



City of Broken Arrow
Minutes - Draft
Nuisance Abatement Public Hearing

Council Chambers
220 S 1st Street
Broken Arrow OK
74012

Hearing Officer Russell Gale

Thursday, August 6, 2020

12:00 PM

Council Chambers

1. Call To Order

Hearing Officer Russell Gale called the Nuisance Abatement Public Hearing to Order.

2. Approval of Previous Minutes

20-892 **Approval of Nuisance Abatement Public Hearing Minutes of July 2, 2020**

The minutes are approved.

3. Nuisance Abatements for Consideration

NONE.

4. Public Hearings

20-886 **Consideration, discussion and possible declaration that 309 West Durham Place, Broken Arrow, OK 74011; Lot 15 Block 3 Arrow Springs Third, Tulsa County; as a dilapidated structure and a public nuisance and authorization to demolish the property. Violations: Title 11 O.S. § 22-111 and § 22-112; City Nuisance Code 15-1 C.15 and 15-4 and 15-1 D.10 a & b.**

Code Enforcement Officer, Calvin Scott, advised a case was opened for a dilapidated uninhabitable structure for 309 West Durham Place on June 23, 2020. The property is unoccupied and not maintained. There is damage to the roof which allows the interior of the dwelling to be exposed to the elements. Broken windows exposed, rotten wood, holes in the siding, trees growing into the structure and a stagnant above ground swimming pool which is providing a habitat for mosquitoes and rodents. He spoke to the property owner last week and found out the property was under contract for sale. The property owner was present and wanted to give an update on the sale of the property.

Property owner, Gary Hoover, advised he owned the property for 20 years and moved out of it about three years ago. He planned to do some work on it and sell it, but did not have the funds to do it. About a year ago, he was diagnosed with some medical conditions which made it impossible for him to do any extra hard work. So, he finally decided to sell the property and list it with a real estate agent. The agent is working on a contract with a gentleman and as

far as he knows the sale of the property should go through this week or next week.

Hearing Officer Russell Gale asked if there was anything else to consider and asked Code Enforcement Officer, Calvin Scott, about his thoughts on this matter.

Code Enforcement Officer, Calvin Scott, stated with this new information from the owner and the situation, he would be agreeable to pass this case for 30 days to allow time for the contract to work out.

Hearing Officer Russell Gale tabled this case to be heard at the public hearing on September 3, 2020.

20-890

Consideration, discussion and possible declaration that 520 West Detroit Street, Broken Arrow, Oklahoma 74012 Lots 15 and 16 Block 23 Broken Arrow-Original Town, Tulsa County; as a dilapidated structure and a public nuisance and authorization to demolish the property; Case No. 18-10029649. Violations: Title 11 O.S. § 22-111 and § 22-112; City Nuisance Code 15-1 C.15 and 15-4 and 15-1 D.10 a & b.

Code Enforcement Officer, Gary Arnold, advised he posted a Notice to Abate a Nuisance Public Hearing at 520 West Detroit Street on June 25, 2020. Since 2010, there have been many issues with this property not being maintained to the point of being abated for trash, junk and debris. On April 26, 2018, there was a fire at the structure. As time went by, he tried to work with Mr. Brashears to figure out what he wanted to do with the property. At one time, he thought he might just sell the property and relocate. Then, another time, he thought he might like to rehabilitate it. On several occasions, he went to Mr. Brashears and told him there were several people interested in purchasing the property and he said he would think about it. When he would go back to talk to Mr. Brashears, he did not seem to be interested. On November 26, 2019, Mr. Brashears pulled a remodel permit from the City of Broken Arrow, but he never called for any inspections. On April 24, 2020, the permit expired. The only damage control that Mr. Brashears has done to the structure is put tarps on the top of the roof where the fire went through it. Code Enforcement Officer, Gary Arnold, is concerned that Mr. Brashears does not have the means to do what he wants to do to this property. He suggested this place be declared a public nuisance and remove the structure from the property.

