:00 AM  
Activity Number: I-smurphy-15-0073.F  
Activity Cause: Reinspection  
Inspector 1 Name: Hotz, Fred  
Inspector 1 Phone: 389-0228

### Business Name

Brickhouse  
115 W 3rd St  
Grand Island, NE 68801

Occupancy Type: Business  
Total Violations: 2  
Corrected Violations: 1

Phone:

An inspection of your business/facility has revealed the violation(s) listed on the enclosed Inspection Report. Please review the violations listed and make the proper corrections. If you have questions concerning any of the violations or you have corrected the violations, please make a call to the inspector listed in the upper right hand corner of the report.

Code Enforcement is a proven method of preventing fires and or reducing fire spread in the event of a fire. With your co-operation, you help to make a safer community as well as contributing your part in helping to curb rising insurance rates and taxes. Insurance rates are based upon incident costs. If the incidents are reduced, the rates reflect this. In addition, fewer fires can reflect less of a need and cost for the expansion of your local fire suppression equipment and personnel as the city continues to grow.

PLEASE note that a \$50 fee will be assessed per re-inspection if the cited violations are not corrected after repeated inspection visits.

### Inspection Detail Not Cited Above

Reference Number: IFC (2012) 609.1 General.

Commercial kitchen exhaust hoods shall comply with the requirements of the International Mechanical Code.

Comment: The commercial hood is to be updated, maintained and tested or removed. At the initial time of inspection over a year ago, it was allowed to remain unused and un-maintained for a period of time while owner determines if the system will be used or removed. That time period has expired.

Reference Number: IFC (2012) 105.1.1 Permits required.

Any property owner or authorized agent who intends to conduct an operation or business, or install or modify systems and equipment which is regulated by this code, or to cause any such work to be done, shall first make application to the fire code official and obtain the required permit.

Comment: Plans were "submitted" in 2015 after this violation was cited. However, the changes did not end up being in accordance with the plans. Therefore, although the violation was complied with and corrected, consequent actions make it necessary that new plans be submitted that illustrate the changes actually made. Los planes fueron "presentados" en 2015 después de esta violación fue citado. Sin embargo, los cambios no terminan siendo de acuerdo con los planes. Por lo tanto, aunque la violación fue atendida y corregida, consecuentes acciones hacen que sea necesario que se presentarán nuevos planes que ilustran los cambios efectivamente realizadas. An occupant load was determined based upon the original design of the remodel. This plan was not followed, so a new plan demonstrating the use of the building, where the dance floor will be, how much area is used and for what it will be used for, must be submitted in order to determine a new occupancy load. If the occupancy load increases the number of allowed people in the building, a sprinkler system will be required to be installed. If the occupant load does not increase the previous occupant load limits, then the building will be allowed to be occupied under a legal non-conforming status. Un número de ocupantes se determinó con base en el diseño original de la remodelación. Este plan no fue seguido, por lo que un nuevo plan que demuestra el uso del edificio, donde será la pista de baile, la cantidad de área se utiliza y para qué se va a utilizar para, debe ser presentada con el fin de determinar una nueva carga de ocupación. Si la carga

Page 1 of 3



**Business Name**  
Brickhouse  
115 W 3rd St  
Grand Island, NE 68801

Occupancy Type: Business  
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Phone:

de ocupación aumenta el número de personas permitidas en el edificio, se requiere un sistema de rociadores para ser instalado. Si el número de ocupantes no aumenta los límites de carga de los ocupantes anteriores, a continuación, se permitirá que el edificio sea ocupada en relación con una situación jurídica no conforme. The legal non-conforming status of the occupancy is approved as long as the building continues to be in use. If the building sits empty or if owner does not bring the building into compliance and open the doors for business with permit, then the legal non-conforming status expires. I am setting an expiration date for this status to end on Aug. 31, 2016. The building has either been vacant, or used without permit for well over a year. La situación jurídica disconforme de la ocupación es aprobada, siempre y cuando el edificio sigue siendo en uso. Si el edificio se encuentra vacío o si el propietario no trae el edificio en el cumplimiento y abrir las puertas para los negocios con permiso, entonces la condición de no conforming legal expira. Estoy fijando una fecha de caducidad para este estado para terminar el 31 de agosto de 2016. El edificio ha sido o vacante, o se usa sin permiso durante más de un año.

#### Pre Existing Inspection Details

Reference Number: IFC (2012) 904.6.1 System test.

