



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

CITY OF PORTLAND, petitioner, vs. JULIE SELBY, ET AL, respondent(s)

CASE NO. 2120011

[Bureau Case No. 09-152431-HS]

PROPERTY: 1326 NE Killingsworth Street

LEGAL DESCRIPTION:

Ceasar PK, Block 5, Lot 3; 1N1E23BA-00200;
City of Portland, Multnomah County, Oregon

DATE OF HEARING: May 18, 2012

APPEARANCES:

Mr. Mitchell R. McKee, for the City

Respondent did not appear

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A hearing was held on May 18, 2012 ("The Hearing"). No person appeared, at the scheduled start (9:00 a.m.) of The Hearing, to represent either the City or Respondent. The Hearings Officer announced that The Hearing would be continued until 1:30 p.m. on May 30, 2012. The oral portion of The Hearing was closed pending the May 30, 2012 continuation hearing. Shortly thereafter, Mr. Mitchell R. McKee ("McKee") appeared at the Hearings Office. Respondent Julie Selby ("Selby") did not appear at The Hearing. The Hearings Officer re-opened oral record of The Hearing and took testimony from McKee. The Hearings Officer makes this decision based upon the testimony of McKee and the documents admitted into the evidentiary record (Exhibits 1 through and including 26).

McKee testified that earlier on May 18, 2012 (the date of The Hearing) he was contacted by Selby. McKee stated that he discussed violations alleged to exist at 1326 NE Killingsworth Street, Portland, Oregon (the "Subject Property") that are contained in Attachment A to Exhibit 1. McKee stated that Selby informed him that the residence at the Subject Property is now vacant and that she entered into a "Trespass Enforcement Agreement" with the City of Portland Bureau of Police. (See Exhibit 25). McKee stated that Selby gave McKee authorization to enter the Subject Property for exterior viewing. (See Exhibit 25). McKee stated that Selby stipulated that all of

the alleged violations contained in Attachment A to Exhibit 1 do exist. (See Exhibit 25). McKee stated that Selby agree to proceed to demolish the residence at the Subject Property within 90 days of the demolition permit being issued.

At the Hearing, McKee testified that Selby made application for a City of Portland demolition permit on May 10, 2012. (See Exhibit 24). McKee stated that a 35 day delay, following submission of the application, must occur prior to the issuance of a demolition permit. McKee stated that the earliest a demolition permit could be issued, in this case, would be June 15, 2012. McKee stated that Selby would be required to pay a permit fee prior to a demolition permit being issued.

McKee testified that the while the City file in this case was opened in 2009, the serious fire, life, safety, health and sanitation violations have occurred recently. McKee stated that many of the current violations do present serious risks to occupants and neighboring properties.

McKee asked the Hearings Officer, at The Hearing, to award various remedies. In summary, McKee requested that the Hearings Officer's order, in this case, include the following:

- An order that all violations listed on Exhibit 1, Attachment A, to be corrected (exterior trash and debris to be removed within 30 days); and
- An award to the City of civil penalties, in the amount of \$2,237.00 for cost recovery (7 inspections at \$146 each and the cost of the hearing at \$1,215.00) and any amount unpaid be placed as a lien upon the Subject Property; and
- Order Selby to obtain a fully issued (including payment of permit fees) demolition permit by June 25, 2012; and
- Order Selby to complete and maintain a security board-up (to the satisfaction of the City) of the residential structure at the Subject Property; and
- Order Selby to keep the exterior of the residence at the Subject Property free from trash and debris and in the event the City determines that more than two (2) cubic yards of trash and debris are present at the Subject Property, the City shall be given the right/authority to summarily abate (without the necessity of notice to Selby or the issuance of a search warrant) the nuisance and submit a cost bill to the Hearings Officer for approval as an additional civil penalty; and
- Order Selby to demolish the residential structure at the Subject Property within 90 days of the issuance of the City demolition permit and if Selby does not complete the demolition with 90 days, the City shall have the right/authority to demolish the residence at the cost and expense of Selby.
- Hearings Officer to retain jurisdiction for one hundred and eighty (180) days.

Based upon the Hearings Officer's review of the documents admitted into the evidentiary record and the testimony of McKee, the Hearings Officer finds that all violations listed in Exhibit 1, Attachment A, do exist at the Subject Property. The Hearings Officer also finds that the remedies requested by the City, as summarized above, are reasonable and appropriate in this case. The Hearings Officer finds that violations 1, 2, 4, 5, 7, 8, 9, 10, 12, 13, 14, 16, 17, 18, 20, 21, 24, 29 and 30 are serious fire, life, safety, health and sanitation risks to any occupants/guests at the Subject Property.

