

MEMORANDUM

TO: Members of Council
FROM: Donald S. Glywasky, City Attorney
DATE: January 16, 2019
RE: Artist Boat request for additional time to continue their commercial operations in a residential area

- 1) Artist Boat has sent a request to allow them to remain in their offices at 27 & Avenue 0 for nine months. A copy of their letter is attached.
- 2) Doubtless you recall that Artist Boat operates out of a building owned by Clay Conrad. They were permitted to do so under and SUP. Clay Conrad filed a request for a PUD which would have allowed Artist Boat to continue at its present location. That request was denied in November. The Council had previously revoked the SUP.
- 3) After the first of the year the City Attorney's Office set up a meeting with Artist Boat's Board Chairman to inquire of their intentions. At the meeting they were handed a cease and desist letter advising they were operating in violation of city ordinance. Due to a comment in the Daily News attributed to the Mayor, they felt all they had to do would be to request more time from Council. Hence the filing of the request.
- 4) Code enforcement is done by and large by the City Marshall's Office with the involvement of the City Attorney's Office as needed. If a charge is filed in Court, the City Attorney's Office pursues it. In problem cases we confer on how a matter will be approached. It is not unusual for a citizen to agree to take a certain action within a given time; both the Marshall's Office and the City Attorney's Office have discretion to be flexible and allow the citizen to come into compliance.
- 5) Artist Boat's request is troubling in that it requests the Council to direct staff to refrain from enforcement activities and allow this organization several months of operation in violation of the zoning laws. This is a potential violation of the City Charter in that Council would be directing the day to day activities of City staff.
- 6) I would suggest that no action be taken on Artist Boat's request. If Artist Boat approaches my office with a reasonable request it will be considered. For example, if they produced a signed lease and needed two or three weeks to relocate that is one thing. Nine months unaccompanied with any concrete proposal is another. Absent that, the City Attorney and City Marshall Offices will begin enforcement actions which will include seeking monetary fines and injunctive relief.