Systems shall be inspected and tested for proper operation at 6-month intervals. Tests shall include a check of the detection system, alarms and releasing devices, including manual stations and other associated equipment. Extinguishing system units shall be weighed, and the required amount of agent verified. Stored pressure- type units shall be checked for the required pressure. The cartridge of cartridge-operated units shall be weighed and replaced at intervals indicated by the manufacturer.

Comment: The extinguishment system has not been tested since 2011. If the system is present it must be operable. A submitted plan for the use of the building is required to determine the extinguishment system use, or necessity.

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Comment: Unable to test/check emergency lighting and exit signs due to electricity being off.

Reference Number: NFPA 10 (2002) 6.3.1 Frequency.

Fire extinguishers shall be subjected to maintenance at intervals of not more than 1 year, at the time of hydrostatic test, or when specifically indicated by an inspection or electronic notification.

Comment: Extinguisher require annual maintenance.

Reference Number: IFC (2012) 605.6 Unapproved conditions.

Open junction boxes and open-wiring splices shall be prohibited. Approved covers shall be provided for all switch and electrical outlet boxes.

Comment: Junction box covers loose and missing.

Reference Number: IFC (2012) 904.11.5 Portable fire extinguishers for commercial cooking equipment.

Portable fire extinguishers shall be provided within a 30-foot (9144 mm) travel distance of commercial-type cooking equipment. Cooking equipment involving solid fuels or vegetable or animal oils and fats shall be protected by a Class K rated portable extinguisher in accordance with Sections 904.11.5.1 or 904.11.5.2, as applicable.

Comment: If cooking is going to be done and the hood system used a Class K fire extinguisher will be required.

**Business Name**

Brickhouse  
115 W 3rd St  
Grand Island, NE 68801

Occupancy Type: Business

Total Violations: 2

Corrected Violations: 1

Phone:

---

Reference Number: IFC (2012) 605.1 Abatement of electrical hazards.

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Comment: Several areas of exposed wiring, electrical wiring through the floor.... however unable to check for energy do to the electricity being off. A reinspection with a licensed electrician is recommended.

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Severe but Corrected

Reference Number: IFC (2012) 105.1.1 Permits required.

Any property owner or authorized agent who intends to conduct an operation or business, or install or modify systems and equipment which is regulated by this code, or to cause any such work to be done, shall first make application to the fire code official and obtain the required permit.

Corrected On: 08/17/2016

Comment: Plans need to be submitted to the Fire Marshal, to include an accurate sketch/drawing of the floor plan, to include measurements, and the intended use of all areas of the building. Until such plans are submitted and an occupancy permit is obtained the business/building is to remain closed to the public.

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Comments:

Attended a Liquor Commission Appeals board meeting. Maria Garcia, owner, appealed the decision to not issue a license for liquor sales.

At the meeting, the board voted to not issue a permit but to rather give the Garcia's time to bring their buildings into compliance with city standards.

They would entertain a future applications if the city approves the action.

The next "Periodic" is due on or before: 8/12/2016

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Hotz, Fred  
Grand Island Fire Department  
100 E. 1st Street  
Grand Island, Nebraska 68801  
389-0228

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4/1/2015

Building appears vacant.

4/15/2015

I was able to gain access by the owner Maria Garcia. Maria advised the building is used aprox. once per month for baby showers and small gatherings. During the inspection the electricity was turned off as the owner does not want to incur the utility expense. Flashlights were used.... and wiring could not be checked to determine if energized or not. The rear areas kitchen and offices are uninhabitable in the current condition. The roof had been leaking and a major clean up would be required to reopen the kitchen and office areas. It appears the kitchen appliances are disconnected and not operable. The upper level was not inspected, the owner did not have the key.

4/22/2015

I called Maria and asked if the business had been open on Sat. night. She advised it had been. I explained it was not to be open until the guidelines from the inspection were met. I met her at the location later in the day. She advised she is working on the violations, she asked if she could open this weekend for a small shower. I told her if she kept working on the violations and got a drawing with plans for the building completed it would be ok to open.

5/6/2015

Progress has been made. An electrician has been working on the violations. Back rooms have been cleaned up, but more to do. Ask Maria about drawing of building. She advised she had it at home and would bring it to City Hall tomorrow.

