

MINUTES
BUILDING BOARD OF REVIEW
1:00 P.M., December 12, 2011
Third Floor, Jesse Lowe Conference Room
Omaha Civic Center - 1819 Farnam Street

MEMBERS PRESENT: Jack Ryan, Chairman
Nick Limpach
Thomas Thibodeau
Cheryl Kiel
Cynthia Makinster
Mark Santo

MEMBERS NOT PRESENT: Martin Wiedenman

OTHERS PRESENT: RoseMarie Horvath, Assistant City Attorney
Kevin Denker, Chief Housing Inspector
Kurt Holmstrom, Housing Inspector
Kenton Duncan, Housing Inspector
Todd Shearer, Housing Inspector
Scott Benson, Housing Inspector
Mike Johnson, Housing Inspector
Jay Davis, Chief Building Inspector
Robert Dana, Plans Examiner/Engineer

Mr. Jack Ryan, Chairman, called the meeting to order at 1:00 P.M., introduced the board members, as well as the staff, and explained the procedures for hearing the cases. Mr. Ryan informed the public that a copy of The Open Meetings Law is available in this board room on the north wall for anyone to review. He noted that only those items on today's agenda could be discussed at today's public hearing.

Mr. Ryan requested that speakers limit their presentation to 10 minutes.

Mr. Ryan explained that this Board does not have the authority to waive any requirements of the Americans with Disabilities Act, Federal Fair Housing Act, or NFPA Life Safety Code. This Board does have the authority to hear appeals of the International Fire Code, Nebraska Accessibility Guidelines, and the Nebraska Fair Housing Act. Life Safety Regulations are administered by the State Fire Marshal.

Roll call was taken and six members were present.

Mr. Thibodeau moved to approve the minutes of the November 14, 2011 meeting as amended. Ms. Makinster seconded the motion.

AYES: Thibodeau, Makinster, Santo, Ryan

ABSTAIN: Limpach, Kiel

MOTION CARRIED 4-0-2.

NEW CASES:

CASES:

Case No. 11-57
(Over from 11/14/11)
John Portera
U.S.S. Hazard Inc.
607 Dearborn Circle
Papillion, NE 68046

LOCATION: 2499 Freedom Park Road
REQUEST: Appeal International Property Maintenance Code
Notice of Order to Vacate dated October 12,
2011

Deborah Cunningham
12020 Shamrock Plaza #300
Omaha, NE 68154

Rob Whorley, P.E.
Performance Engineering
4940 North 118th Street #200
Omaha, NE 68164

Jay Davis, Chief Building Inspector, appeared before the Board. Mr. Davis stated the City and the applicant agreed to lay this case over for 90 days until the March 12, 2011 meeting in order to work out additional details. Mr. Davis stated there is a new spirit of cooperation between the City and the applicant as to how to go forward with this appeal.

Mr. Jack Ryan asked Mr. Davis if he felt optimistic about this project. Mr. Davis stated he was more optimistic today than a couple of weeks ago. Mr. Davis stated they were starting back at ground zero, so the 90 days will allow the opportunity to work forward.

Mr. Ryan asked Mr. Kevin Denker if he had any problems with this request. Mr. Denker stated no. Mr. Ryan asked the members of the Board if they had any questions or motions.

Motion by Mr. Thibodeau to lay this case over until the March 12, 2012 meeting. Seconded by Mr. Limpach.

AYES: Limpach, Thibodeau, Makinster, Santo, Kiel, Ryan

Motion Approved: 6-0

Case No. 11-44
*(Over from 9/12/11, 10/3/11, and
11/14/11)*
John Malone
Leviticus Rental Properties
11806 Washington Circle
Omaha, NE 68108

LOCATION: 412 Valley Street – Dwelling Interior
REQUEST: Appeal International Property Maintenance Code
Notice of Violation dated August 10, 2011

Mr. Jeff Malone, John Malone's son, appeared before the Board. Jeff Malone stated John Malone was away on business and could not appear before the Board.

Kevin Denker, Chief Housing Inspector, stated his office had already entered their evidence two meetings ago regarding this appeal.

Jeff Malone stated Buster Brown, City Clerk, advised him there were no oaths on file with the City Clerks Office; therefore, the meeting was illegal.

Mr. Ryan advised Jeff Malone the oaths were on file, which was confirmed by Rosemarie Horvath of the Law Department. Ms. Horvath explained she had no court order advising her if the oaths were not signed the Board would be illegally constituted. Jeff Malone stated he was not representing John Malone based on that information. Ms. Horvath confirmed the Law Department was waiting on one additional oath. Jeff Malone stated that if all the oaths were not on file, John Malone wished to request a hold over until the January 9, 2012 meeting. Mr. Ryan asked Jeff Malone if he was familiar with this case, and Jeff Malone stated no. Mr. Ryan asked Mr. Denker if he had an issue with the hold over request, and Mr. Denker stated no.

Motion by Mr. Limpach to lay this case over until the January 9, 2012 meeting. Seconded by Ms. Makinster.