Property owner, Joe Brashears, stated he built the house 20 years ago and there is nothing wrong with the structure, except the roof. He said the City of Broken Arrow Swat Team are the ones who caught the structure on fire. They were looking for someone, but he was not home at the time of the incident. He said he filled out the paperwork to get it fixed, but they never answered him. He was going to build a duplex that is why the front of it looks flat, but he

only had enough money for half of it. He said the Oklahoma United Methodist Church is fixing to put a roof on it and all he has to do is get one more estimate for them. He said he was a hoarder, so he put up a privacy fence to help cover it. He restated the roof is fixing to be put on and the things inside can be easily repaired by him. He said he will repaint the outside and replace some of the windows, the siding and everything will be replaced professionally and start looking back to normal in about 45 to 60 days.

Hearing Officer Russell Gale asked Joe Brashears if he was living in the house at this time.

Joe Brashears stated he was not living in the house right now.

Hearing Officer Russell Gale said you gave me your address as 520 West Detroit Street.

Joe Brashears stated he does live there, but lives in an RV which is located on the property at 520 West Detroit Street.

Hearing Officer Russell Gale asked Joe Brashears when did the damage occur?

Joe Brashears said about a year and a half ago.

Hearing Officer Russell Gale said you said the city is at fault?

Joe Brashears said absolutely, but they never got back with me about it. He did not have insurance on the house, since he owned it.

Hearing Officer Russell Gale said why did the city damage your roof?

Joe Brashears said it caught on fire because of the tear gas.

Hearing Officer Russell Gale said why did they shoot tear gas into your building?

Joe Brashears said he had no idea.

Hearing Officer Russell Gale said were you residing on the property at that time?

Joe Brashears said he was on the property, but not in the house. He was outside.

Hearing Officer Russell Gale, so you do not have any idea why?

Joe Brashears said no.

Hearing Officer Russell Gale, so you applied for a rehabilitation permit?

Joe Brashears said yes, he had applied for a building permit and he also did a tort claim back when it happened.

Hearing Officer Russell Gale said so the city had to respond to that actually. If the city does not respond then you have a right to litigate it.

Joe Brashears said no and he would probably litigate this issue. Then, he reiterated the structure of the house was fine and the only problem was the roof and it was going to be fixed.

Hearing Officer Russell Gale said at the time the damage was done was the house occupied by you?

Joe Brashears said he lived there but had a paranoid schizophrenia girlfriend living there and she was diagnosed with it and everybody knew she was and so she would call 911 on a regular basis, but this time they came out and decided that whoever was in the house would not come out of the house and no one was in the house but they shot out every window with tear gas and it caught on fire.

Hearing Officer Russell Gale said so you applied for a building permit, but did not make any repairs?

Joe Brashears said he did on the inside, he just did not have them complete for inspection yet. He has been working on it every day since it happened but he is just one man.

Hearing Officer Russell Gale asked Code Enforcement Officer Gary Arnold, Mr. Brashears is indicating that it is just the roof that needs to be repaired.

Code Enforcement Officer, Gary Arnold, said from what he could see, yes. He told Mr. Brashears that is where he needed to start. He understood he did not have the funds, but that was back in 2018 when all of this went down and enough time has gone by to get the roof repaired. He does not think he has the means to do the work. I know he can do it but its money and time and he is there everyday. But, being where it is at and everything that is going on, it needs to be taken care of and I have told him this day would come and I have tried to work with him on the time frame and we are well over that as far as I am concerned. And the roof was damaged in 2018 which is roughly two years.

Hearing Officer Russell Gale asked Chief Building Inspector, Joe Williford, what are your thoughts?

Chief Building Inspector, Joe Williford said he did not have a problem with giving Mr. Brashears an extension of 30 days for his roof, but as to the damage to the home, none of us have been inside that home, so we cannot say how much damage was done by the fire. It was his understanding from our legal department, back when this happened, the tort claim was filed and denied. One of the previous city attorneys gave him that information and it was one of the main reasons we waited to take any legal action on this property to see for that legal process to play out. I do not think anything happened after their denial. So, we moved forward and started this.

Hearing Officer Russell Gale asked Mr. Brashears are the utilities still connected.

Joe Brashears, they are turned off, no gas, all electric, but he is going to have them turned on soon.

Chief Building Inspector, Joe Williford said at some point, Mr. Brashears will have to get his building permit reinstated. Then, schedule a walk through with an inspector to go over what repairs need to be completed. This is how we typically handle fire repairs. They need to look over everything before they begin construction.