6/10/2015

I called and spoke with Maria Garcia in regards to the drawing to include the intended use for this building. Maria's adult son Francisco came to City Hall with a hand drawn diagram of the building. F.M. Hotz decided that a permit is not necessary at this time. It was verbally agreed to that there would be no cooking done in the building, and all cooking equipment would be disconnected and stored in place. Also the rear exit pathway would be maintained, but no access would be allowed into the kitchen or back storage/office areas. All the hallway doors leading to the rear exit would be locked and no customers would be allowed into these areas. The panic hardware on the rear exit would be maintained in good workable condition. All outstanding violations shall be remedied.

The possibility of adding an elevated dance/party area in the future was discussed. A good drawing of the planned construction would be required upon applying for a permit from the Building Department PRIOR to any construction taking place. To be clear: no modifications to the building, outside of the above mentioned, may take place without the prior approval of the Building Dept.

The Fire Marshal spoke with Building Dept. Head. It was determined that a new occupancy permit needs to be issued for the use of the building. This permit will be issued when an inspection of the building is done after the above issues are corrected.

6/12/2015

Fire Marshal Hotz, Inspector Sevenker and myself got the key and a drawing from Maria. We did a walk through. Construction - was being done: NEW Lights were hanging from large angled metal tubing. Tools, ladders and construction materials were throughout the assembly area. Walking back to Azteca Market we met Francisco Maria's adult son. He advised the lights were not energized yet and asked us some electrical questions. Fred informed Francisco that a permit from the Building Dept. was necessary to perform the work. Fred advised him that the building was not to be occupied and it would be posted Monday. Also Francisco needs to get a permit in the mean time.

7/7/2015

An Electrical Permit was obtained for Boersen Electric.

12/18/2015

I spoke with Fran, he advised all construction is on hold. He has been working at Azteca Market.

**115 W 3rd St**

Allow Item Activity Checklist Default

[General](#) | [Parties \(9\)](#) | [Permits \(0\)](#) | [Activities \(9\)](#) | [Files/Images \(1\)](#) | [Notes \(0\)](#) | [Related Address \(0\)](#) | [More Info](#) | [Map](#)

Activities for this Address Record

Hide Activities with Inactive Parties: ☒

| Activity Category | Activity #       | Activity Date | Activity Cause | Activity Type |
|-------------------|------------------|---------------|----------------|---------------|
| Inspection        | I-smurphy-15-007 | 01/15/2016    | Reinspection   | Periodic      |
| Inspection        | I-smurphy-15-007 | 12/18/2015    | Reinspection   | Periodic      |
| Inspection        | I-smurphy-15-019 | 07/07/2015    | General        | Periodic      |
| Inspection        | I-smurphy-15-007 | 06/12/2015    | Reinspection   | Periodic      |
| Inspection        | I-smurphy-15-007 | 06/10/2015    | Reinspection   | Periodic      |
| Inspection        | I-smurphy-15-007 | 05/06/2015    | Reinspection   | Periodic      |
| Inspection        | I-smurphy-15-007 | 04/22/2015    | Reinspection   | Periodic      |
| Inspection        | I-smurphy-15-007 | 04/15/2015    | Periodic       | Periodic      |
| Inspection        | I-smurphy-15-007 | 04/01/2015    | Periodic       | Periodic      |



Azteca Comments:

Fire Marshal Rohling 4/22/11 (Bodie)

Sprinkler system check. The heads are out dated and will be replaced over the next year.(360 heads). Contractor to send proposal to Ron Bodie after it is finalized I will receive a copy. Plans not in for remodel. 9-21-11 spoke to Bamford Fire in Kearney they gave a proposal approximately three weeks ago have heard nothing. When we did the walk through in April the understanding was that the main floor needed to be done the rest of the heads would be done within a year.

Rohling 9/2/11 (Bodie/Garcia)

I discussed with owner a plan to update sprinkler system. She had a quote from Bamford that was dated 8/8/11 good for 30 days she had not contracted with them yet. She needs to do main floor first then replace all the heads and valves that are out of date. All heads are out of date.

Rohling 9/21/11 (Garcia)

The building was inspected in April of 2011. The owner was told that the street level part of the system needed to be operating when they opened for business and that, the rest of the heads for the system on the rest of the floors covered needed to be replaced, I was to get a time line with in a year to complete the all of the upgrades.