The Hearings Officer finds it imperative that the violations either be fully corrected or the residence demolished (under City of Portland permit) to correct many of the violations. The Hearings Officer finds that all trash and debris on the Subject Property must be removed by Selby within 30 days of the effective date of this Order. The Hearings Officer finds it appropriate that Selby be responsible for the costs associated with the City inspecting the Subject Property, preparing/mailing of warnings/notices, and the hearing. The Hearings Officer finds that it is necessary to fully secure the residence at the Subject Property from unwarranted entry; such security status to be maintained until demolition is commenced under the City issued permit. The Hearings Officer finds that it is

reasonable and appropriate that if trash and debris accumulate on the Subject Property, in excess of two (2) cubic yards, that City shall be authorized to enter upon the Subject Property, without notice to Selby and without the need of a warrant, and summarily abate the trash and debris nuisance. The Hearings Officer finds that all costs associated with a City abated nuisance shall be recoverable under Portland City Code ("PCC") 22.06. The Hearings Officer finds that if Selby fails to have issued a City of Portland demolition permit by June 25, 2012, or if a permit is timely issued but the demolition permit is not finalized within 90 days of permit issuance, the City should have the right to demolish the residence and submit to the Hearings Officer a request (consistent with PCC 22.06) for the imposition of additional civil penalties sufficient to cover all of the City's costs associated with the demolition.

All references to Selby in this Order refer to Respondent Selby and any successor in interest to Selby in the Subject Property. The Hearings Officer finds it reasonable and appropriate to retain jurisdiction for approximately 180 days to assure compliance with the Hearings Officer's orders below.

ORDER AND DETERMINATION:

1. All violations set forth in Exhibit 1 Attachment A must be corrected (violation 29 to be corrected within 30 days of effective date of this Order).
2. A civil penalty in the amount of \$2,237.00, as reimbursement of City expenses incurred, is imposed and said civil penalty shall be payable by June 15, 2012, and if not paid shall be made a lien against the Property on June 18, 2012.
3. A demolition permit, authorizing the demolition of the residence at the Subject Property, must be issued by the City of Portland (including all permit fees paid) on or before 4:00 p.m. on June 25, 2012.
4. The residential structure at the Subject Property must be secured from unauthorized entry, to the satisfaction of the City, by June 6, 2012. In the event the residential structure is not secured by June 6, 2012, then the City may, on June 7, 2012 or later, enter upon the Subject Property without notice to Selby or without the requirement of a warrant, and perform a security board-up of the residence.
5. The Subject Property shall be maintained so that trash and debris does not accumulate. In the event the City determines two (2) or more cubic yards of trash and debris have accumulated, the City shall have the right to summarily abate the trash and debris nuisance without notice to Selby or without the requirement of a warrant.
6. In the event a demolition permit is not issued by June 25, 2012, or the demolition process is not complete (permit finalized) within 90 days of the issuance of the demolition permit, the City shall have the right to demolish the residence at the Subject Property.
7. In event that the requirements of paragraphs 3, 4, 5, or 6 are not completed in a timely manner, and the City performs any of the task(s) required in paragraphs 3, 4, 5 or 6, the City shall have the right to request the Hearings Officer award one or more civil penalties in amounts sufficient to cover all of the City's costs. The City shall process all requests for additional civil penalties consistent with PCC 22.06.
8. The above Orders apply to Selby and any transferee, successor or assign.
9. The Hearings Officer retains jurisdiction over this case until 4:30 on November 16, 2012.

10. This Order has been mailed to the parties on May 23, 2012, and shall become final and effective on June 6, 2012. Any objections to this order must be in writing and received by the Code Hearings Office prior to the effective date.
11. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: May 23, 2012


 Gregory J. Frank, Hearings Officer

GJF:c1

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	City Code Complaint	McKee, Mitch	Received
2	Notification List	McKee, Mitch	Received
3	8/19/09 Photo	McKee, Mitch	Received
4	Multnomah Assessor Property Information	McKee, Mitch	Received
5	2/6/12 Photos	McKee, Mitch	Received
6	2/28/12 Photos	McKee, Mitch	Received
7	2/29/12 Photos	McKee, Mitch	Received
8	TRACS printout	McKee, Mitch	Received
9	TRACS printout	McKee, Mitch	Received
10	Case History	McKee, Mitch	Received
11	8/20/09 Notice of Violation - Property Maintenance Code	McKee, Mitch	Received
12	2/7/12 Notice of Violation - Property Maintenance Code, Additional Violations	McKee, Mitch	Received
13	3/2/12 Notice of Violation - Property Maintenance Code, Referral of Housing Case to Code Hearings Officer	McKee, Mitch	Received
14	Lien Accounting	McKee, Mitch	Received
15	Amended Trustee's Notice of Sale	McKee, Mitch	Received
16	NW Trustee Services Inc.	McKee, Mitch	Received
17	Notice of Hearing	Hearings Office	Received
18	Mailing List	Hearings Office	Received
19	Notice of Rights and Procedures	Hearings Office	Received
20	Personal Service and Service by Posting	McKee, Mitch	Received
21	5/10/12 Postponement Request	Selby, Julie	Received
22	Notice of Hearing	Hearings Office	Received
23	5/16/12 letter	Selby, Julie	Received
24	TRACS printout	McKee, Mitch	Received
25	Fax with Trespass Enforcement Agreement and Letter to Mitch McKee	McKee, Mitch	Received
26	5/18/12 Photos	McKee, Mitch	Received