AYES: Limpach, Thibodeau, Makinster, Kiel, Ryan

ABSTAIN: Santo

Motion Approved: 5-0-1

Case No. 11-54
(Over from 11/14/11)
Mark L. Brasee
Fraser Stryker PC LLO
409 South 17th Street
Omaha, NE 68102

LOCATION: 5006 South 134th Street – Commercial Buildings Exterior
REQUEST: Appeal International Property Maintenance Code Notice of Violation dated September 23, 2011

Case No. 11-55
(Over from 11/14/11)
Mark L. Brasee
Fraser Stryker PC LLO
409 South 17th Street
Omaha, NE 68102

LOCATION: 5005 South 135th Street – Commercial Buildings Exterior
REQUEST: Appeal International Property Maintenance Code Notice of Violation dated September 23, 2011

The Board decided to hear case 11-54 and 11-55 together.

Elizabeth Culhane, representative for Mark L. Brasee, appeared before the Board. Kevin Denker, Chief Housing Inspector, stated his office met with Ms. Culhane. Mr. Denker stated he and Ms. Culhane discussed future development plans for the properties at 5005 and 5006 South 134th Street. Mr. Denker stated the primary issue was keeping the property secure, as the original complaint stated juveniles accessed the property and built a skateboard park. Mr. Denker stated the applicant is in the process of developing ideas and working with the City regarding Tax Increment Financing (TIF) money. Mr. Denker stated there was an additional complaint concerned the storing of vehicles on the property without a Certificate of Occupancy. Mr. Denker stated the property has been cleared of vehicles and secured, and the skateboard park has been removed. The applicant has agreed to keep the property secured and will continue to work on development plans. The applicant has requested a 6 month hold over. The City is in agreement with this request. Ms. Culhane submitted a letter requesting a 6 month hold over (exhibit #1).

Mr. Denker advised the Board of an additional issue regarding railroad property running through the center of the site. Mr. Denker stated the applicant has since acquired the railroad property and the parcels are combined and primed for development. Mr. Denker stated as long as the applicant keeps the property secured, his office is in agreement with the 6 month hold over.

Mr. Thibodeau wished for clarification as to whether this request was a hold over or extension. Mr. Denker stated this request was a hold over.

Ms. Kiel asked Ms. Culhane if there would be any additional construction on the site. Ms. Culhane stated there are buildings on the site that are currently being used. Ms. Culhane stated the applicant is attempting to get "Blighted Status" for the property in an attempt to obtain TIF financing to renovate.

Mr. Ryan asked Ms. Culhane if the buildings would be kept secured during the 6 month period. Ms. Culhane assured him that the buildings would be secured during this time.

Motion by Mr. Limpach to lay this case over until the June 11, 2012 meeting. Seconded by Mr. Thibodeau.

AYES: Limpach, Thibodeau, Makinster, Santo, Kiel, Ryan

Motion Approved: 6-0

Case No. 11-58
Willie L. McCarthy
1919 John Creighton Blvd
Omaha, NE 68111

LOCATION: 5005 North 24th Street – Duplex Entire Structure
REQUEST: Appeal International Property Maintenance Code
Notice of Violation dated October 27, 2011

Kurt Holmstrom, Housing Inspector, appeared before the Board. Mr. Holmstrom stated his office received a complaint regarding this property on October 27, 2011. This residence is a duplex, and the tenant stated there was no heat. Mr. Holmstrom inspected the property and noted additional violations. Mr. Holmstrom stated he took photographs of the violations and included them in the complaint. Mr. Holmstrom stated he and Mr. Willie McCarthy disagreed on the violations. Mr. Holmstrom stated the violations were not serious and were basically minor violations that needed to be addressed.

Mr. Ryan asked Mr. Holmstrom if he met Mr. McCarthy at the property. Mr. Holmstrom stated Mr. McCarthy visited the Codes & Violations office. Mr. Ryan asked if any progress has been made regarding the violations, and Mr. Holmstrom stated no progress has been made at this time.

Wille McCarthy appeared before the Board. Mr. McCarthy asked to see the pictures Mr. Holmstrom submitted. Mr. McCarthy brought his own pictures to the meeting and showed them to the Board. Mr. McCarthy's photographs were not submitted as evidence. Mr. Ryan advised Mr. McCarthy that the City was more than willing to meet him at the residence to discuss the violations. Mr. McCarthy submitted a copy of a letter (exhibit #2), which he stated he also submitted to the Mayor's Office, explaining why he was not willing to meet with Mr. Holmstrom at the residence. Mr. McCarthy stated he and Mr. Holmstrom had a disagreement when he came to the Codes & Violations office. Due to this disagreement, Mr. McCarthy stated that he is unwilling to meet with Mr. Holmstrom.

Kevin Denker, Chief Housing Inspector, advised Mr. Ryan that he was not in the front office at the time of the disagreement between Mr. McCarthy and Mr. Holmstrom. Mr. Denker stated that he had just returned and was in his office. Mr. Denker stated his office has a button to press when someone becomes unruly in the office. The button was not pressed by Mr. Holmstrom, Mr. Denker, or any of the inspectors. The button is pressed by Mr. Denker's secretary when she becomes concerned about unruly visitors. Mr. Denker stated when the confrontation took place, the secretary alerted security personnel. Mr. McCarthy was escorted to the Permits & Inspections office to file an appeal.