DC Hotz 10-7-11

Maria Garcia came to City Hall. She wanted to extend deadline for sprinkler system repair until 12/7/11. She stated new bid to get main floor operational was \$6000. She thought she could do it by 12/7. I told her I would pass info to Chief Rohling on 11/1. We would contact her then.

Captain John Mayer 11-1-2011

Made following exceptions

1. Deadline for 1st floor sprinkler system to be operational (with new heads) is 12/15/11.
2. Dry type sprinkler system for cooler & freezer required by 4/1/12. The rest of system (basement & 2nd floor) will be operational by 4/1/12.

Captain John Mayer 11-1-2011

Attached file describes current deficiencies in the system. System tested this date. Sprinkler heads replaced on main floor and main floor, basement and 2nd floor system is currently live with bell sounding on main floor if water flow in the system. Attic system is non-functional, (dry system).

LSO Shayne Murphy 3/19/15

I called Bamford to get a copy of the latest sprinkler test. The system had been last tested Feb. 2015. However the carbon print could not be read clearly. Bamford will email me a copy. I received Bamford's copy and it is attached to the inspection. A copy was delivered to the owners.

LSO Shayne Murphy 3/23/15

Maria Garcia and three of her children met with F. M. Hotz and myself to discuss the violations at Aztec Market. Maria related that Bamford can not get to her sprinkler system until late summer or early fall. Fred advised her to check with other sprinkler contractors and see if the work could not be started sooner. We visited about the inspection done by GIFFD back in 2011, with all sprinkler violations being corrected by 04/2011. Maria related she will struggle with getting the funds to bring the sprinkler system up to code. Fred advised her to get bids with dates and present them to him by 04/02/2015. Aztec Market is also to get the non-sprinkler violations corrected by 04/02/2015. Fred advised if they do not meet the agreed to criteria he will have to close the business until it is brought into compliance.

Letter of intent by owner to have partial system complete by Sept. 15, 2015.  
Letter from sprinkler contractor confirming contract.

4.2-15

-to who,

Hola mi nombre maria Garcia  
representa al lugar llamado  
Azteca Market, estuve hablando  
con personal de la departamento (Fire)  
para aserles saber que los  
Esprinkleres estan listos  
cuando el Señor (Doug) de  
Bamford ~~para~~ aya terminado  
de <sup>un</sup> daros que van a estar listos  
para Sep-Oct 15. terminar las  
refrigeradores antiguos y el Revisamento.  
terminando esa parte, (Doug) y  
Longo toda la intencion de que  
pueda seguir con el 2nd flr  
lo mas pronto que el Señor (Doug)  
pueda. yo quisiera que fuera  
entre Feb-Marzo pero tengo  
que consultarlo con el Sr. (Doug)  
de Bamford Inc

y Quiero agradecer para dar  
las Gracias X esta 2da oportunidad

ATTE

MARIA  
GARCIA



April 1<sup>st</sup> 2015

City of Grand Island Fire Division  
3690 State Street  
Grand Island NE 68803

RE: Fire Sprinkler Upgrades Azteca Market

Dear Mr. Hotz

Bamford Inc. received a signed contract from the Azteca market for the  
basement fire sprinkler heads change out and for adding fire sprinkler heads  
in the first floor. As per our phone conversation on 3/27/2015 I have  
not include the second floor till we get that figured out. Also as discussed I  
will not be able to do this work till September/October of 2015 Please call if  
you have any questions

Thank You

Doug Roeder

Doug Roeder

Bamford Inc.  
Office 308.237.2157  
Cell 308.627.5960  
E Mail: doug.roeder@bamfordinc.com

4/17/2015 = Basement head done, not ceiling on 1st floor.

LSO Shayne Murphy 3/26/15

Maria called and left a message advising she had several violations corrected. I stopped and revisited with Maria about getting the violations corrected in a timely manner, as few had been completed. I reminded her F.M. Hotz had informed her the violations needed to be corrected, and a plan from a sprinkler contractor to get the system up to code by April 2nd. If the deadline is not met Fred advised her he would close the business until the violations were corrected. I informed Maria much of the materials she needs to correct the violations can be picked up at local hardware stores.

LSO Shayne Murphy 3/31/2015 (Some violations corrected)

LSO Shayne Murphy 4/1/2015

F.M. Hotz and Maria Garcia agreed that the sprinkler deficiencies will be addressed. Documentation is in Files/Images - code pal. Also a architectural plan/drawing of the upper level will be delivered to Fred and a permit acquired within one month = 03-02-2015. If these deadlines/agreements are not met F.M. Hotz will close the business until they are complied with.

