

Final Report  
June 22, 2010

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770 Sandy Street  
Independent Audit

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KEYSTONE  
Municipal Services, Inc.

## **Project Summary**

This document is meant to present the **Final Report** relating to the independent audit performed for the permit issuance, inspection procedures and ultimately the issuance of the Use and Occupancy Certificates for the 770 Sandy Street Condominium Project.

The subject property is located at 770 Sandy Street, in the eastern part of Norristown, named Rittenhouse Club by the developer. The property, set on a high hill, was previously a single family home. Following the demolition of the existing structure, a five-story structure was built, which included four stories of condominiums and apartments, a sub-grade parking garage, outdoor parking, plus other amenities required by municipal ordinances, or provided by the developer. There are a total of 26 units in the building of approximately 45,250 square feet and 54 parking spaces provided.

The Municipality of Norristown approved a land development plan and building permits for a 26 unit condominium project to various entities owned by R. Bruce Fazio, beginning in 2005. Starting in April 2007, condominium units were being approved for occupancy; however, all required building inspections were not completed or were performed improperly. The result is that the structure does not currently meet construction or safety standards, and is thus uninhabitable.

The subject building was recently determined by the current code administrators, municipal staff and the municipal engineer to be unsafe and a threat to the health, safety and welfare of the occupants pursuant to a site and building inspection that occurred on April 9, 2010. The current conditions surrounding this determination were outlined within the report prepared by Remington, Vernick and Beach Engineers (RVB) dated April 12, 2010 (Exhibit No. 1). This report identified structural deficiencies within the building as well as numerous code violations and inconsistencies between the building plans, submitted at the time of the building permit application, and the as-built conditions on site.

## **Scope of Review**

The Municipality of Norristown retained Keystone Municipal Services, Inc. (Keystone) to perform an independent audit of the activities surrounding the issuance of the building permits for 770 Sandy Street (known as Rittenhouse Club), the land development process, as well as a general review of issues within the department that would have affected the review and inspection process.

Keystone was provided with all documentation in the custody of the Municipality of Norristown, along with unlimited access to staff and consultants, in developing this independent audit. Keystone also relied upon professional reports from other consultants, including Remington Vernick & Beach (RVB), the Municipal Engineer; Yerkes Associates, the current Third Party Building Inspector; CBJr Municipal Consulting Services; and information on file with various agencies of the Commonwealth of Pennsylvania.

Our process for performing this independent audit was to review all documentation currently available within the Municipality of Norristown administrative offices for the subject property, including the plans for the project that were submitted at the time of the building permit application, the issued permits and inspection records, all timelines prepared by department heads and employees of the municipality, interviewing employees involved with the permitting and inspection process and any other individuals representing the municipality that may have knowledge that would be essential to the audit.

The purpose of this report is not to identify each individual code violation within the structure or within every unit; rather, it is intended to investigate the process that allowed the structure to be constructed and ultimately occupied.

From May 11, 2010 to June 3, 2010 the staff from Keystone interviewed the following individuals:

- Mr. Russell Bono, Norristown Police Chief (Interim Municipal Manager at the time of construction.)
- Mr. David Forrest, current Norristown Municipal Manager
- Ms. Lynn Bixler, Norristown Code Enforcement Department Employee (Building Inspector and BCO at the time of the application and plan review phase and during the initial phases of construction.)
- Mr. Charles Sweeney, Norristown Fire Marshal
- Mr. Tom O'Donnell, Norristown Fire Chief
- Ms. Jayne Musonye, Norristown Director of Planning and Community Development (Director Building Department currently and at the time of construction.)
- Mr. Charles Picard, Norristown Code Enforcement Department Supervisor (Acting Building Inspector during construction of the structure.)

- Mr. Sean Kilkenny, Esq., Norristown Municipal Solicitor (Currently serves as solicitor and was solicitor at the time of construction.)
- Mr. Christopher Fazio, PE, from Remington, Vernick and Beach Engineers the Norristown Municipal Engineer and Interim Public Works Director. (Currently employed by Remington, Vernick and Beach Engineers and serves as municipal engineer and served in this capacity at the time of construction.)
- Mr. John Pasquale from Remington, Vernick and Beach Engineers the Norristown Borough Municipal Engineer. (Currently employed by Remington, Vernick and Beach Engineers as an engineering inspector served as an inspector for portions the building at the time of construction.)
- Mr. Gary Talbot, PE of GTA, Inc. the individual identified as the Special Inspector for the project.
- Mr. Walter Wyckoff, AIA of Wyckoff Associates the Design Professional of Record for the project.

## **Opt-in Community**

The Municipality of Norristown is an Opt-In community as defined under Act 45-The Uniform Construction Code (UCC) for the Commonwealth of Pennsylvania (Exhibit 2) pursuant to Ordinance No. 04-05, dated March 2, 2004 (Exhibit 3).

The UCC dictates that the opt-in community enforces the International Code Council (ICC) Family of Codes and provides certified plan reviewers and inspectors to perform work within the community. In accordance with the regulations promulgated in association with the UCC plan reviewers and inspectors could register with the Commonwealth of Pennsylvania as a Current Construction Code Official during a grace or “grandfathering” period while becoming actually certified. The registration or “grandfathering” period for multi-family and commercial construction ended in April of 2009. Up until that time, a registered or “grandfathered” inspector and plan reviewer could perform inspections and plan reviews on all phases of construction.

The UCC identifies multiple categories for residential and commercial certification:

<b>Residential Certifications</b>	<b>Commercial Plan Review Certifications</b>	<b>Commercial Inspection Certifications</b>
Building Inspector Electrical Inspector Mechanical Inspector Plumbing Inspector Energy Inspector/Plans Examiner	Building Plan Examiner Electrical Plan Examiner Mechanical Plan Examiner Plumbing Plan Examiner Energy Plan Examiner Accessibility Inspector/Plans Examiner	Building Inspector Fire Inspector Electrical Inspector Mechanical Inspector Plumbing Inspector Energy Inspector Accessibility Inspector/Plans Examiner

In addition, the UCC dictates that each Opt-In community **shall** appoint a Building Code Official (BCO) (Exhibit 2 Section 401.7(a) (18)), to oversee enforcement of the UCC. The BCO certification does not permit that individual to perform plan reviews and/or inspections. If an individual performs those tasks, in addition to overseeing the enforcement of the UCC, they must be registered and/or certified as a Construction Code Official by the Department of Labor and Industry for the Commonwealth of Pennsylvania in those phases of construction.

