

Minutes
Administrative Board of Appeals
November 29, 2010

MEMBERS PRESENT: Ann O'Connor, Chair
David Levy, Vice Chair
Jim Weaver
Jose Lopez
Steve Simmonds, Alternate

MEMBERS ABSENT: Bode Labode
Jama Samiev, Alternate

OTHERS PRESENT: RoseMarie Horvath, Law Department
Kevin Denker, Planning Department
Debbie Hightower, Recording Secretary

I. Roll Call

Ms. O'Connor called the meeting to order at 1:00 pm.

Mr. Denker asked that the board receive as Exhibit 1 in each of this meeting's cases the contents of the City's file on each case.

Ms. O'Connor acknowledged the contents of the City's file as Exhibit 1 in each case.

II. Cases

10-5-26 (over from 5/24/10, 8/30/10)

Appeal Omaha Police Department denial of firearm registration: Fletcher Young, 4850 Underwood Ave Apt. 302 68132

Fletcher Young appeared before the board with attorney, Patrick Campagna, Lustgarten & Roberts, P.C., 1625 Farnam Street Suite 900. Mr. Campagna submitted Exhibit 2 indicating that a Protection Order (Docket #1102-385) against Mr. Young has been dismissed effective November 4, 2010.

Sgt. Sherie Thomas confirmed that there is nothing else on Mr. Young's record except for the dismissed protection order. Lt. Mike McGee confirmed the protection was recalled on November 4, 2010.

Mr. Levy made a motion to grant the appeal. Second by Ms. O'Connor.

AYES: Levy, Weaver, Lopez, Simmonds, O'Connor

Motion carried 5-0.

The next case was taken out of order.

10-11-99

Appeal Omaha Police Department denial of a Taxicab Driver's Permit: Balash Bango, 4115 Ohio Street 68111

Balash Bango appeared before the board. Mr. Bango stated he does not have a job and would like to drive a taxicab.

Sgt. Sherie Thomas stated the Taxicab Driver's Permit for Mr. Bango was denied because he hit his wife with a vehicle on September 8, 2007 and was convicted of a Class 3 Felony Assault.

Mr. Bango stated he was released in March 2010 after spending two years and six months in jail.

Mr. Weaver questioned the ordinance and how it pertains to whether an individual who is a felon can drive a taxicab. Lt. Mike McGee confirmed that there are cab drivers working within the city that have a felony. Mr. McGee stated that in this particular case, Mr. Bango used a motor vehicle to commit a felony assault on his wife after a domestic situation. The ordinance talks about violations that would jeopardize the safety of the public so potentially he could use the motor vehicle in a dangerous way.

In response to Mr. Weaver, Mr. Bango verified that he owns a motor vehicle and has a valid driver's license.

Mr. Simmonds questioned whether Mr. Bango's driver's license was revoked.

Motion to deny appeal by Mr. Levy. Second by Mr. Weaver.

AYES: Lopez, Simmonds, Levy, Weaver, O'Connor

Motion carried 5-0. Appeal denied.

10-11-100

Appeal Omaha Police Department denial of firearm registration: Ocie Ross, 6314 North 32nd Street 68111

Ocie Ross appeared before the board.

Lt. Mike McGee stated there is no record of the disposition for the case from 1970 involving Mr. Ross. The criminal record from the FBI showed the charge on Mr. Ross's record but no disposition.

Sgt. Sherie Thomas confirmed that there is nothing else on Mr. Ross's record that would prohibit him from obtaining a gun registration.

Lt. McGee stated that in April 1992 there was a gun registration refusal. In response to Mr. Levy, Lt. McGee stated the charge in 1970 was for grand larceny.

Mr. Weaver made a motion to grant the appeal. Second by Mr. Levy.

AYES: Weaver, Lopez, Levy, O'Connor

NAYES: Simmonds

Motion carried 4-1.

10-11-85

Appeal Omaha Police Department notice of nuisance: Stephen Postert, 16524 Weir Street 68135

Kevin Denker stated the vehicle in question still has Texas license plates as of this date.

Stephen Postert appeared before the board. Mr. Postert stated the vehicle in question is a pickup used to drive back and forth out of state to maintain property in Texas. At times he is out of state for 30 days. He stated he also has a vehicle registered in Nebraska that he maintains at his Omaha residence. He indicated that he currently is registered to vote in the state of Nebraska but will be registering in the state of Texas. He stated he will be filing a non-residence tax return and he is not employed in the state of Nebraska.

Mr. Levy questioned Ms. Horvath regarding the statute for this case.

Officer James V. Stokes, Omaha Police Department, offered to answer any questions. According to an anonymous complaint from July 2010, the vehicle has been in Nebraska for more than 30 days. It should be determined if Mr. Postert is a resident of Nebraska.

Mr. Postert stated the vehicle has never been in Nebraska for more than 30 days at a time. He stated he travels back and forth to Texas, pays property taxes and bills in both states and maintains property in both states. He stated his wife lives and stays in Omaha. In response to Mr. Simmonds, Mr. Postert stated his vehicle spends more time in Texas.