LSO Shayne Murphy 4/2/2015

F.M. Hotz and I stopped at this business. We met with Maria and her husband and son. Fred advised them he doesn't believe the "ballroom" (far west room) has a permit of occupancy for it's current use - Assembly. He asked them to include this area in their plans which the architect is working on. After the plans are submitted and the area brought up to code, they could then apply for an "assembly" occupancy permit. Fred also asked them to get a final inspection by the building department for the Azteca Market which was not performed before the business was opened.

The upper level was posted "LEGAL NOTICE STOP WORK." No more work is to be done until a permit is obtained which requires the architects plan.

Maria was also advised of the City's plan to assist with down town sprinkler systems, when an upper level living area/apartments are being considered. Maria advised she will contact Chad Nabity.

A fueled snow blower will be removed today.



LSO Shayne Murphy 6/12/2015

F.M. Hotz, Inspector Sevenker and myself met Maria at the business. We were checking on the plans moving forward for the ballroom. We discovered the ballroom was being set up for an event tomorrow. Maria had been told over a month ago she could hold the two events scheduled in May and things would be reevaluated, depending on the architects plan and work completed. But no other events were to be held in the ballroom. After much discussion Fred ok'd the event for tomorrow, with the following stipulations. The doors into the store area must be accessible and unlocked. The door through the utility room is to be closed. Maria was also advised that the metal shutters for the south alley exit will need to be removed. Fred will discuss the business with Building Director Craig Lewis and return next week.

LSO Shayne Murphy 9/11/2015

I met with Maria and her son Francisco. A new exit door with panic hardware had been installed inside the current exit/door, leading from the ballroom to the alley. The old exterior door was still present. The restrooms had not been started, Maria said they could not afford to install them at this time. The basement had been cleaned up but more needs to be done. No new activities are to be scheduled for the ballroom. When the ballroom is used the doors leading into the store need to be open so egress could be made to the outside if necessary. I discussed with Maria the need to get the entire buildings sprinkler system operable prior to the basement being used by the public. I also told Maria that the deadline to keep the business open was 10/30/2015 per the temporary occupancy permit F.M. Hotz had issued in June.

I returned to City Hall and discussed my findings with Fire Marshal Hotz. After which I called Maria with the following directions. The old exterior door to the alley needs to be removed. The exit sign above the door needs to be moved and placed above the new exit door. The missing ceiling in the exit hallway needed to be installed. Combustibles in the basement not intended for store use needed to be removed. The exit sign above the NW exit needed to be completely covered or removed. Lastly I told Maria the restrooms would be the Building Departments decision.

LSO Shayne Murphy 11/17/2015

I called and spoke with Doug Roeder from Bamford. Doug advised he had completed the sprinkler system update in the basement. He will visit with Maria next week regarding the coolers on the main floor and the upper level. I advised Doug the coolers needed to be completed soon. He will visit with Maria next week and get back to me. I offered to visit with Maria but Doug wishes to speak with her first.

LSO Shayne Murphy 12/03/2015

I called and spoke with Doug Roeder of Bamford Inc. Doug related he had called Maria two weeks ago leaving a voice message asking her to return his call. He has not heard back from Maria. I attempted to call Maria's cell phone - busy signal. Contacted the store, they advised she may be in at noon today. I will try again later today.

I caught Maria at the business. We discussed the ballroom and future activities. Maria advised that she had an event planned for this weekend. She asked if she could wait to add sprinklers to the walk in coolers as she is planning on getting new coolers. I did a walk through of the upstairs, the lumber pile, insulation and other combustibles are still present. Upon visiting with Maria about the combustibles in the upper level, she advised she would start work on it this Friday. Maria also explained that the lumber and other combustibles hadn't been removed from the basement. I advised Maria I would visit with Fire Marshal Hotz and get back with her this afternoon.

Fred decided the following:

1. The combustibles need to be removed from the basement by tomorrow at 4:45 pm. If they are not removed the Ballroom will be closed until the combustibles are removed from the basement and upper level.
2. The combustibles in the basement as well as the upper level must be removed by 12-18-2015 or a court order will be pursued to close the occupancy, and remove all store items. The entire building will remain closed until all levels are brought up to the current sprinkler code, and combustibles removed from the basement and upper level.
3. The walk in cooler will have suppression added as soon as a contractor can install it.
4. The attic sprinkler system will be functional by 06-15-2016.
5. The second level sprinkler system will have the new heads installed and brought up to code by 12-15-2016. If plans for remodel of 2nd floor are submitted by 6-15-2016, the sprinkler system deadline can be delayed to 6-15-2017.
6. The City Building Dept. needs to be consulted and a permit obtained in regards to first floor rest rooms.
7. Plans must be submitted to the Building and Fire Departments for the upper level.