The duties of the BCO are specific under the UCC and include granting or denying all permit applications in writing, and issuing all Use and Occupancy Certificates associated with applications applied for under the UCC. (Exhibit 2, Sections 403.43 and 403.46 for commercial construction and Sections 403.63 and 403.65 for residential construction)

It should be noted that, the registration period for obtaining the BCO certification expired in April of 2007.

## **Zoning and Land Development**

The first written application to the Municipality of Norristown from R. Bruce Fazio occurred on March 14, 2005, when a Zoning Application was filed by R. Bruce Fazio with the Norristown Planning Department for a five story, 88-unit building that included residential, commercial and retail space. There is no record of this application being rejected or accepted by the municipality. In July 2005, a Use and Occupancy (U&O) inspection was conducted by Lynn Bixler on the existing property.

Three months later, on October 18, 2005, a revised Zoning Application (Exhibit No. 4) was submitted to Norristown for two-24 unit buildings with two parking spaces by Fazio Properties. The application was rejected on October 24, 2005 by Ms. Jayne Musonye, Director of Planning Development (Exhibit No. 5).

A Zoning Application was submitted by Fazio Realty on January 6, 2006, (Exhibit No. 6) along with a sketch plan of the proposed site and building layout. The plan called for a four story building with 26 housing units and 54 parking spaces, consistent with the structure that was ultimately built. It was approved by Ms. Musonye on January 12, 2006 (Exhibit No. 7).

Following approval of the Zoning Application, A Preliminary/Final Land Development Application was submitted with plans prepared by the developer's Civil Engineer, Gilmore Associates, Inc. on February 15, 2006 (Exhibit No. 8). Following the plan submission, the municipality submitted the plans associated with the Preliminary/Final Land Development Application to the Municipal Engineer, Remington Vernick & Beach (RVB) for review. Copies of the plan were also submitted to the Montgomery County Planning Commission, Norristown Planning Commission and the Norristown Municipal Waste Authority (for sewer facilities and capacity). Additional applicant documents, such as the Request for Preliminary/Final Review, Checklist for Preliminary/Final Review, application fees, escrow fees, stormwater report, sewer report, were also submitted in February 2006. The staff also advertised the Planning Commission meeting in the newspaper and notified nearby property owners by letter.

The plan, and the reports generated in response to the submission documentation by Municipal staff and consultants, were reviewed by the Norristown Planning Commission on March 14, 2006, and recommended approval of the plan after reviewing the plan, reports and comments on the plan and reports prepared by the Montgomery County Planning Commission, staff, and consultants. The developer requested four minor waivers from the provisions of the Subdivision and Land Development Ordinance, which the Planning Commission recommended that the Municipal Council approve.

From the Planning Commission, the land development plan went to the Norristown Design Review Board, which recommended on March 16, 2006 that Municipal Council approve the plan, with four conditions.

The first time the Preliminary/Final Land Development Application was formally introduced to Municipal Council was on March 21, 2006, with a presentation by R. Bruce Fazio of the plan. Following revisions to the plan, it was placed on the April 4, 2006 Municipal Council agenda for action. Again, notices were sent to nearby residents of the meeting. A resolution approving the Preliminary/Final Land Development Application was prepared for action on April 4, 2006, (Exhibit No. 9) but Municipal Council did not act on the plan, instead deferring it to the May 2, 2006 meeting, when it was adopted.

Following the May 2<sup>nd</sup> Municipal Council meeting, the approved Land Development Plan was recorded at the Montgomery County Recorder of Deeds.

The submission of a Preliminary/Final Subdivision Plan is a practice consistent with what occurs in many other municipalities; it reduces both the paperwork and the time needed to approve a relatively simple land development plan. In Norristown, the total timeline was approximately three months from official submission to approval by Municipal Council. We are not aware if there were discussions or informal plan reviews prior to the initial submission which would have assisted the developer in moving the project along.

Similarly, we can find no reason for the Municipality to deny the waivers, which appear to be minor in scope and impact.

It appears that the review process for the Preliminary/Final Land Development Plan for Rittenhouse Club was consistent with both the Norristown Subdivision and Land Development Ordinance and the Pennsylvania Municipalities Planning Code.

## **Building Permit Issuance**

The Demolition Permit for the building previously located at 770 Sandy Street was submitted on December 29, 2005 (Exhibit No. 10) and was initially denied on December 31, 2005 with the municipality requesting additional information (Exhibit No. 11). The second submittal for the Demolition Permit for the existing building was submitted on June 27, 2006 and was approved and issued on July 11, 2006 (Exhibit No. 12). Approximately 60 days after Land Development approval was obtained.

Records within the municipality indicate that the building permit for the general construction of a five story multi-family condominium building including four stories of residential occupancy containing 26 units with an associated basement parking area for 16 vehicles was submitted on July 28, 2006 (Exhibit No. 13). It should be noted that, the construction cost provided by the applicant equates to approximately \$17.00 per square foot for the general construction, this appears to be substantially lower than normal construction costs for a building of this nature. We believe that this cost was provided lower than normal to keep the cost of the permit as low as possible. The Building Valuation Data Sheet established by the International Code Council (Exhibit No. 14) indicates that for an R2-Multifamily Residential Use of VB construction the square foot cost is approximately \$94.00 per square foot. This cost however includes all subcodes but not land or public improvements. It should be noted that, plumbing, mechanical and electrical permit costs would not account for the gap between the \$17 reported and the \$94 per square foot suggested. The UCC for the Commonwealth of Pennsylvania does not require any specific fees be established within a municipality for an application, it leaves the adoption of the fees relating to building permits up to each municipality. The fees charged by a municipality should cover all costs relating to the project including plan review and inspection as well as overhead costs. While the actual costs to the municipality for this project are incredibly difficult to pinpoint, especially three years later and in light of all that has occurred, but we believe that the fees collected for this project did not cover all costs associated with the plan review and inspection process.

The Building Permit Review for the 770 Sandy Street project was performed by Ms. Lynn Bixler the building inspector for the community at the time of the application. At the time of the application Ms. Bixler was registered as a current code official and was certified as a Building Code Official and an Accessibility Plans Examiner and Inspector, as defined under the UCC for the Commonwealth of Pennsylvania. In her interview on May 12, 2010, Ms. Bixler stated that she reviewed the application and associated plans for ADA compliance and General Building Code compliance while Remington, Vernick and Beach (RVB), the municipal engineer, reviewed the application and associated plans for mechanical, plumbing, electrical and energy compliance. This was discussed within the taped interview with RVB representatives on June 3, 2010. RVB representatives stated that they had looked at the plans, opposed to reviewing the plans for code compliance. It is our opinion that, when the municipality retains a professional engineering firm to “look at” the plans associated with a building permit application it is normally with the expectation that the firm will review those plans and either approve or provide

a recommendation that the plans be approved. It should be noted that, Keystone could find no written approval and/or recommendation provided by RVB for the plans associated with the mechanical, plumbing, electrical and energy submissions for this project.

