

Code Enforcement-Housing Code Board of Appeals
City of Cedar Rapids
Wednesday, October 5, 2016 @ 2:00pm-Green Square Conference Room

MEMBERS PRESENT:

Amanda Burns, Garry Grimm, Craig Stump, & Jim Thatcher, Sarah Coleman & Lana Baldus

MEMBERS NOT PRESENT:

Al Aosse

INSPECTORS PRESENT:

Russ Howard, Coe Molumby, Al Pansegrau

Councilman Scott Olson was not present

Appellants Brian Huber & Jeremy Holmes were present

ALSO PRESENT:

John Riggs-Building Services Manager

Housing Code Board of Appeals was called to order on Wednesday, October 5th, 2016 at 2:05 pm in the Greene Square conference room at the City Services Center located at 500 15th Avenue SW.

Jim Thatcher moved to accept the Wednesday, August 3rd, 2016 minutes as reviewed. Garry Grimm seconded. All ayes, motion carried.

H-5-2016-Huber Enterprises-909 28th St SE-possible revocation of registration

H-6-2016-Jeremy Holmes-124 4th ST NW-vacant and neglected property

Al Pansegrau stated on 8/11/2016 he had sent Brian Huber a notice of possible revocation of registration of 909 28th St SE-unit #1 as the property had been declared a nuisance from numerous reports from SAFE-CR for a total of fees owed of \$2,575.60. Mr. Huber had paid the rental registration fees- so only owed the \$2,575.60 to SAFE-CR. The section in which the SAFE-CR fees is 29.44A II & VI. The property would be suspended for 90 days or until all fees are paid-letter said which would be November 1st but due to the fact that this meeting is October 5th then he would get 30 days after the hearing which would be November 5th. At that time, he would need to verify that unit 1 is either vacant. If vacant equals suspension of 90 days vacant-or if not vacant we could file a municipal infraction against it due to the fact that it's being rented without proper registrations for that unit and that would go to court with the subsections listed to the violations with each subsection of \$750 apiece.

Annette states that property was already deemed a nuisance property. On 7/22/2015 there was an additional call for service so the \$2,575.60 is the amount that is owed. There were actually 3 calls for service that were made as follows:

February 23, 2015-designated the property a nuisance property

May 31, 2015-SAFE-CR did not count this as a founded call because the owner provided officers with keys to get into the property however a phonecall was made to the owner notifying him of the arrests.

July 22, 2015- call lasted for 5 hours and 29 minutes at \$94 per officer. This is the only call for service that was counted out of the 3-equalling \$2,575.60.

The owner was notified about the calls for service-see attached The owner did not appeal the designation, submit a property nuisance abatement plan or appeal the notice of billing or call for service on any of the 3 occasions.

Brian Huberty spoke stating that he was not aware of the problems until AI contacted him and he also visited Annette at the station on 1st Avenue. Mr. Huberty stated he has tried to improve the property by adding cameras and even gave officers a key to the property before the call for service in July 2015. They allowed Mr. Wilson to stay at the property as he was given advice that he was a good tenant. All these changes were made prior to the July 2015 event. The property does not make \$2,500.00 a year for the entire building which is a 6 plex. The property has not been fully rented since it was on the nuisance property list. Mr. Huberty states he has done everything in his power to make this property a very livable property. He stated the tenant-Brandon Wilson is no longer a tenant at the address and states he has other properties which don't have problems on 11th Ave.

Jim Thatcher asked if the property management company had advised Mr. Huber of the designation. Mr. Huber does not remember signing off on the certified letter that was sent-as it was signed by someone at Preferred Property Management. Mr. Huber states that is not something that he would be signing off on. Mr. Huber only purchased the properties and makes sure the properties are up to code.

Jim Thatcher asked Mr. Huber when he found out about the fees and revocation and Mr. Huber stated he knew about the \$2,575.60 was when he was called by AI and advised he needed to pay the \$2,575.60 fee or file an appeal or the property would be shut down so he came in to file the appeal.

Annette stated Mr. Huber met with her on 9/28/2015.

Mr. Huber did not speak with Annette on 9/28/2015-about the bill for \$2,575.60.

Lana Baldus stated Mr. Huber spoke with Annette on the phone in June 2015 concerning the property-however the call that generated the \$2,575.60 bill occurred in July 2015 so he would

have known about the previous calls for service in February and May 2015 and that there was a problem there and that he was trying to get the tenant out.

Mr. Huber stated the tenant was incarcerated so he thought they were done with the tenant, otherwise he would have done due diligence to get him out of there. He also asked why the city did not tell him he needed to file a clear and present danger and that it was his property management company-Preferred Property Management Company that did not notify him of the invoice.

Jim Thatcher stated the property management failed to let Mr. Huber know about the correspondence and they are his representative- even though Mr. Huber didn't know-he should have been advised. Mr Huber states there is now a new owner at Preferred Property Management-named Mark Drish instead of Bob Edwards.

Craig Stump asked if Preferred would help defray some of the costs and Mr. Huber said they would not. Craig Stump stated the code is very clear and that payment needs to be made because of what was passed by city government-the rules are very clear-fines are assessed and need to be paid.

Jim Thatcher stated working with Annette on the appeal timeframe would have helped Mr. Huber had he done it at the time.

Mr. Huber stated Preferred should have been the ones to follow through, but they had transition from Bob Edwards to Mark Drish.

Garry Grimm stated that because Mr. Huber was the owner at the time of the police calls that he is responsible for the fees incurred. It's not the board's decision to change what the owner owes with the police calls that were made. The board is there to decide whether procedures that followed the police calls were done correctly.