Mr. McCarthy provided the Board with his photographs of the residence. Mr. McCarthy stated he would meet with another inspector at the residence as long as it was not Mr. Holmstrom. Mr. Limpach asked Mr. Denker if it were possible for him or a different inspector to meet with Mr. McCarthy.

Mr. Denker explained that Mr. Holmstrom initiated the violation and had to be involved in the chain-of-custody. Mr. Denker stated he or another inspector could accompany Mr. Holmstrom. Mr. McCarthy agreed with Mr. Denker's offer. Mr. Denker gave Mr. McCarthy his business card and advised him to set up an appointment to meet at the property.

Mr. Santo stated this process was a result of a complaint regarding no heat. Mr. Santo asked Mr. McCarthy if the heating issue had been corrected. Mr. McCarthy advised the heat issue has been corrected.

Mr. Limpach advised Mr. McCarthy that if he could correct all the violations, he would not need to return next month.

Motion by Mr. Limpach to lay this case over until the January 9, 2012 meeting to allow time for Mr. Denker and Mr. McCarthy to meet. Seconded by Mr. Thibodeau.

AYES: Limpach, Thibodeau, Makinster, Santo, Kiel, Ryan

Motion Approved: 6-0

Case No. 11-59
Mark Terhune
5611 Jackson Street
Omaha, NE 68106

LOCATION: 5611 Jackson Street - Dwelling
REQUEST: Appeal International Property Maintenance Code
Notice of Order to Vacate dated October 19,
2011

Mike Johnson, Housing Inspector, appeared before the Board. Mr. Johnson stated the applicant has replaced the roof and fascia, but the cold weather has put work on hold. Mr. Johnson explained the additional work needed on the outside of the residence and was willing to rescind the order to vacate. Mr. Johnson stated his office was willing to extend the repair time to April 1, 2012.

Mr. Mark Terhune appeared before the Board. Mr. Terhune described the work he has completed on the property. Mr. Terhune stated he had a problem with a contractor who used the wrong materials during the repair process. Mr. Terhune stated he would take care of the other issues Mr. Johnson noted in his report. Mr. Denker advised his office would extend the repair time to May 1, 2012.

Motion by Mr. Thibodeau to rescind the vacate order and allow an extension to May 1, 2012 for completion of the work. Seconded by Mr. Limpach.

AYES: Limpach, Thibodeau, Makinster, Santo, Kiel, Ryan

Motion Approved: 6-0

Case No. 11-60
John Chatelain
14707 California Street, #1
Omaha, NE 68104

LOCATION: 6341 Military Avenue – Dwelling Entire Structure
REQUEST: Appeal International Property Maintenance Code
Notice of Violation dated October 27, 2011

Scott Benson, Housing Inspector, appeared before the Board. Mr. Benson stated his office received a call on this property in the first week of October 2011. Mr. Benson stated there were code violations, and a letter was sent out giving the applicant until the end of December to complete the repairs. Mr. Benson stated he contacted the owner's wife, who informed him her husband was serving in the military in Afghanistan. Mr. Benson stated the owner's wife asked for some time to get the violations fixed. Mr. Benson stated the tenant was removed from the property, and the home is secured.

Mr. Benson stated at this point in time, most of the violations are on the exterior with some plumbing and electrical issues on the inside. Due to the weather, as some of the violations are on the outside, the applicant is asking for a hold over or extension to fix the violations when the weather is better.

Mr. Denker stated they didn't expect the applicant to get all the violations corrected prior to May 1, 2011 and were willing to grant an extension.

Mr. John Chatelain, representative for the owner, appeared before the Board. Mr. Chatelain asked for a 30 day hold over. Mr. Chatelain stated Mr. Benson has agreed to meet the applicant at the property. Mr. Chatelain stated he would find someone to help the applicant with the repairs. Mr. Chatelain asked to hold this case over until the January 9, 2012 meeting in order to meet with Mr. Benson at the residence to discuss what needed to be done. Mr. Chatelain stated the code violations are general and somewhat vague and lack the specificity in order to come to a consensus on what needed to be done. Mr. Chatelain stated an on-site inspection would be needed to determine exactly what needed to be done.

Mr. Ryan asked Mr. Chatelain if the house was occupied, and Mr. Chatelain stated it was unoccupied and would remain vacant until the repairs were completed. Mr. Chatelain stated the applicant might wish to occupy the residence before all the outside work is completed. Mr. Chatelain stated the residence would not be rented in an unsafe condition.

Motion by Mr. Limpach to hold this case over until the January 9, 2012 meeting to allow time for the City and the applicant to meet and discuss the violations. Seconded by Ms. Makinster.

AYES: Limpach, Thibodeau, Makinster, Santo, Kiel, Ryan

Motion Approved: 6-0

ADJOURNMENT:

Motion to adjourn by Mr. Thibodeau. Seconded by Mr. Limpach.

AYES: Limpach, Thibodeau, Makinster, Santo, Kiel, Ryan

Motion Carried: 6-0

Meeting adjourned at 1:41 p.m.