Additionally, Ms. Bixler stated that there was a set of approved plans that she signed when the permit was issued. She stated that they were retained by the municipality and stored within the Norristown Municipal Hall. At the time of our investigation these plans could not be located within the property file, within the code office or within the attic storage area. **Failure to retain approved plans is inconsistent with the requirements of the UCC, Section 403.85 (Exhibit 2).**

Records within the municipality indicate that the General Building Permit for the structure was issued on August 25, 2006 (Exhibit No. 13). This Building Permit contained within the municipal records dated August 25, 2006 identifying the applicable permit fee is not signed by any Norristown Municipal Code and/or Building Department representative. Apparently, this was a common practice within the code department at this time. It should be noted that, no other signed documentation (i.e. form, application, etc.) could be located regarding the issuance of the building permit. **Failure to have a BCO sign and issue the permit is inconsistent with the requirements of the UCC, Section 403.43 (Exhibit 2).**

A pre-construction meeting was held on the same day the permit was issued, August 25, 2006, attendees of this meeting included:

- Mr. Bruce Fazio (applicant), Mr. Michael Bono (project superintendent) and Mr. Walter Wyckoff (design professional of record) representing the Fazio Realty Group.
- Mr. Christopher Fazio and Mr. Thomas Harris representing RVB the municipal engineer.
- Ms. Jayne Musonye (Director of Planning) and Ms. Lynn Bixler (Building Inspector) representing the Municipality of Norristown.

It should be noted that, at this time RVB was only serving in the capacity of municipal engineer and was not at this meeting to represent the Building Department.

The meeting minutes (Exhibit No. 15), transcribed by RVB include details covering inspection of the proposed public improvements and site issues. In addition, Ms. Bixler, representing the Building Department, reviewed the anticipated building inspection schedule and what special inspections will be required for the project.

It is imperative to discuss three matters:

1. The Building Code Data identified on Sheet A1, Note No. 48 of the submitted plans states the following:

“48. Section 1704.1.1: The following Special Inspections shall be required: (1) concrete in accordance with IBC Table 1704.4, (2) masonry in accordance with IBC Section 1704.5, (3) steel framing in accordance with IBC Section 1704 and Table 1704.3. The Special Inspections shall be performed by Gary Talbot, PE. Also see General Note No. 21 on Sheet S1.”

2. General Note No. 21 on the Structural Plans, Sheet S1 states the following:

“21. Special inspection is required of all structural construction. The contractor shall employ a qualified testing/inspecting agency that shall provide periodic reports to the architect/engineer during construction. Submit final inspection report summary for each division of work, certified by a licensed professional engineer that special inspections were performed and that work was performed in accordance with the contract documents.”

3. On the Structural Plans, Sheet S1 under Quality Assurance it states the following:

“1. The owner will employ and pay for the services of an independent testing agency to provide quality assurance testing and inspection for work specified in the notes. The contractor will employ and pay for the services of an independent testing agency acceptable to the owner to provide quality assurance testing and inspections for work if required by owner. The testing agency shall be licensed where the structure is located and all testing and inspections shall be performed under the supervision of an engineer registered where the structure is located.

6. Records of inspections shall be kept available to the building official during progress of the work and for 2 years after completion of the project. Records shall be preserved by the independent testing agency.”

It is believed that, these were the special inspections referenced within the meeting minutes. It should be noted that, we were unable to locate any reports associated with these required special inspections. Ms. Bixler stated that she does not remember if any information relating to the special inspections was submitted to the municipality prior to her departure in December of 2006.

Keystone sent a registered letter to both the applicant and the design professionals of record requesting this information (Exhibit No. 16). On May 27, 2010 the staff of Keystone spoke with Mr. Walter Wyckoff, AIA, the design professional of record, regarding this request and Mr. Wyckoff stated that he was unaware of any information available regarding the required special inspections. In addition, Mr. Wyckoff provided a written response dated June 2, 2010 (Exhibit No. 17) stating this and stating that he had no documents regarding any changes to the approved plans. In addition, Keystone received a written correspondence from Mr. Robert Rosen, PE, the design professional of record for the structural portion of the plans, he also stated that he had no

information in his possession regarding the required special inspections and that he had no documents regarding any changes to the approved plans.

Also on May 27, 2010 the staff of Keystone also spoke with Mr. Gary Talbot, PE regarding the project. Mr. Talbot responded with a correspondence dated May 27, 2010 (Exhibit No. 18) stating that although his name appeared on the plans as the Special Inspector for the project, he had never been contacted by Mr. Fazio (applicant) or Mr. Wyckoff to perform any inspections at the site and he states that “we deny any involvement with the inspections that were, or should have been, a part of this project”.

It is our conclusion from this information, as well as from the results of the court ordered destructive inspections performed by the applicant at the site, that the required special inspections identified on the plans were never performed by the applicant, contractor, builder, engineer or consultant and that the reports related to these inspections do not exist. **We believe the applicant was negligent due to the fact that the required special inspections were not performed. In addition, we believe the municipality may also been negligent because there was no follow-up regarding the required Special Inspection Reports and the applicant was not required to produce documentation indicating compliance with the requirements of the approved plans prior to Use and Occupancy Certificates being issued.**

In addition to the Building Department reviewing and issuing permits, the Norristown Fire Department and their consultant, All State Design, reviewed and approved the plans for the proposed fire suppression system (Exhibit No. 19) and approved the Fire Suppression Permit No. 07-0054 on February 15, 2007 (Exhibit No. 20). It should be noted that, All State Design is not a third party agency certified by the Commonwealth of Pennsylvania to review applications under the UCC. This permit has Inspector Picard’s name signed to it by a secretary within the department even though he was not involved with the plan review or certified as a BCO in accordance with the UCC. It should be noted that, the signing of documents by secretaries appears to have been a common practice within the code department at this time **Failure to have plans reviewed by a registered or certified plan reviewer is inconsistent with the requirements of the UCC, Section 403.43 (Exhibit 2) and failure to have a BCO sign and issue the permit is inconsistent with the requirements of the UCC, Section 403.43 (Exhibit 2).**

