

BOARD OF BUILDING CODE STANDARDS AND APPEALS MINUTES

August 5, 2013

Members: Francisco Banuelos, Randy Coonrod, Daryl Crotts, Brad Doeden, Randy Harder, Russ Redford, Larry Webb, Gregg Wilhite, Warren Willenberg

Present: Banuelos, Coonrod, Crotts, Harder Redford, Webb, Wilhite, Willenberg

Staff Members Present: Tom Stolz, Bud Lett, Richard Meier, Deb Legge, Diane Patton, Elaine Hammons (MABCD); Jeff Van Zandt (City Law); Justin Waggoner (County Law)

The regular meeting of the Board of Building Code Standards and Appeals was called to order by Chairman Coonrod on Monday, August 5, 2013, at 1:00 p.m., at the Wichita Area Builders' Association Offices, 730 N. Main, Wichita, Kansas.

Approval of the June 3, 2013, minutes.

Board Member Willenberg made a motion to approve the minutes for the June 3, 2013, minutes. Board Member Harder seconded the motion. The motion carried. (Board Member Crotts was not present for this vote.)

Public Agenda.

There was no one present to speak on the Public Agenda.

Condemnations:

New Cases

1. 1547 N. Burns

There was no one in attendance on behalf of this property.

This is a one- and one-half story frame dwelling about 30 x 26 feet in size. Vacant for nine months, this structure has cracking and shifting basement walls; rotted and missing hardboard and wood shingle siding; badly worn, composition roof, with missing shingles; badly deteriorated front porch; badly deteriorated wood carport; and the 12x18 foot accessory garage and 15x7 foot shed are deteriorated.

Board Member Harder made a motion to submit the property to the City Council with a recommendation of condemnation with ten days to begin demolition and ten days to complete wrecking the structure. Board Member Willenberg seconded the motion. The motion was approved.

2. 2128 W. McCormick

Richard Martin, husband of the deceased owner, was present.

Vacant for at least a year, this one- and one-half story frame dwelling about 69 x 31 feet in size. This structure has a badly cracked and shifting concrete foundation; collapsing concrete cellar walls and steps; rotting wood trim; badly shifting, illegally constructed, two-story addition; and the attached carport and 15x20 foot accessory garage are dilapidated.

There has been an active case on this property since February 2009; there have been numerous notices issued. The structure is currently open. There is an open nuisance case in court status, and there are three Tall Grass & Weeds

Cases which were resolved by owner compliance. In May of 2013, the lot was abated by City contractors at a cost of \$624.56; There is currently a Tall Grass & Weeds Case on the property in abatement status.

Formal condemnation proceedings were initiated in June 2013. There are delinquent taxes in the amount of \$406.69; there is also a pending Special Assessment in the amount of \$624.56 for lot cleanup. It was recently mowed by a City contractor, and there are still some tree limbs, trash, and bulky waste on the premises.

Chairman Coonrod asked the Board and staff to introduce themselves to the public in attendance.

Mr. Richard Martin told the Board that the property was owned by two brothers and two sisters. One of the sisters was his wife, who is now deceased. He said he had been approached by potential buyers for the property, but he had no legal authority to make decisions regarding the property.

Chairman Coonrod explained that the Board's concern was the exterior condition of the property. He added that the delinquent taxes needed to be paid, as well as the special assessments.

Mr. Martin said that he had tried to appeal the taxes, but since he is not a legal owner/agent of the property, he was unable to submit an appeal. He told the Board that he would meet with an attorney and look into the possibility of getting the necessary power to make decisions regarding the property.

Board Member Harder made a motion to allow until the September meeting for Mr. Martin to acquire ownership of the property, or the authority to act on behalf of the owners, and a subsequent plan of action for bringing the property into compliance, maintaining the property in a secure and clean condition in the interim. Board Member Wilhite seconded the motion, amending it to include securing the open structure immediately. Board Member Harder agreed to the amending of the motion. The motion carried.

Review of Executive Session protocol.

Mr. Jeff Van Zandt provided a memo to the Board as an example of the procedure to be followed for requesting an Executive Session. He added that the need for an Executive Session would likely only occur during a contractor's license review hearing. The purpose of the Executive Session would be to allow the Board to consult with its legal counsel regarding advice on processes pertaining to the hearing.

The Board's decision is appealable to the District Court. The District Court would not rehear the entire case, but would review the Board's procedure to make certain that due process was carried out.

Hearing procedures and rules.

Mr. Justin Waggoner provided an outline for procedures for hearings regarding contractors' licenses brought before the Board of Building Code Standards and Appeals. The Unified Code gives the Board the ability to adopt rules and procedures for its hearings. Although a set procedure has not yet been defined by the Board, Mr. Waggoner encouraged the Board Members to give consideration to those outlined in the handout. The procedures were patterned from the Administrative Procedures Act in Kansas, which is what numerous other licensing agencies in the State of Kansas utilize to ensure that a licensee's due process rights are not violated.

In the event of a license hearing, either Mr. Van Zandt or Mr. Waggoner, will work with the MABCD staff to develop the case and then present it as the complaint to the Board; the other attorney will represent the Board. The attorney who represents the Board as counsel may not be involved in the development of the case that is presented to the Board. Both Mr. Van Zandt and Mr. Waggoner said they would be available to answer protocol and procedure questions as needed.

Routine issues that arise involving contractors and/or licensing will be handled administratively. The issues that will be brought before the Board will deal with some type of misconduct that violates the Unified Building and Trade Code.

Board Member Crotts made a motion to accept the hearing procedures and rules as presented in the outline. Board Member Harder seconded the motion. The motion passed.

With no other business to conduct, Board Member Wilhite made a motion to adjourn the meeting. Board Member Willenberg seconded the motion. The motion was approved.

The meeting adjourned at 1:44 p.m.