Mr. Weaver asked if there are any provisions for an absentee wheel tax. Officer Stokes answered that Mr. Postert is still in violation of the wheel tax because his vehicle is in Nebraska over 15 days. The wheel tax exemption sticker should take care of the issue.

Mr. Levy made a motion to grant the appeal subject to obtaining a wheel tax sticker within 30 days. Second by Mr. Weaver.

AYES: Simmonds, Levy, Weaver, Lopez

NAYS: O'Connor

Motion carried 4-1.

10-11-87

Appeal Omaha Police Department notice of nuisance: Robert A. Larkin for Jean E. Bennett, 4214 North 146th Plaza #301 68116

Robert A. Larkin or Jean E. Bennett did not appear before the board.

Officer James V. Stokes, Omaha Police Department, stated he corresponded with Mr. Larkin by phone and he said he has taken over the payments for a truck that is owned by Ms. Bennett who lives in Florida. The truck has been in Omaha for over 30 continuous days. Mr. Larkin is not a non-resident but the title of the vehicle is a Florida title.

Mr. Denker suggested laying over the case until the next meeting.

Motion to lay this case over until the December 27, 2010 meeting by Mr. Simmonds. Seconded by Mr. Weaver.

AYES: Levy, Weaver, Lopez, Simmonds, O'Connor

Motion carried 5-0. Appeal laid over to the December 27, 2010 meeting.

10-11-88

Appeal Omaha Police Department notice of nuisance: Jose Angulo-Tenorio, 5035 South 94th Avenue 68127

Carlos Angulo, 5035 South 94th Avenue, appeared before the board and agreed to speak on behalf of Jose Angulo-Tenorio who was also present. Mr. Angulo stated the van in question is used for transportation for his brother who is handicapped from being in an accident. His brother's former mother-in-law, who resides in Iowa, owns the van and pays for the license plates and insurance.

Officer James V. Stokes, Omaha Police Department, stated the complaint was received from the Mayor's office. The van has been in the state for over 30 continuous days.

Mr. Angulo stated they are unable to pay for Nebraska license plates but would be willing to pay \$50.00 for the wheel tax.

Mr. Simmonds made a motion to grant the appeal subject to obtaining a wheel tax sticker within 30 days. Second by Mr. Levy.

AYES: Weaver, Lopez, Simmonds, Levy, O'Connor

Motion carried 5-0.

10-11-89

Appeal City of Omaha Plumbing Board denial of request to take Master Plumber examination: Craig Gregory, 901 Pearl Street, Walnut, IA 51577

Craig Gregory appeared before the board.

Mr. Jim Wonder, Chief Plumbing Inspector, City of Omaha, appeared before the board to represent the Omaha Plumbing Board. The board denied the application to take the master's test because Mr. Gregory was unable to provide records for several years of schooling due to fires and other record keeping issues. Mr. Wonder stated that the Omaha Plumbing code requires four years of apprenticeship in order to obtain a journeyman's license along with 696 hours of schooling. The journeyman's license must be held for four years before taking the master's test. The board will recognize other licenses that are held in comparable cities in size before an individual is allowed to take the test.

Mr. Levy verified with Mr. Wonder that granting the appeal would only be permission to take the master's tests.

Mr. Gregory pointed out the requirement differences between steam pipefitting and air conditioning and air distribution in relation to the plumbing requirements (Exhibit 2). Mr. Gregory verified that he attended and graduated from Blue Valley Trade School and has been in the plumbing profession since 1985.

Mr. Wonder verified that the master's test is not an easy test to pass. Boards in the past have allowed individuals with a long work history to take the test.

Mr. Weaver made a motion to grant the appeal. Second by Mr. Levy.

AYES: Lopez, Simmonds, Levy, Weaver, O'Connor

Motion carried 5-0.

The following nine cases were presented at the same time but voted on separately.

Jay A. Woods appeared before the board with his attorney, Justin Quinn, 209 South 19th Street #540. Mr. Quinn submitted additional information (Exhibits 2-4).

Josh Frey, City of Omaha Code Enforcement Division appeared before the Board. Mr. Frey stated that a complaint was received on October 14, 2010 for all nine lots for litter violation and sidewalk and street clearance violations for trees along those lots. Mr. Woods has corrected all tree violations but there is a disagreement about the litter violations on the lots. Mr. Woods is in the process of building landscape berms on the property but the department is in disagreement with the materials being used to build the berms which consist of logs, branches, twigs, useless vegetations and soil. The material is being used to decompose with the soil as a compost to make the soil more nutrient rich for planting. However, the process in preparing the berms creates harborage for vermin such as rats, mice and snakes which constitutes a nuisance in Section 18-3 of the Omaha Municipal Code as well as may create a fire hazard if ignited. Mr. Frey submitted photos of the initial inspection (Exhibit 5). Mr. Woods has made improvements since the photos were taken and has agreed to cut the vegetative material into smaller pieces and cover the material with dirt within the berms to promote faster decomposition therefore eliminating the vermin and the fire hazard condition. Mr. Woods had agreed to mow down and mulch the useless vegetation to open up vision within the lots for the safety of the neighborhood as well as aesthetic beauty. Mr. Woods has a great master plan and has agreed to maintain the area of weeds and wild trees throughout the growing season.