The permit application for the Fire Alarm was not submitted by the applicant until June of 2007 (Exhibit No. 21), after the system was installed and almost 3 months after the structure was occupied. The Fire Company had requested this information from the applicant numerous times. The Fire Alarm Plans for the project were sent to RVB for review by Fire Chief O’Donnell. RVB denied the application in writing on June 22, 2007 (Exhibit No. 22) and after receiving additional information recommended approval of the application on August 6, 2007 (Exhibit No. 23). A correspondence dated August 6, 2007 from RVB signed by Mr. Christopher Fazio of RVB stated that the fire alarm plans have been reviewed by RVB and the design “meets all applicable current codes and standards”, following this correspondence the Fire Prevention Permit No. 07-0827

(Exhibit No. 24) was issued on August 7, 2007 to install the Fire Alarm System. The permit was signed by a secretary with the name of Fire Chief O'Donnell. It should be noted that, the RVB Invoice No. PMNTP006-14 (Exhibit No. 36) states that Mr. Brian Gregg of RVB performed the initial plan review for the project. To the best of our knowledge Mr. Gregg was not registered or certified as a plan reviewer by the Commonwealth of Pennsylvania in accordance with the UCC and Mr. O'Donnell was not certified as a BCO and was not permitted to issue permits under the UCC. **Failure to have plans reviewed by a registered or certified plan reviewer is inconsistent with the requirements of the UCC, Section 403.43 (Exhibit 2) and failure to have a BCO sign and issue the permit is inconsistent with the requirements of the UCC, Section 403.43 (Exhibit 2).**

## **Building Inspections**

Field inspections for the construction of the building were started shortly after the permit issuance in August of 2006.

Ms. Bixler stated that she had performed field inspections for “some footings, piers and wall forms” prior to being terminated by the municipality in December of 2006. It should be noted that, we were unable to locate any inspection record within the CEIS Computer Data Base System regarding Ms. Bixler’s inspections.

At the time of Ms. Bixler’s departure from the municipality, Mr. Charles Picard was assigned to serve as the Building Inspector reporting to Ms. Musonye, Director of Planning and Development. At this time, Mr. Picard was the only individual within the community that was registered or “grandfathered” with the Commonwealth of Pennsylvania as a Current Code Official and was approved by the Commonwealth of Pennsylvania to perform inspections for all phases of construction until April 2009. However, he did not hold the required BCO Certification; in fact after Ms. Bixler’s departure the municipality did not have a BCO for the community until Ms. Capistrano, the Director of Code Enforcement, obtained this required certification. Unfortunately, shortly after obtaining the BCO certification, Ms. Capistrano resigned from her position in June of 2007. After this date the municipality did not have a Certified BCO until the third party inspection agency currently serving the community was retained. It should be noted that, when interviewed Inspector Picard stated that even though he was “grandfathered” as a Current Code Official he did not have the training and did not feel qualified to perform the inspections for all aspects of the project. It was at this point in time that numerous municipal representatives who were interviewed have stated that the municipal engineer (RVB) was contacted to perform the building inspections relating to this project. RVB, within their correspondence dated June 4, 2010, has stated that they were not performing building inspections they were serving as a “second pair of eyes” and reporting to Inspector Picard.

In reviewing the information logged into the CEIS Computer Data Base System, the permit record software utilized by the Municipality, we find the following list of inspections performed by municipal employees for the structure (Exhibit No. 25):

- February 2, 2007 “Building inspection” entered into the CEIS System by Inspector Picard.
- February 7, 2007 “Building re-inspection” entered into the CEIS System by Inspector Picard.
- February 7, 2007 “Water meter at test” entered into the CEIS System by Inspector Picard.
- February 7, 2007 “Footer inspection for deck” entered into the CEIS System by Inspector Picard.

- February 13, 2007 “Checking on complaint on a fence” entered into the CEIS System by Inspector Picard.
- February 16, 2007 “Trash and concrete cleaning lot” entered into the CEIS System by Inspector Picard.
- February 21, 2007 “Silt fence being replaced” entered into the CEIS System by Inspector Picard.
- February 21, 2007 “Bld, elec, plb, rough in ok” entered into the CEIS System by Inspector Picard.
- April 10, 2007 “Building inspection” entered into the CEIS System by Secretary Ogunko.
- April 10, 2007 “Trash complaint” entered into the CEIS System by Secretary Ogunko.
- April 20, 2007 “Commercial inspection” entered into the CEIS System by Secretary Ogunko.
- May 4, 2007 “U&O inspection for 770 Sandy Street Unit 206, 304, 302, 301”
- May 14, 2007 “Building Inspection” entered into the CEIS System by Secretary Ogunko.
- May 14, 2007 “Punch List” entered into the CEIS System by Secretary Ogunko.
- May 14, 2007 “U&O Inspection for 770 Sandy Street Unit 206, 304, 302, 301” entered into the CEIS System by Secretary Ogunko.
- June 1, 2007 “Building Inspection” entered into the CEIS System by Secretary Ogunko.
- August 31, 2007 “U&O for SFO” entered into the CEIS System by Inspector Picard.
- August 31, 2007 “Third and Fourth Floor Rough Inspections” entered into the CEIS System by Inspector Picard.

It should be noted that, we were unable to locate any inspection record within the CEIS Computer Data Base System for any inspections prior to February of 2007 including inspections performed by Ms. Bixler’s in August through December of 2006. We have determined that numerous additional inspections may have been performed, but these were not entered into the CEIS Computer Data Base System and the inspections that were entered into the system did not provide enough information for anyone to determine with any degree of accuracy what was inspected and/or approved. Keystone as not provided any other inspection records from the Building Department.

**It is the opinion of Keystone that, numerous additional inspections should have been performed for a structure of this scope and complexity in order to meet the minimum requirements of the UCC, Section 403.45. The information entered into the CEIS system and available to our staff did not meet the minimum required inspections identified within the UCC. Failure to perform the minimum required inspections is inconsistent with the requirements of the UCC, Section 403.45 (Exhibit 2).**

The inspections that should have been performed and documented by the Building Department within the permit file for this project and for any structure of this scope and complexity include, but may not be limited, to the following:

Footings - To be performed, prior to the placement of concrete, when subsoil excavation is complete, all forms and reinforcement are in place, and depth markings defined. All footings must be trenched or formed.

Wall Forms - To be performed, prior to the placement of concrete, when all concrete forms and all reinforcement are in place and footing keys and/or dowels are visible.

Masonry - To be performed while masonry is being laid and reinforcing is being installed.

As Built Foundation - To be performed as soon as the physical first floor and garage floor elevation can be field verified.

Foundation Waterproofing/Dampproofing - To be performed when all exterior walls are sealed in accordance with specific manufacture specifications and installation instructions.

Backfill - To be performed when the exterior foundation drains, (with clean stone base, clean stone cover and filter cover) are in place, and all foundation anchor straps/bolts are installed.