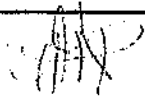
**Maria's Signature:**

Fred decided the following:

1. The combustibles need to be removed from the basement by tomorrow at 4:45 pm. If they are not removed the Ballroom will be closed until the combustibles are removed from the basement and upper level.
2. The combustibles in the basement as well as the upper level must be removed by 12-18-2015 or a court order will be pursued to close the occupancy, and remove all items from the entire building until all levels are brought up to the current sprinkler code, and combustibles removed from the basement and upper level.
3. The walk in cooler will have suppression added as soon as a contractor can install it.
4. The attic sprinkler system will be functional by 06-15-2016.
5. The second level sprinkler system will have the new heads installed and brought up to code by 12-15-2016. If plans for remodel of 2nd floor are submitted by 6-15-2016, the sprinkler system deadline can be delayed to 6-15-2017.
6. The City Building Dept. needs to be consulted and a permit obtained in regards to first floor rest rooms.
7. Plans must be submitted to the Building and Fire Departments for the upper level.

Re-Inspection to be performed on or before: 12/4/2015

The next "Periodic" is due on or before: 12/3/2016



12-3-15

381-1035

Page 2 of 3

LSO Shayne Murphy 12/11/2015

I called and reminded Maria that the upper level had to have the combustibles removed by Friday, 12-18-2015. I also told her I would be over on Friday afternoon to check, and Fire Marshal Hotz is going to close the entire building if combustibles are not removed.

LSO Shayne Murphy 12/18/2015

Fire Marshal Hotz and I met Maria and her son Fran at the store. We re-inspected the basement and upper level. The majority of the combustibles were removed. Fred gave the go ahead to use the ballroom provided the occupancy load does not exceed OL permit.

Fred also advised Maria her children could use the small electric cars in the basement, provided it is kept free of combustibles.

The second level was discussed, it currently has several stud walls. Fred is concerned with the fire load.... He advised Maria she would need to get plans drawn, obtain a permit, and get a time frame put in place when the construction would be started/completed. Fred will discuss the second level concerns with Building Director Lewis. The walls may need to be removed if the completion date is too far into the future.

Attic Dry System is to be functional by 6-15-2016.

The second level sprinkler system will have the new heads installed and brought up to code by 12-15-2016. If plans for remodel of 2nd floor are submitted by 6-15-2016, the sprinkler system deadline can be delayed to 6-15-2017.

The City Building Dept. needs to be consulted and a permit obtained in regards to first floor rest rooms and time frame to complete.

Sprinkler head needs to be dropped down to the ceiling of the rear exit area. IMMEDIATELY

LSO Shayne Murphy 3/11/2016

I called and spoke with Maria and her son Fran. I reminded them of the agreement signed 12-03-2015. Maria advised she had a copy and gave the phone to Fran. I explained to Fran per the agreement #4, The attic sprinkler system will be functional by 06-15-2016. #5. The second level sprinkler system will have the new heads installed and brought up to code by 12-15-2016. If plans for remodel of the 2nd floor are submitted by 06-15-2016, the sprinkler system deadline can be delayed to 06-15-2017. I advised Fran these deadlines were firm and the violations must be completed on time. I also advised we had received a report from Bamford dated 02-08-2016, which Fran had signed with major deficiencies. Later in the day Fran and Maria came to City Hall and visited with Fred and I regarding the outstanding sprinkler violations. Fred is going to talk to Building Director Lewis, and Doug from Bamford, Inc. A game plan going forward will be decided on and we will inform Fran and Maria.

LSO Shayne Murphy 3/17/2016

Received a call from Doug at Bamford. Doug advised he plans to start work on Azteca Market soon, his plans are to have the owners insulate the attic space with noncombustible insulation. Doug hopes to have work begin on the second level next week, replacing the heads and installing a new wet riser. I asked Doug if this work was all per code, and if so, would the building be up to date with the sprinkler system? Doug advised it would be current and per code. I advised Doug we were not familiar with the insulation install and he would need to approve the work.