Mr. Huber stated he needs lenience on the cost because he gave officers the keys ahead of time and if he had been notified-he would have cleared the building in fifteen minutes by himself. It has cost Mr. Huber a lot of money and time out of life to attend the meetings and all the changes that he has made. There has not been another incident at any of his properties since this has happened.

Jim Thatcher restated that it's not the board's decision to waive the fees by the police department-only to decide whether procedures that followed the police calls were done correctly and in accordance with the current code.

Garry Grimm stated Mr. Huber could file a small claims case if he wished or pay the bill so Mr. Huber can rent it again.

Mr. Huber states he can't fill it because it's on the nuisance property list.

Garry Grimm states no tenants are aware of the nuisance property list so that shouldn't be a reason why he can't rent it.

John Riggs restated the fees are owed. Mr Huber has 30 days from this date-November 6th, 2016 to take this to court if he disagrees which Mr Huber states he won't do as it's already cost him too much time and money as it is. The next step is he can go to court if he wishes. On November 6, 2016-an inspection will be made. If that property is being rented- a municipal infraction can be filed as it's being rented illegally as it has suspended for 90 days and /or until that fee is paid. There is only one option the board has; The board can't waive the fee but if he pays it-they can suspend for 30, 60 or 90 days-fees cannot be changed. The number of days of suspension days is not a code issue-it's an internal process that can be changed.

Craig Stump asked if there were any other units available in the building. Mr. Huber states he has two units have become available but the unit in question (unit #1) is currently occupied. Mr. Huber states he will just move them into another unit.

John Riggs states if there is another incident in this building or any other unit he owns it will be tracked and as a 2nd course his landlord permit can be suspended.

Mr. Huber-Why don't I just sell the properties-does this clear all the properties up?

Al Pansegrau-the nuisance status follows the property for the year that the property is deemed a nuisance.

Mr. Huber asked if he sells the property does it eliminate the property-does it eliminate the \$2,575.60?

The board stated-the fee will stand.

Jim Thatcher stated Mr. Huber needs to take his appeal to Chief German if he does not agree with the fees for 5 officers. and that Mr. Huber needs to contact his attorney about what his next steps are concerning this case.

Mr. Huber asked if this debt falls off after a year's period of time.

John Riggs replied Mr. Huber can take the minutes of this meeting which will be available on Tuesday, October 11, 2016 to his attorney as staff as this board does not give legal advice and this debt is a debt to the City of Cedar Rapids until paid. If Mr. Huber has any other questions on the future of the debt, he will need to contact the City of Cedar Rapids Finance Department as that's the department that will collect the debt.

Garry Grimm moved the order stands-the owner owes the fee of \$2,575.60 due to the declaration of the reference property as a nuisance property outlined by SAFE- CR subsection 29.44 A II & VI. If he pays his fee-the suspension would discontinue after 30 days. Seconded by Sarah Coleman. All ayes. Motion carried.

H-6-2016-Jeremy Holmes-124 4th ST NW-

John Riggs-This originally was a notice and order based on the new vacant and neglected code which was approved a little over a year ago and went into effect this year.

Coe Molumby got a complaint referral on 8/22/2016 and verified complaint and that the structure was vacant for quite some time. Coe determined she should issue the vacant and neglected notice. Coe had looked at the file and found the property was last occupied May 2005. The current owners bought the property in 2007, but water service was started in October 2006 in Rick Tuttle's name. There were permits taken out to do work after the flood of 2008 but the permits were inactive since 2012. They got renewed in August 31, 2016 with the notice and order issued on August 22, 2016, however from 2012-2016 the permits had expired so the owner had renewed the permits.

We received the appeal letter from Mr. Holmes and there was discussion between John Riggs and I and we decided we would agree (as the appeal states) that they want to have work completed by 12/31/2016 if he was done. If the work was not completed-the property would need to be registered as vacant and neglected which involves a fee, an inspection and a plan of action which needs to be approved by this department.

Jeremy Holmes found the decision to complete the work by 12/31/2016 was reasonable. It was his goal to have it completed by the end of the year anyway. There was a tree that was covering the bad side of the roof-half of it was re-roofed 5 years ago. There was a tree that had fallen.

Coe stated there was a roof permit from 2002-from before he owned it. Jeremy said there should be a roof permit in 2009 or 2010. Coe states there is not a current roof permit-only remodel. Coe said the half that looks like it needs a new roof was the side that gets the sun.

Garry Grimm suggested to get roof permit on half of the roof that needs it and suggested doing it after the meeting.

John Riggs added if the board chooses to accept the recommendation that he would like to clarify any permits that need to get pulled also get inspected and finals completed, however the board would not grant an extension to continue. Even though the permit is good for a year-to satisfy our department-the vacant and neglected order has to be completed by 12/31/2015.

Jeremy Holmes asked if the shingles need to be completely torn off or if he could add a 2nd layer of shingles.

John Riggs stated whatever is legal by the code when he pulled the permit-our department would allow and it would satisfy it. We will not make a code change here that is greater than or restricts the code that he would get a permit for.

Jim Thatcher moved to accept the City's recommendation-the project needs to be completely done by December 31, 2016, and if not completed by that date then on January 1, 2017 the property needs to be registered as vacant and neglected, and a plan of action needs to be approved by the City of Cedar Rapids would be worked on and in place. Seconded by Garry Grimm. All ayes. Motion carried.

John Riggs then added that our rental system is now catching up with the five year cycle. We may send out letters for people that owe fees from the past 5 years in the next few months. If someone has since sold their rental property, they don't owe the fees.

Craig Stump moved to adjourn the meeting at 3:00 pm. Seconded by Lana Baldus. All ayes. Motion carried.

Meeting adjourned 3:00 pm.

Recording Administrative Assistant, Shannon Day