Under-Slab Rough Plumbing/Mechanical - To be performed, prior to the placement of concrete, when all DWV, water supply piping and HVAC piping is installed, and all appropriate line tests and piping protection are in place.

Concrete Slabs Base - To be performed, prior to the placement of concrete, when the clean stone base, insulation boards, 6 mil vapor barrier, and depth markings are in place.

Wall and Floor Sheathing - To be performed when all structural wall and floor sheathing, insulation sheathing and wind bracing is in place and all fastenings are applied in accordance with the appropriate fastening schedules.

Firewalls - To be performed when firewall components, (i.e. clips, anchors, screws, fire blocking, fire stopping, fire caulking, etc.) are installed in accordance with manufacture's specifications.

Rough Plumbing - Each Unit and Common Areas - To be performed when all potable and DWV lines are in place, properly protected and anchored and line tests applied.

Rough Electric - Each Unit and Common Areas - A rough electric inspection sticker from a qualified electrical inspection agency shall be in place at time of the framing inspection.

Rough Mechanical - Each Unit and Common Areas - To be performed when all ductwork is installed and secured.

Framing - Each Unit and Common Areas - To be performed when all framing is complete and secured in accordance with the appropriate fastening schedule and ALL floors are accessible by way of code approved stairs.

Rough Sprinkler - Each Unit and Common Areas - To be performed when all piping is installed and a line test is in place.

Insulation - Each Unit and Common Areas - To be performed when all insulation batts, vapor barriers and baffles are in place.

Fire Code Drywall - Each Unit and Common Areas - To be performed on ALL fire rated assemblies. Where multiple layers of drywall are installed, each successive layer shall be inspected.

Fire Alarm - Each Unit and Common Areas - To be performed on ALL alarms are in place and activated and any other tests/inspections as required by the building inspector or fire marshal.

Water/Sewer/Suppression Service - To be performed when the stone bed, piping and line tests are in place and foundation walls have been mortared and waterproofing is applied.

Final Sprinkler - Each Unit and Common Areas - To be performed prior to final occupancy and includes a flow test and any other tests/inspections as required by the building inspector or fire marshal.

Final Electric - Each Unit and Common Areas - A final electric inspection sticker from a qualified electrical underwriting agency shall be in place at time of the final occupancy inspection.

ADA Compliance – To be performed after all accessibility elements have been installed.

Elevator – To be performed by the Department of Labor and Industry in accordance with the UCC with a final report provided to the community.

Final Occupancy - Each Unit and Common Areas - To be performed when all construction activity is complete and prior to any type of occupancy and/or use of the structure being established.

We were able to determine that the following inspections were performed by the building department but were not logged into the CEIS System.

- March 29, 2007 Inspection of 3<sup>rd</sup> layer of GWB within garage ceiling performed by Inspector Picard, Chief O'Donnell and Mr. John Pasquale of RVB. It is noted that, this is inconsistent with the field notes and Invoices provided by RVB. Their information leads us to believe that RVB was not on site on March 29, 2007.
- Use and Occupancy Inspections for 770 Sandy Street performed from April 7, 2007 to July 11, 2007 for Units 202, 203, 204, 207, 300, 303, 305, 400, 401, 402, 403, 404 and 405 performed by Inspector Picard, Inspector Venezio and Inspector Van Allen.

It should be noted that, Inspector Picard was the only inspector that was registered or “grandfathered” at this time. Inspector Picard was the only person within the municipality approved under the UCC to inspect new construction. However, Inspector Picard was not permitted under the UCC to issue any Use and Occupancy Certificates (Exhibit No. 26) because he was not a certified BCO, at the time the community had no BCO and technically could not issue any U&O Certificates for new construction. Although Inspector Picard’s name appears on all of the Use and Occupancy Certificates issued for the project. Inspector Picard’s signature appears on only one Use and Occupancy Certificate and all others are signed with Inspector Picard’s name by secretaries within the department, as previously stated a practice that was common within the code department at this time. In addition, there are a number of units where Inspector Picard did not perform the final inspection. These units were inspected by representatives from the Code Enforcement Department not the Building Department. These inspectors were not trained, experienced, registered or certified as building inspectors. In addition, the inspectors performing these final inspections were utilizing checklists that were created and utilized for rental inspections. These checklists were not designed to be utilized for final inspections associated with new construction. **Failure to have a registered or certified inspector perform inspections on new construction is inconsistent with the requirements of the UCC, Section 403.45 (Exhibit 2) and failure to have a certified BCO issue a Use and**

**Occupancy Certificate for new construction is inconsistent with the requirements of the UCC, Section 403.46 (Exhibit 2).**

Specifically regarding the issuance of the Use and Occupancy Certificates, on February 12, 2007 Mr. Kilkenny, the municipal solicitor, sent an email to Ms. Musonye stating that he had received a call from the applicants' attorney requesting a partial release of Use and Occupancy Certificates for the top three floors (Exhibit 25A). This request led to a meeting on March 20, 2007 at 9:30 am attended by Inspector Picard, Fire Chief O'Donnell, Ms. Musonye, Mr. Kilkenny, the municipal solicitor, and Mr. R. Bruce Fazio (applicant), and the his attorney to discuss the issuance of Use and Occupancy Certificates for the residential units. It was the determination of Mr. Kilkenny at this meeting that the municipality could move forward with issuing the Use and Occupancy Certificates in accordance with Section 403.46(e) of the UCC as long as the fire company was satisfied and all the fire and life safety issues were addressed. Inspector Picard has stated that he felt this was a mandate from the municipal solicitor and that he and Fire Chief O'Donnell were being directed by Mr. Kilkenny to issue the Use and Occupancy Certificates, while Mr. Kilkenny perceived himself serving as a facilitator who was moving the project forward while still stating that the fire and life safety issues need to be addressed.

It should be noted that, Section 403.46(e) of the UCC states the following:

“(e) A building code official may issue a temporary certificate of occupancy for a portion or portions of the building or structure before the completion of the entire work covered by the permit if the portion or portions may be occupied safely. The building code official **shall** set a time period during which the temporary certificate of occupancy is valid.”