Fire Marshal Hotz 3/28/2016

A discussion took place with Doug Bamford...Bamford Sprinkler Contractor. Doug had proposed to Maria (owner of Azteca Market) that instead of sprinkling the attic space above the second floor, they could fill the attic with insulation. This understanding was based upon a misunderstanding of the code, thinking that an attic space is equivalent to a concealed space.

In this conversation, we discussed the requirement that the attic will need to be sprinkled and we offered the idea of pushing dry pipe into the attic from the wet second floor system and eliminating the dry system altogether. This appeared to be the only solution, but more costly for materials than what had been originally planned for.

The option of completing the attic sprinkler system in the June and then completing the second floor system in Dec. was flipped and it was requested that the second floor be completed first and then the attic. I approved this change as long as significant progress was being made, I did not have a preference.

In the last discussions, it was determined that the 2nd floor and the attic would need to be completed at the same time. I approved this on the condition that it would be done by June 15, 2016.

This order to sprinkler the building goes back as far and as long as previous owners and the current owner was ordered on 4/22/2011.

The deadline of 6/15/2016 stands.

Fire Marshal Hotz 7/14/2016

On Tuesday July 12th I called the contractor (Bamford) that Maria Garcia has been using to find out what has been completed. Maria has not been in any kind of contact with the contractor.

The time certain date to complete the work has therefore been passed over again. Phase II is not even started and was to be completed in June.

I informed the son, Francisco, this date, that the store is to close its doors by Monday morning the 18th.

The following day, I was contacted by the sprinkler contractor, Doug Roeder (Bamford Sprinkler) and was told that he was contacted by both Maria and Francisco and that they have asked him to complete the second phase of the project. He told me he could have the materials by mid-August, start the work immediately and be finished by mid-September. He asked for a completion date of Oct. 1, 2016 for the second floor phase two of project.

I decided to give approval to extend the time certain date to Oct. 1, 2016 for phase II. When Maria returns to the country, I will have a conversation about phase III and about the temporary occupancy of the ballroom being revoked.

| Activity Date | Activity Cause | Activity Type         | Complete | Parties Name  | InspectorName  | Violation Counts |
|---------------|----------------|-----------------------|----------|---------------|----------------|------------------|
| 07/14/2016    | Reinspection   | Periodic              | ✓        | Azteca Market | Hotz, Fred     | 1                |
| 03/28/2016    | General        | Life Safety Officer W | ✓        | Azteca Market | Hotz, Fred     | 0                |
| 03/17/2016    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 1                |
| 03/11/2016    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 1                |
| 12/18/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 2                |
| 12/11/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 1                |
| 12/03/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 3                |
| 11/17/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 1                |
| 09/11/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 3                |
| 06/12/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 5                |
| 05/06/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 5                |
| 04/02/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 8                |
| 04/01/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 12               |
| 03/31/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 18               |
| 03/26/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 17               |
| 03/23/2015    | Reinspection   | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 15               |
| 03/19/2015    | Periodic       | Periodic              | ✓        | Azteca Market | Murphy, Shayne | 28               |
| 12/11/2012    | General        | Sprinkler System Ins  | ✓        | Azteca Market | Mayer, John    | 0                |
| 11/01/2011    |                | Referral              | ✓        | Maria Garcia  | Mayer, John    | 1                |
| 10/07/2011    | Reinspection   | Sprinkler System Rev  | ✓        | Maria Garcia  | Mayer, John    | 0                |
| 09/21/2011    | General        | Referral              | ✓        | Maria Garcia  | Rohling, Curt  | 1                |

16,000 sq. ft.  
 - basement  
 1<sup>st</sup>  
 2<sup>nd</sup>  
 attic

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\* Began a business without permit to occupy

\* she was given time to comply - 2011

\* Compliance issues re-addressed 2015

\* - 1<sup>st</sup> floor done in 2011

- Freezer done in 2015

- 2<sup>nd</sup> Dec. 15 2016 not done

- Attic June 15 2016 not done

2015 \* opened Ballroom No Permit (currently Temp) <sup>has not building or fire egress</sup>

2015 \* Began Construction No Permit (currently STOP WORK)

\* <sup>opened</sup> ~~constructed~~ Ballroom 2<sup>nd</sup> floor framing for Residential

- Purchased Brickhouse > construction.