Hearing Officer Russell Gale tabled this case to be heard at the public hearing on September 3, 2020, but advised Mr. Brashears there needed to be substantial improvements to the property so it is habitable.

5. Continued Business

20-880 **Consideration, discussion and uphold declaration that 222 West Detroit Street, Broken Arrow, OK 74012; Lots 13,14,15 & 16 Block 20, Broken Arrow-Original Town, Tulsa County; as a dilapidated structure and a public nuisance and authorization to demolish the property. Violations: Title 11 O.S. § 22-111 and § 22-112; City Nuisance Code 15-1 C.15 and 15-4 and 15-1 D.10 a & b.**

Code Enforcement Officer, Calvin Scott, advised the property owners of 222 West Detroit Street are not here today, but have made significant improvements to the exterior of the structure. They have a contractor and everyday someone is working on property. At one time, there was a dumpster which they loaded and hauled off a lot of the stuff that had accumulated in the back yard. The dumpster has since been removed. They are still moving forward, so we can either table this item or close it for now.

Hearing Officer Russell Gale asked Chief Building Inspector, Joe Williford, "

What are your thoughts? Are you satisfied with the progress of the building and the improvements?"

Chief Building Inspector, Joe Williford, said yes, I think we can go ahead and dismiss this case. If they fail to complete it, we can always start over and bring it back to public hearing.

Hearing Officer Russell Gale dismissed the declaration that 222 West Detroit Street be declared a dilapidated structure and a public nuisance.

20-881

Consideration, discussion and possible declaration that 217 West College Street, Broken Arrow, OK 74012; Lots 8 & 9 Block 36, Broken Arrow-Original Town, Tulsa County; as a dilapidated structure and a public nuisance and authorization to demolish the property. Violations: Title 11 O.S. § 22-111 and § 22-112; City Nuisance Code 15-1 C.15 and 15-4 and 15-1 D.10 a & b.

Code Enforcement Officer, Calvin Scott, advised there had been no improvements since the last meeting at 217 West College Street. However, he found out this property is now under contract for sale.

Code Enforcement Officer, Gary Arnold, said in fact, the Sanders are here and have it under contract. He is available to speak to give an update.

Hearing Officer Russell Gale said yes, of course.

Charles Sanders stated at the last meeting, he spoke to Mr. Purtell and made him an offer. Mr. Purtell got with his brother, which he is incarcerated and got a power of attorney to sell real estate. Then, Mr. Purtell came to him and advised they would accept the offer. Mr. Purtell has been moving all the personal belongings out of the house. He said he needed two trailer loads and would have everything out. In the meantime, he is getting a demo man out there to get a price on the demolition. The abstract has to be brought up-to-date as there are some title requirements. He thinks it will probably go through probate for the parents first, but he will move as fast as he can.. When he gets a clear title, then he can tear it down.

Hearing Officer Russell Gale said is it staffs' preference that we table this matter or dismiss??

Chief Building Inspector, Joe Williford, said we can dismiss it at this time.

Hearing Officer Russell Gale agreed with the recommendation and the case was dismissed.

6. Appeals

20-878

Consideration, discussion and possible declaration that 1907 West

Pittsburg Place, Broken Arrow, Oklahoma 74012; Lot 8 Block 13, Stacey Lynn Fifth, Tulsa County; as a public nuisance and authorization to abate the property. Violations: Title 11 O.S. § 22-111 and § 22-112; City Nuisance Code 15-1 C.26 & C.28

Code Enforcement Officer, Valerie Holbrook, advised a case was opened for tall weeds at 1907 West Pittsburg Place on May 6, 2020. A courtesy letter was mailed to the property owner on May 7, 2020, advising of possible violation for tall weeds. An inspection showed the property to be in the following condition which according to state statute and city ordinance met the definition of a nuisance. The weeds and grass exceeded a height of 12 inches which conceals or invites deposits or accumulations of trash, or harbors or invites rodents or vermin. A Notice to Abate a Nuisance was posted on the property and mailed certified to the property owner on June 15, 2020. The property owner filed an appeal for the Notice to Abate a Nuisance on June 26, 2020. A Notice of Public Hearing for Appeal was mailed to the property owner on June 26, 2020. As of this date, the property remains in violation for tall weeds and grass. However, she received an e-mail today from the property owner, Poonam Gupta, stating she was in compliance and would not be in attending the meeting scheduled for today. After receiving Ms. Gupta's e-mail, she re-inspected the property and found the property was still not in compliance. Some of the areas had been mowed, but the majority was still in excess of 12 inches.