The first U&O was issued by Inspector Picard on April 7, 2006 for Unit No. 202 (Exhibit No. 26). However, on Thursday April 12, 2007 the attorney for the applicant sent an email to Mr. Kilkenny, the municipal solicitor, (Exhibit 26A) stating that the municipality was refusing to give the applicant a partial U&O. This prompted an email, on Monday April 16, 2007, from Mr. Kilkenny to Ms. Musonye stating that it was his understanding that the applicant “had remedied his building wide inspection situation”. In addition, Mr. Kilkenny had spoken to Inspector Picard and Inspector Picard needed authorization from the Mr. Kilkenny to go out to the site. Mr. Kilkenny wrote to Ms. Musonye that “I am fine with this so long as you (building department staff) are ready to inspect” (Exhibit 26B). On April 16, 2007 Ms. Musonye replied to Mr. Kilkenny that she would “ask Charlie Picard and Chris Fazio’s (RVB) inspector to schedule an inspection”. This request from Ms. Musonye to Inspector Picard prompted Inspector Picard to contact Fire Chief O'Donnell. Fire Chief O'Donnell then sent an email to Mr. Picard and Ms. Musonye on Tuesday April 17, 2007 (Exhibit No. 27) stating that “he had concerns with fire fighting efforts within an occupied building that was still under construction.” Then pursuant to the agreement reached at the March 20, 2007 meeting and the subsequent emails and phone calls, on Saturday, April 21, 2007 an inspection was performed at the structure by Battalion Chief Remillard of the Norristown Fire Department, Inspector Picard was also present but did not go

into the building, for the express purpose of “visiting the property to check outstanding items that must be completed before a Use and Occupancy Permit could be issued”. This is precisely what was stated at the beginning of the correspondence sent to Mr. R. Bruce Fazio (applicant) dated April 22, 2007 referencing this inspection (Exhibit No. 28). In addition, during this inspection a pressure test of the Suppression System was witnessed by Battalion Chief (BC) Remillard and signed by Inspector Picard (Exhibit No. 29). This document is labeled “Final Inspection” and is also signed by the installer of the system. It should be noted that, BC Remillard stated that the words “Final Inspection” were not on the form when he signed it. This document conforms to NFPA Pamphlet No. 13R-2002 and constitutes final approval of the suppression system. This is recognized by Battalion Chief Remillard within his April 22, 2007 correspondence in which he states “The contractor provided to me paperwork that indicated that the sprinkler system on the 1, 2, 3 and 4<sup>th</sup> floors had been pressure tested. I contacted F/F Wallace who reported that the parking garage’s sprinklers had been tested yesterday. With these issues completed, I accepted the paper work from the sprinkler contractor indicating that the system was completed (and) certified.” BC Remillard has since stated that he was not on site to do any inspection related to the Use and Occupancy issuance and that this correspondence and statement was not meant as approval of the sprinkler system. We believe that this is in direct conflict with the April 22, 2007 correspondence to the applicant.

Provided also with this information was a Fire Alarm Record of Completion Document signed by the installer and Mr. Fazio (applicant). This system was installed and completed but no permit application had been filed by the applicant or contractor or approved by the municipality.

The April 22, 2007 correspondence to Mr. R. Bruce Fazio (applicant) identified additional concerns that BC Remillard had identified during the inspection including the stair towers, fire caulking and exit doors. Inspector Picard followed up on these items with a correspondence on Tuesday April 24, 2007 to Fazio Realty that these items needed to be addressed or he would prevent occupancy of the four units issued a U&O Certificate on Monday April 23, 2007 (Exhibit No. 30).

The items identified within this correspondence included:

1. Formal Certification of the Sprinkler System
2. West stair tower exit needs ramp with handrail.
3. All fire doors with a window need fire rated glass.
4. All wood in stair towers must be covered with fire rated drywall.
5. Repair fire door at roof level in the Southeast Tower.
6. All construction debris on site and within the building must be cleaned up and kept clean at all times.

Inspector Picard later annotated a copy of this correspondence with approvals for items 2 thru 6 (Exhibit No. 31). A date was not provided for the inspection that determined that the items had been addressed, but with all items satisfied Mr. Picard allowed occupancy of the four units that

were issued a U&O on April 23, 2007. Inspector Picard believed that he was acting at the direction of the municipal solicitor and in accordance with the agreement reached at the March 20, 2007 meeting due to the fact, that the Norristown Fire Company performed an inspection and signed off on the sprinkler system. The municipality continued to perform final inspections and issue Use and Occupancy Certificates for the residential units with the last U&O issued on July 14, 2008 (Exhibit No. 26).

**It should be noted that, the Use and Occupancy Certificates were issued without any conditions and/or time frames relating to the remainder of the structure obtaining final approval and they were not noted as being temporary or were provided with no time frames regarding validity. This is inconsistent with the requirements of the UCC, Section 403.46(e).**

In addition, an internal Memo was sent from BC Remillard to Fire Chief O'Donnell also on April 22, 2007 (Exhibit No. 32) identifying the issues within the correspondence to Mr. R. Bruce Fazio (applicant) and in addition, goes on to state the following:

"I understand that the municipal engineer will visit the site on Monday. In addition to the items above, please have him check the following items:

1. Is the fire-rated caulking around the various openings between walls/ceilings in the stair towers properly done? Some of the gaps that they filled with this caulking were very large and may exceed the capability of the caulk.
2. There are non-rated windows on the top of each stair towers. Do these windows comply with code, or should they be rated wire glass.
3. I am concern about the amount of construction debris in some areas. Would the sprinkler system be able to handle such a fire load?"

It is clear from this correspondence that the Norristown Fire Department was under the distinct impression that RVB was performing inspections within the structure including the stair towers. RVB has stated within their correspondence dated June 4, 2010 that their field inspections were "limited to a supplemental review of the fire rated ceiling in the building parking garage and observation of a water pressure test" (Exhibit No. 33).

**At the present time, it appears that a Use and Occupancy Certificate for the common areas, (garage, halls, stair towers and roof deck), has not been issued by the municipality. It is our opinion that, these areas should have been inspected and approved prior to the issuance of any Use and Occupancy Certificates for the units. This is due to the fact that, these areas are an essential component to the path of egress from the structure. In addition, no inspection occurred relating to any of the required ADA elements (accessibility) at the facility.**

The Norristown Fire Department staff was involved in field inspections, even though no personnel, according to Fire Chief O'Donnell, was registered or certified under the UCC, including witnessing the Pressure Test on portions of the Fire Suppression System on February 20, 2007 and April 5, 2007 with final approval being provided for the entire system on April 21, 2007. In addition, they performed what was identified as "walk-through's" that are best described as informal inspections not requested by the applicant.

The Norristown Fire Company attended a March 2, 2007 site meeting with the applicant and the design professional of record to discuss fire rating of ceiling between garage and living space. It should be noted that a representative from RVB, Mr. John Pasquale, was also present at this meeting. According to the notes retained by Fire Chief (FC) O'Donnell, on March 29, 2007 the 3<sup>rd</sup> layer of GWB between garage and living space above was inspected by Fire Chief O'Donnell, Inspector Picard and Mr. John Pasquale of RVB. RVB has not provided an inspection report for this date.

