

Minutes
Property Maintenance Board of Appeals
Council Chambers
Wednesday, December 14th, 2011, 8 a.m.

Members Present

Paul Flogstad, Dawn Clausen, Wayne Kerslake, Ron Rensberger and Dennis Tilden

Guests Present

Thomas A. Gerhrz, Paul Hess, Paul Bengford, Kelly Boysen, Karen Spadino, Mike Huether and Kevin Smith

Approval of Minutes of Last Meeting

A motion was made by Mr. Kerslake and a second was made by Ms. Clausen to approve the minutes of the Wednesday, March 2nd, 2011 hearing. Yeses, 5. Noes, 0.

New Business

The file was opened and read for Appeal 3-2011. The secretary provided a background of City's attempts for compliance with the property maintenance code at the property located at 523 S. Duluth Avenue. A Notice and Order dated May 7, 2009 was issued to Oscar and Leann Batiz, the owners of the duplex, as a result of neighborhood complaints. Pictures of the code violations at the property were presented to the Board. The original Notice and Order required repairs to the unstable stairs, the installation of handrails, and repairs to the broken window and screens. The structure has remained vacant since 2009. In January of 2011, the structure was found unsecured and no work had been completed which was required by the original Notice and Order. An amended Notice and Order to immediately secure and to either repair or demolish the structure was issued on January 25, 2011. In March of 2011, Oscar Batiz requested and was granted an appeal by the Board to extend the time period to June 1, 2011 to be able to repair the structure to a habitable use or to negotiate and sell the property to Community Development for their neighborhood rehab program. Upon reviewing the property in December of 2011, Housing Inspection found again that no work had been completed which resulted in the issuance of a final Notice and Order to commence demolition of the structure by December 15, 2011. The secretary noted that the urgency of a special hearing with the Board was due to a request for a time extension by the intended holder of the mortgage, Wells Fargo Home Mortgage. Building Services and Public Works had a contract in place to hire a private contractor to demolish the structure which would have been otherwise scheduled for December 20th, 2011. In addition, the Board was presented with a list of police calls to the property which consisted of 28 separate incidents in 2011 to check the security of the structure.

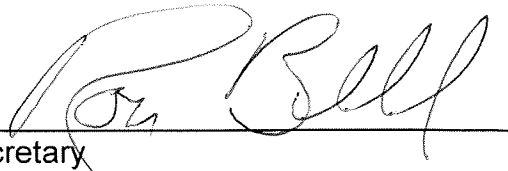
Thomas A. Gerhtz of Mackoff Kellogg Law Firm was present to request an extension of time on behalf of Wells Fargo Home Mortgage to resolve the City's issues with the property. Mr. Gerhz noted that the property is in foreclosure and Wells Fargo is working to address the violations. In June of this year legal action had been taken to resolve and dismiss the claims and counter claims of the defendants in the foreclosure action. An assignment of mortgage is currently being executed and is in the process of being recorded from US Bank to Wells Fargo Bank. Based on resolving the legal issues with the foreclosure action and resolving the assignment of mortgage, it is intended to proceed with the sale of the property. Upon sale, the intent of Mr. Gerhrz clients is to donate the property to Sioux Falls Community Development to be able to apply to Community Development's Neighborhood Revitalization Program. On the basis of this plan, Mr. Grehrz requested an additional extension of time of 120 days to stay the City's schedule of demolition. The time period was requested in order to provide time to get the judgment from the courts to obtain clear title to be able to donate the property to Community Development. His client is willing to do any repairs necessary for the structure. Mr. Flogstad reiterated that the client needs to be responsible for maintaining the security for the property for such a time period.

Paul Hess of Community Development specified that federal funds are utilized through Community Development's Affordable Housing Program. A condition is that a bare lot does not qualify within the program because the blight has already been removed. The razing of the structure prior to control by Community Development would eliminate the capability of qualifying for the program which would additionally eliminate the possibility of building back affordable housing on the lot through the program. Mr. Hess did reiterate that the Batiz's will be required to waive their redemption period based on the bankruptcy. Additionally the liens and claims currently on the title are against the Batiz's and will not stay on the property, but will be closed out upon completion of the foreclosure proceedings. Mr. Hess specified that once the title is transferred to Community Development, the structure can be razed by either Building Services or Community Development.

Subsequent discussions resulted in a motion made by Ms. Clausen and a second by Mr. Rensberger to stay the demolition of the structure located at 523 S. Duluth Avenue for 120 days subject to the building being adequately secured from entry within the week; and to required the individuals listed as owners to sign documentation to release their redemption period by the end of the year. Yeses, 5. Noes, 0.

Adjournment

A motion was made by Ms. Clausen and a second was made by Mr. Kerslake to adjourn the meeting. Yeses, 5. Noes, 0.


Secretary