Hearing Officer Russell Gale advised that he went by this property last Friday and wanted to know if this property was the western most lot or the eastern most lot.

Code Enforcement Officer, Valerie Holbrook, said this was the lot on the corner which is the eastern lot.

Hearing Officer Russell Gale said the shrubbery was up over the house and wanted to know if that was still the case as of today.

Code Enforcement Officer, Valerie Holbrook, confirmed the property was still in the same way.

Hearing Officer Russell Gale stated, "it does look like areas have been mowed."

Code Enforcement Officer, Valerie Holbrook, said yes, but as you are aware we deal with this annually with Ms. Gupta. At this point, she has mowed the grass, but she does not address the shrubbery.

Hearing Officer Russell Gale stated, "Does the grassy area comply? From those photographs it is hard to tell."

Code Enforcement Officer, Valerie Holbrook, said she is not in compliance.

Hearing Officer Russell Gale stated, "She has chosen not to attend, correct?"

Code Enforcement Officer, Valerie Holbrook, said yes, per Ms. Gupta's e-mail. And, she sent a reply to Ms. Gupta's e-mail which stated the property had been re-inspected after receiving the e-mail and it was not in compliance making her aware that we are proceeding with the public hearing and she is not here.

Chief Building Inspector, Joe Williford, said yes sir. This is actually her appeal to our order, she failed to show for the hearing. He did not know if we should dismiss her appeal request or deny or whatever the hearing officer decided to do. Ms. Gupta is not here to present her appeal of her case.

Hearing Officer Russell Gale said this is voluntary and she was given adequate notice. It is clear by the e-mail she knew the hearing was being held today and she just mowed and decided it was satisfactory.

Chief Building Inspector, Joe Williford, said that is correct.

Hearing Officer Russell Gale declared 1907 West Pittsburg Place a public nuisance and authorized the abatement of the property.

20-879

Consideration, discussion and possible declaration that 1911 West Pittsburg Place, Broken Arrow, Oklahoma 74012; Lot 7 Block 13, Stacey Lynn Fifth, Tulsa County; as a public nuisance and authorization to abate the property. Violations: Title 11 O.S. § 22-111 and § 22-112; City Nuisance Code 15-1 C.26 & C.28

Code Enforcement Officer, Valerie Holbrook advised a case was opened for tall weeds at 1911 West Pittsburg Place on May 6, 2020. A courtesy letter was mailed to the property owner on May 7, 2020, advising of possible violation for tall weeds. An inspection showed the property to be in the following condition which according to state statute and city ordinance met the definition of a nuisance. The weeds and grass exceeded a height of 12 inches which conceals or invites deposits or accumulations of trash, or harbors or invites rodents or vermin. A Notice to Abate a Nuisance was posted on the property and mailed certified to the property owner on June 15, 2020. The property owner filed an appeal for the Notice to Abate a Nuisance on June 26, 2020. A Notice of Public Hearing for Appeal was mailed to the property owner on June 26, 2020. As of this date, the property remains in violation for tall weeds and grass.

Hearing Officer Russell Gale advised that he went by this property last Friday and noticed this property did not have the same issues with the shrubbery in

the front, but wanted to know if the back yard had any problems with shrubs.

Code Enforcement Officer, Valerie Holbrook, advised she did not recall there being any shrubs out back, but from the photographs, you can see the property has the same thing going on with mounds of dead flowers. She thinks Ms. Gupta's process is to wait for them to die so she can dead head them which is what she has said previously in our hearings. Unfortunately, that process takes months and in the meantime, the complaints are coming in from citizens and neighbors who are really frustrated with the situation. The property has been abated for cleaning and mowing and she appealed that notice. So technically, all we are determining today is whether or not the validity of her posting is eligible for abatement.

Hearing Officer Russell Gale declared the property located at 1911 West Pittsburg Place be a public nuisance and authorized the abatement of the property.

7. Adjournment

The public hearing adjourned at 12:28 PM.

Administrative Clerk

Date: _____