On November 1, 2007 FC O'Donnell and FM Tomcho performed a walk-thru of the building and identified several items that needed to be addressed including:

1. Doors to Elevator Room, Sprinkler Room and Fire Panel Room must be marked.
2. Emergency Light Fixtures not working.
3. Sprinkler Heads not present in Stair Towers.
4. Floor numbers not installed in stair towers.
5. Standpipes in stair towers needing reducers.
6. Certification for alarm and sprinkler system still needed.

These items were not identified within the April 22, 2007 correspondence from the Fire Company to Mr. Fazio (applicant) or the follow-up correspondence from Inspector Picard dated April 24, 2007 that identified the items that needed to be completed prior to the issuance of Use and Occupancy Certificates for the units. In fact this correspondence goes on to identify that Units Nos. 201, 202, 204, 206, 300, 301, 302, 304 and 305 are occupied at this time (Exhibit No. 34). It should be noted that, this correspondence does not indicate that the Fire Company has any specific concerns relating to the occupancy of the building at this time.

On December 18, 2007 FM Tomcho performs another follow-up walk-thru of the property and states that several items have been corrected and others are in the process of being completed. The fire alarm system has been tested and approved. Corrections at this time include:

1. Standpipes in stair towers needed reducers.
2. Exit Sign/Emergency Light required at door between garage and first floor.
3. Exit Sign/Emergency Light required at garage door.
4. Elevators did not recall at alarm.
5. Ceiling in Mechanical Rooms in halls needed to be sealed and caulked.

On April 21, 2008 FM Tomcho performs an inspection and approves the following items:

1. Standpipes in stair towers have been provided with reducers.
2. The ceilings in Mechanical Rooms in halls have been sealed and caulked.
3. Sprinkler Heads are installed in Stair Towers.
4. No parking signs have been posted along driveway.

On August 22, 2008 FM Sweeny visits the site and determines that a fire watch is in place, this was required due to the suppression system in the garage being damaged and taken off line.

October 10, 2008 FM Sweeny visited the site and determined that the sprinkler certification has yet to be provided. The walkway is only partially completed and the canopy lighting has been installed but the canopy is still open.

March 9, 2009 FM Sweeny determines that the fire suppression system is out of service and issues a Violation Warning Notice.

March 10, 2010 FM Sweeny and Lynn Bixler, now assigned to the Code Enforcement Department, visit site to investigate a complaint regarding the rear exit door not operating properly. They determine it is in need of repair and send a correspondence to Mr. Fazio (applicant) on March 15, 2010.

April 9, 2010 FM Sweeny and representatives from the Building and Code Department visit site to investigate complaints.

In addition to the municipal staff performing inspections on the structure, the municipal engineer was also involved with the building inspections for the project. Multiple members of the municipal staff have indicated during their taped interviews that all inspections not performed by Inspector Picard were being performed by RVB. Inspector Picard frankly stated that he “inspected only the plumbing and mechanical for the residential units and all other inspections were being performed by RVB.” Ms. Musonye has stated that her understanding was that RVB was performing all inspections that Mr. Picard was uncomfortable with or not trained to perform. As indicated within her April 16, 2007 email to Mr. Kilkenny where she states “I will ask Charlie Picard and Chris Fazio’s (RVB) inspector to schedule an inspection” (Exhibit No. 35), Ms. Musonye was requesting RVB to be there at the time the inspection occurred. As of the writing of this report we cannot determine what this inspection was for, due to the fact that we have not received inspection reports for April 19, 2007 through April 25, 2007 from RVB. Fire Chief O’Donnell recalls RVB representative Mr. John Pasquale being at the site “almost every day”. Mr. Kilkenny stated that RVB was brought into the project to perform the building inspections as a “stop gap measure” to supplement the municipal staff and his office prepared a correspondence to Ms. Musonye questioning the role that RVB was playing in the community because their representative was not certified as a BCO (Exhibit No. 39). However, within the correspondence received from Mr. Christopher Fazio of RVB dated June 4, 2010 (Exhibit No.

33) he states that their role in the community was limited and the field inspections performed by RVB were “limited to a supplemental review of the fire rated ceiling in the building parking garage and observation of a water pressure test”.

There seems to be a major misunderstanding between the municipal staff and the municipal engineer regarding the level of involvement the municipal engineer had in the community at this time and for this project. The municipal staff appears to have been proceeding with the understanding that RVB was performing most of the building inspections at the site and RVB was under the understanding that they were providing, in their words, a “second pair of eyes”. Perhaps this is where the filed inspections for the project slipped through the cracks. Neither the municipal staff nor RVB was willing or able to take responsibility for project.

RVB was requested to provide all Invoices (Exhibit No. 36) and inspection logs (Exhibit No. 37) in their possession regarding building inspections relating to this project. In comparing the Invoices to the inspection logs we determined that some information was not provided. Specifically, no inspection reports were provided for April 19, 2007 through April 25, 2007. At the time of the interview with RVB representatives they were asked to check their files again and provide any additional information that may be available, they stated they would check and provide any information available.

The information provided to date indentified that the following inspections were performed by the municipal engineer.

From March 19, 2007 thru April 25, 2007, Mr. John Pasquale from RVP inspected work related to the fire rated garage ceiling, fire blocking associated with the ceiling and the area where this ceiling meets the foundation wall. On March 30, 2007 Mr. Pasquale references within his field notes that he has “no issues with unprotected penetrations” (Exhibit No. 37). In addition, the following inspections were performed that were not related to the fire rated garage ceiling.

On April 12, 2007 the applicant requested a pre-U&O inspection, Mr. Pasquale walked the building common areas with Norristown representatives, 2 Fire Code Officials and Inspector Picard. The areas included the lobby, the stair towers and 1 to 3 units. It is noted within the field report that “It was clear to all of us that there was a lot of work to be completed before a final inspection could be made” and “It was agreed that a pre-inspection for U&O could not be made until building was complete.”

On December 18, 2007 Mr. Pasquale witnessed a pressure test of a portion of the suppression system. It is noted within the field report that personnel from the Fire department were also on site intermittently.

It should be noted that, Mr. Pasquale’s field notes reflect that the April 12, 2007 pre-U&O inspection and the December 18, 2007 pressure test inspection were the only inspections where Norristown Borough personnel were present with Mr. Pasquale. It was stated by Mr. Pasquale in

his interview that he was never a registered or certified code official or a certified BCO as defined under the UCC. This has been verified by the Commonwealth of Pennsylvania Department of Labor and Industry who states within an August 7, 2008 correspondence to Mr. Pasquale c/o RVP that “It is imperative that you not be involved in any capacity with the enforcement of the accessibility or any other requirements of the UCC until you have acquired certification in each of the categories in which you intent to perform work, and until you or your company obtains third-party agency certification.” (Exhibit No. 38).

