



CITY OF MANCHESTER

PLANNING AND COMMUNITY DEVELOPMENT

Planning and Land Use Management
Building Regulations
Code Enforcement Division
Community Improvement Program
Zoning Board of Adjustment

Leon L. LaFreniere, AICP
Director

Pamela H. Goucher, AICP
Deputy Director - Planning & Zoning

Michael J. Landry, PE, Esq.
Deputy Director - Building Regulations

April 23, 2021

Andrew J. Tine, Esq.
18 Maple Avenue
Barrington, RI 02806

Orange Street 296, LLC
Registered Agent: Lamya Forghany
33 Crank Road
Hampton Falls, NH 03844

BY CERTIFIED MAIL RETURN RECEIPT REQUESTED

**Re: First Summons:
296 Orange St., Manchester, NH
Non-Permitted Use of Property**

Dear Attorney Tine and Ms. Forghany:

Thank you for your letter dated April 19, 2021 where you request that the City recognize the occupancy of the Property as a "family" or in the alternative whether the City would grant a reasonable accommodation without requiring your client to apply for a variance.

These issues were fully addressed in the City's letter of February 18, 2021, which set forth the City's position that the property is being used as a rooming house in violation of the Zoning Ordinance, that a variance was required for the rooming house use and that your request for a reasonable accommodation would be addressed by the Zoning Board of Adjustment. The letter of February 18, 2021 also served as a Notice of Violation and informed your client, Orange Street 296, LLC, that further enforcement actions would be forthcoming if the order was not observed. This was an administrative decision appealable within 30 days. No appeal was received.

On February 24, 2021 you responded to the February 18, 2021 letter by email and stated: *"thank you for your letter dated February 18, 2021. My client would like to pursue a variance and respond to the other issues raised in your letter. Your letter has a deadline to apply for a variance of March 20, 2021. May my client have an additional 30 days, through April 19, 2021 to apply for same? I am away February 26th until March 11th, so this would be a difficult deadline to meet."*

The next day, I responded by email and granted your request for an extension to submit a variance to April 19, 2021.

No variance application was submitted on April 19, 2021. Instead on that date you submitted a letter that raised the same issues that were addressed in the City's letter of February 18, 2021. You provide an affidavit of Jonathan Gerson of Into Action Sober Living ("IASL") to support the

premise *"that the present use is a structured relationship constituting an organized house keeping unit, thus meeting the definition of a "Family" under the City's Zoning Ordinance."*

Your letter of April 19, 2021 concludes with the following: *"Should the City refuse to recognize the occupants of the Property as a family, IASL respectfully requests that its reasonable accommodation be granted by the City to allow use and occupancy of the property by unrelated disabled occupants at 296 Orange Street in the same manner as any traditional family."*

Please let me know if the 1) the City will recognize the occupancy as that of a "family" and if not, 2) whether a reasonable accommodation will be granted without seeking a variance for the use of the property by unrelated disabled occupants in the same manner as any other family. If the City denies the relief required herein a variance or other relief may be pursued by my client."

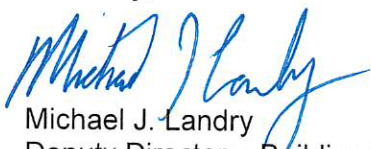
Your letter refers to IASL (Into Action Sober Living) as requesting a reasonable accommodation. The City has no current enforcement action against IASL at this time. All previous correspondence on this issue has been directed to, or on behalf of, the property owner of record, Orange Street 296, LLC. It is assumed that the reference to IASL was intended to refer to the property owner, Orange Street 296, LLC which is the sole subject of this enforcement action.

The two questions posed in your April 19, 2021 letter were completely addressed in the City's letter of February 18, 2021. However to reiterate: 1) the City will not recognize the occupancy as a family when the occupancy is a business entity that operates a number of similar rooming house business enterprises that rents rooms, or portions of rooms, to unrelated adults in excess of the occupancy allowed by the Life Safety Code, and 2) your client, may request a reasonable accommodation from the Zoning Board of Adjustment when it applies for a variance just like any other person or entity that would like to operate a rooming house in the R-2 zoning district.

Enclosed in Ms. Forgahny's copy of this letter, sent to her in her capacity as the registered agent of Orange Street 296, LLC, is the first summons with an initial fine of \$275. (RSA 676:17, I) Failure to cease the rooming house use or apply for a variance with a complete application within seven days will result in an additional fine. If compliance is not achieved, a second notice of violation will be issued with a cease and desist order and subsequent fines will be increased to \$550. Each day being a new violation, the City is permitted to issue daily fines until compliance is achieved. (RSA 676:17, I) If fines do not achieve compliance the City may choose to resort to injunctive relief in accordance with NH RSA 676:17, II, which provides for the mandatory award of attorney fees, should the City prevail.

Let me know if you have any questions regarding the variance application process.