Mr. Frey recommended that Mr. Woods have 30 days to complete the mowing and trimming work and get started on cutting up the material within the berms, as weather permits. He suggested keeping the work order open throughout the winter and if significant progress has not been made to the berms after the spring thaw, the city will start a new abatement process.

10-11-90

Appeal notice of violation issued by Parks Maintenance Department at 2305 Sprague Street on October 20, 2010; Jay A. Woods, 3918 North 23rd Street 68110

Motion to deny appeal by Mr. Levy. Second by Mr. Weaver.

AYES: Simmonds, Levy, Weaver, Lopez, O'Connor

Motion carried 5-0. Appeal denied with 180 days to comply subject to begin immediately, weather permitting.

10-11-91

Appeal notice of violation issued by Parks Maintenance Department at 3912 North 23rd Street on October 20, 2010; Jay A. Woods, poa for Juel McDonald (property owner), 3918 North 23rd Street 68110

Motion to deny appeal by Mr. Levy. Second by Mr. Weaver.

AYES: Levy, Weaver, Lopez, Simmonds, O'Connor

Motion carried 5-0. Appeal denied with 180 days to comply subject to begin immediately, weather permitting.

10-11-92

Appeal notice of violation issued by Parks Maintenance Department at 3914 North 23rd Street on October 20, 2010; Jay A. Woods, poa for Juel McDonald (property owner), 3918 North 23rd Street 68110

Motion to deny appeal by Mr. Levy. Second by Mr. Weaver.

AYES: Weaver, Lopez, Simmonds, Levy, O'Connor

Motion carried 5-0. Appeal denied with 180 days to comply subject to begin immediately, weather permitting.

10-11-93

Appeal notice of violation issued by Parks Maintenance Department at 3916 North 23rd Street on October 20, 2010; Jay A. Woods, poa for Juel McDonald (property owner), 3918 North 23rd Street 68110

Motion to deny appeal by Mr. Levy. Second by Mr. Weaver.

AYES: Lopez, Simmonds, Levy, Weaver, O'Connor

Motion carried 5-0. Appeal denied with 180 days to comply subject to begin immediately, weather permitting.

10-11-94

Appeal notice of violation issued by Parks Maintenance Department at 3924 North 23rd Street on October 20, 2010; Jay A. Woods, 3918 North 23rd Street 68110

Motion to deny appeal by Mr. Levy. Second by Mr. Weaver.

AYES: Simmonds, Levy, Weaver, Lopez, O'Connor

Motion carried 5-0. Appeal denied with 180 days to comply subject to begin immediately, weather permitting.

10-11-95

Appeal notice of violation issued by Parks Maintenance Department at 3928 North 23rd Street on October 20, 2010; Jay A. Woods, 3918 North 23rd Street 68110

Motion to deny appeal by Mr. Levy. Second by Mr. Weaver.

AYES: Levy, Weaver, Lopez, Simmonds, O'Connor

Motion carried 5-0. Appeal denied with 180 days to comply subject to begin immediately, weather permitting.

10-11-96

Appeal notice of violation issued by Parks Maintenance Department at 3930 North 23rd Street on October 20, 2010; Jay A. Woods, 3918 North 23rd Street 68110

Motion to deny appeal by Mr. Levy. Second by Mr. Weaver.

AYES: Weaver, Lopez, Simmonds, Levy, O'Connor

Motion carried 5-0. Appeal denied with 180 days to comply subject to begin immediately, weather permitting.

10-11-97

Appeal notice of violation issued by Parks Maintenance Department at 3932 North 23rd Street on October 20, 2010; Jay A. Woods, 3918 North 23rd Street 68110

Motion to deny appeal by Mr. Levy. Second by Mr. Weaver.

AYES: Lopez, Simmonds, Levy, Weaver, O'Connor

Motion carried 5-0. Appeal denied with 180 days to comply subject to begin immediately, weather permitting.

10-11-98

Appeal notice of violation issued by Parks Maintenance Department at 3934 North 23rd Street on October 20, 2010; Jay A. Woods, 3918 North 23rd Street 68110

Motion to deny appeal by Mr. Levy. Second by Mr. Weaver.

AYES: Simmonds, Levy, Weaver, Lopez, O'Connor

Motion carried 5-0. Appeal denied with 180 days to comply subject to begin immediately, weather permitting.

III. Approval of Minutes from October 25, 2010

Motion to approve the minutes from the October 25, 2010 meeting by Mr. Weaver. Second by Mr. Levy.

AYES: Levy, Weaver, O'Connor

ABSTAIN: Lopez, Simmonds

Motion carried 3-0.

IV. Adjournment

Motion to adjourn meeting by Ms. O'Connor. Second by Mr. Weaver.

AYES: Weaver, Lopez, Simmonds, Levy, O'Connor

Motion carried 5-0. Meeting adjourned at 2:15 PM.

Debbie Hightower, Planning Department
Recording Secretary

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<http://co.douglas.ne.us/omaha/planning/boards/administrative-board-of-appeals>