## **Organizational Issues**

The failure of the Borough to identify and correct the construction issues at Rittenhouse Club did not occur in a vacuum; instead, they were symptomatic of the broader issues that were facing Norristown prior to and during construction of the building.

In 2004, the Mayor, Municipal Manager and Insurance Producer were removed by state and federal agencies. Nearly concurrently, in 2004, there was an effort to change the Municipal Charter and the form of governance within the community. The change occurred on July 1, 2004 and within weeks, there were staff layoffs because of a rapidly deteriorating financial condition.

By the end of 2004, the financial picture of Norristown had improved and the Borough Council appointed a fulltime Municipal Manager in March of 2005. A little less than 16 months later the Municipal Manager was terminated by the Borough Council, and Police Chief Bono was appointed as the Interim Municipal Manager, in addition to his existing duties as Public Safety Director and Police Chief. He served as the Interim Municipal Manager until May 2007, when Mr. Forrest was hired as the full time Municipal Manager.

Within a three year period, there were five Municipal Managers employed by Norristown Borough. During this period the operations of the Building Department and the Code Enforcement would be a lower priority than many of the other issues facing Norristown. However, there were several signs that the system was breaking down and would eventually face an operational crisis.

In October 2006, a report was prepared for Municipal Council by Ms. Capistrano, Code Enforcement Manager, entitled "Joint Report to Municipality Council Code Enforcement Department Building Department" detailing many of the legal, personnel, operational and financial issues facing the two departments. While much of the report focuses on Code Enforcement, the section on the Building Department details the requirements of Certification in the various fields of building inspection under the requirements of the PA UCC, and makes recommendations for employees to obtain certification in conjunction with the pending end date of the registration period.

The report stated that "Departmental restructuring, employees leaving, employee job duties changing and budget restraints has hindered us in moving forwards with a progressive education and certification program." These factors were critical in further reducing the capabilities of the Building Inspectors and the department, especially in 2007.

Following that report, in April 2007 Norristown commissioned a report entitled "Achieving Quality, Efficient & Effective Code Enforcement Services and a Strategic Plan for Success" on the Code Enforcement Department, prepared by CBJr Municipal Consulting Services. Because of the shared staffing and duties of the Code Enforcement Department and Building Department, parts of the Building Department were also evaluated.

In their review, CBJr noted a lack of cooperation between the various components with the Code Enforcement Department:

“Although cooperation and “working together” exist between some individual staff members, team work and **structured communication between departments as a whole, is virtually non-existent.** (Bold highlight added). There are clear and distinct disconnects between management, midlevel management and general staff.”

This problem manifested itself during the construction of the 770 Sandy Street project when warnings about fire safety issues received little attention by key employees. While there was a growing concern about the safety and livability of the Rittenhouse Club, there were no apparent efforts to get all of the parties together at one time to develop an understanding and response to a growing number of issues.

Other major findings from the CBJr report that are relevant to this situation include a disjointed management structure, the lack of a Building Code Official, lack of adequate staffing and training, and problems with the software used to manage inspections. During this period, Norristown Borough retained the services of the contracted Third Party Agency they currently have today.

## **Conclusions**

There were numerous system failures within the Code and Building Department for the Municipality of Norristown that led to the builder not constructing 770 Sandy Street in accordance with the approved construction documents. There were a number of related and unrelated conditions in the Municipality of Norristown government during 2005-2007 that allowed the Rittenhouse Club project to fail in such a manner including:

1. Transition in leadership.
2. Changes within the state law governing building inspections.
3. Loss of key personnel.
4. Internal management issues.
5. Lack of responsible project oversight.
6. Lack of interdepartmental cooperation.

The Building Department that was in place within the Municipality of Norristown during the construction of the Rittenhouse Club was inadequate, untrained and unfamiliar with the requirements associated with a project of this scope and the requirements of the Uniform Construction Code for the Commonwealth of Pennsylvania. Due to individuals leaving the employment of the municipality, either by their own volition or not, employees were assigned to tasks that they were not trained, qualified or certified to perform. Individuals performing plan reviews and inspections included Code Enforcement Officers, Building Inspectors, firefighters and consultants, most being unfamiliar with the requirements of the approved plans. It is our understanding from the interviews performed and information received that only Ms. Bixler and Mr. Picard were registered and/or certified to perform plan reviews and inspections or be involved in any capacity with the enforcement of the UCC.

The Building Department was being supervised by Ms. Musonye, a department head who was not qualified under the UCC and had no understanding of the process or enabling legislation associated with the issuance of permits, performance of inspections or the issuance of the Use and Occupancy Certificates and the consultants she and the staff were relying on for support appears to have had a misguided understanding of their role and/or provided uncertified individuals to perform plan reviews and inspections.

There was no ownership of project by any municipal department, employee or consultant and no one involved was strong enough to stop the project when it appeared to be out of control. Perhaps this was due to the desire of the community to have a new, successful housing project in Norristown that would provide the type of housing sought by demographically desirable professionals. It was viewed as being very important to accommodate the developer in making the project succeed.

While construction at the Rittenhouse Club was at its peak in 2007 and 2008, there was a major lack of communication, coordination and cooperation between various municipal departments

and key staff members and consultants did not meet to address outstanding issues, which were often interrelated or went beyond traditional departmental boundaries, instead they relied on emails to relay information when a more formal setting was required. Ultimately, leverage was lost with the applicant when the staff perceived their role, correctly or not, being taken over by the municipal solicitor and Use and Occupancy Certificates were issued without conditions associated with or time frames provided for finishing outstanding portions of the structure.

However, since then the management and elected officials of the Municipality have taken steps, starting in 2008, to address many of these conditions. These steps have included retaining a certified responsible department head familiar with the requirements of the UCC and the plan review and building inspection process, retaining a Certified Third Party Agency that provides certified, trained and professional plan reviewers and building inspectors to the municipality on a daily basis, updating the permit software package providing for complete retention of records and inspections performed with full determinations. The departmental improvement already experienced within the Building Department should provide the Municipality of Norristown with a professional department that should result in no further problems of this magnitude in the foreseeable future.

Ultimately, the primary responsibility to meet the requirements of the Developers Agreement (Exhibit No. 40) and for the failure to construct a building that met the requirements of the approved plan and the various municipal codes rests with Mr. R. Bruce Fazio. His firm, as General Contractor, should have constructed the building to the approved plan, the current building codes and accepted levels of workmanship. He has obviously failed in meeting these obligations.