Sincerely,



Michael J. Landry
Deputy Director – Building Regulations

Enclosure: Local Ordinance Citation/Summons

cc: Emily Rice – City Solicitor
Daniel Goonan – Chief of Manchester Fire Dept.
Peter Lennon – Fire Marshal
David Albin – Code Enforcement Supervisor

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: **9th Circuit - District Division - Manchester**

Case Name: **State v. Orange Street 296 LLC**

Case Number: _____
(If known)

LOCAL ORDINANCE CITATION/SUMMONS

LOCAL ORDINANCE CITATION, TOWN/CITY OF Manchester, NH

- ☐ You MUST COME TO COURT AT TBD o'clock AM/PM on _____ to answer this citation.
- ☒ You DO NOT HAVE TO COME TO COURT but must answer this citation by TBD o'clock AM/PM on _____.
- Follow the instructions on page 2 of this summons.

9th Circuit - District Division - Manchester

(Court Name)

35 Amherst Street (Street Address)

Manchester NH 03101 (Town/City)

1-855-212-1234 (Telephone Number)

THE UNDERSIGNED COMPLAINS THAT CONTRARY TO TOWN/CITY ORDINANCE/REGULATION/BYLAWS
NUMBER ZO 5.10 (A) 9 THE DEFENDANT: (Please Print)

ORANGE STREET 296 LLC

(Last Name)

C/O Lamya A. Forghany, Registered Agent

(First Name)

(MI)

33 Crank Falls Rd.

(Address)

Hampton Falls, NH

(City/Town)

03844

(Zip)

On 02/18/2021 (date notice was given) was given written notice of the violation that on the
02/18/2021 (date of violation) at 296 Orange St. Manchester, NH 03104 (location
of violation) the Defendant did (narrative to include the circumstances of the violation and place the
violation occurred):

Unlawfully allow the single family residence located at 296 Orange St. Manchester, NH 03104 to be used
as a rooming house in an R-2 District where prohibited by the Zoning Ordinance of the City of
Manchester, NH

After written notice, the violation was again witnessed on 04/23/2021 at 3:00 PM AM/PM

[Signature]

(Prosecuting Official Signature)

/ **Code Enforcement Supervisor**

(Title/Authority)

Civil Penalty \$ 275.00

Maximum \$1000 per citation pursuant to RSA 31:39, III

☐ SERVED IN HAND

☒ SERVED BY POSTPAID CERTIFIED MAIL

RETURN RECEIPT REQUESTED (RETURN RECEIPT ATTACHED)

Case Name: State v. Orange Street 296 LLC

Case Number: _____

LOCAL ORDINANCE VIOLATION CITATIONS/SUMMONS

INSTRUCTIONS

Unless you have been instructed to come to court in person, you may answer this citation/summons by mail or may personally appear in court on the date on the first page of this citation/summons. If you enter a plea by mail, you have four choices regarding this citation/summons. You must (X) one of the following choices, sign below, and return this citation/summons to the court no later than the date shown on the first page of this citation/summons. Checks and money orders shall be made payable in U.S. FUNDS ONLY to the court whose name and address appear on the first page of this citation/summons. DO NOT SEND CASH THROUGH THE MAIL. FAILURE TO RESPOND ON OR BEFORE THE DATE SHOWN ON THE FIRST PAGE OF THIS CITATION/SUMMONS MAY RESULT IN YOUR ARREST.

1. ☐ I plead NOT GUILTY and wish to have a trial. I understand that I DO NOT HAVE TO APPEAR IN COURT ON OR BEFORE THE DATE SHOWN ON THE FIRST PAGE OF THIS SUMMONS and that I will be notified by mail when and where to appear for trial. I understand I have the right to represent myself or to hire a lawyer at my own expense.
2. ☐ I plead ☐ GUILTY or ☐ NO CONTEST and have enclosed a check or money order for the TOTAL amount of my civil penalty.
3. ☐ I have been charged with an offense for which no fine amount is shown on the front of this Summons, I wish to plead ☐ GUILTY or ☐ NO CONTEST and to be notified of the amount of my fine by mail.

WARNING

1. Defendants who are issued a citation/summons and who wish to plead guilty or *no contest* shall enter their plea on the summons and return it with payment of the civil penalty, as set forth in the citation, to the clerk of the court prior to the arraignment date, or shall appear in court on the date of arraignment.
2. Failure to respond to this summons by the date shown on the front of this citation/summons, or failure to appear for the hearing scheduled with regard to this citation/summons will result in a \$50.00 administrative fee added to your civil penalty (RSA 676:17)
3. If you default in accordance with Paragraph 2, or fail to pay any penalty or comply with any order with regard to this citation/summons or a similar order on any matter within the court's discretion, or issue a bad check in payment of a fine or other penalty, the court may in its discretion, issue a bench warrant for your arrest.

Date

Signature

Address if different than on Summons

