



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

CITY OF PORTLAND, petitioner, vs. GARLAND N. ZACHRISSON, respondent

CASE NO. 2090020
[Bureau Case No. 06-134472-HS]

PROPERTY / PARK: 7535 SE 20th Avenue

LEGAL DESCRIPTION:
Westmoreland; Lot 13; Block 20; 1S1E23AD-06000,
City of Portland, Multnomah County, Oregon

DATE OF HEARING: April 23, 2009

APPEARANCES:

Mr. Garland Zachrisson, Respondent

Mr. Edgar Bolden, for the City

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Edgar Bolden, housing inspector for the Bureau of Development Services, appeared and testified on behalf of the City of Portland. Mr. Garland Zachrisson, Respondent, appeared and testified on his own behalf. The Hearings Officer makes this decision based upon the testimony of Mr. Bolden and Mr. Zachrisson and the exhibits admitted into the evidentiary record (Exhibits 1 through and including 26).

Mr. Bolden testified this case relates to real property commonly referred to as 7535 SE 20th Avenue, Portland, Oregon (the "Subject Property"). Mr. Bolden stated that this housing case, involving the Subject Property, was opened on June 5, 2006 and involves exterior violations only. Mr. Bolden reviewed the photo exhibits (3, 6, 7, 8, 9, 20 and 26) in the context of the violations (Attachment A to Exhibit 1) alleged to exist at the Subject Property. Mr. Bolden stated that he believed that the house located at the Subject Property was occupied by a tenant and that Mr. Zachrisson, as the owner, had been collecting rent.

Mr. Zachrisson did not dispute that the alleged violations (Attachment A to Exhibit 1) exist. The Hearings Officer, therefore, finds that all of the alleged violations (Attachment A to Exhibit 1) do exist. Mr. Zachrisson stated that he did not receive any notices of problems at the Subject Property until "a couple of months ago." The Hearings Officer finds that notices sent by the Bureau of Development Services when there are allegations of

violations of City of Portland Code Title 29 must be sent to the "address as recorded in the county assessment and taxation records for the property." (Title 29.60.050 A.). The Hearings Officer finds that notices were sent by the Bureau of Development Services (Exhibits 14, 15, 16, 17, 18, 20, 21, and 22) to the address listed on the Multnomah County Assessment Property Information sheet (Exhibit 4). The Hearings Officer finds the notices sent by the City, in this case, were properly addressed to Respondent.

Mr. Bolden requested that the Hearings Officer order the violations (Attachment A to Exhibit 1) be corrected. Mr. Zachrisson did not object to this request by Mr. Bolden. The Hearings Officer finds that an order requiring the alleged violations (Attachment A to Exhibit 1) is appropriate.

Mr. Bolden requested that a civil penalty be assessed in amounts necessary to cover costs associated with this case. Mr. Bolden stated that the City has conducted 8 inspections of the Subject Property, since this case was opened, at a cost to the City of \$94.56 per inspection (total = \$756.48). Mr. Bolden stated that the Bureau of Development Services is charged \$1,215 for bringing this case to hearing. The Hearings Officer finds that if the violations had been corrected in a timely manner these costs would not have been incurred. Therefore, the Hearings Officer finds Mr. Bolden's request for recovery of the costs of inspections (\$756.48) and hearing (\$1,215) are appropriate and reasonable. The sum of \$1,971.48 shall be imposed as a lien to recover costs incurred by the City. Mr. Bolden also asked for an additional civil penalty to be assessed, upon the effective date of this Order, in the amount of \$5,000 because Mr. Zachrisson has failed to correct the violations in a timely manner. The Hearings Officer rejects Mr. Bolden's request for an additional \$5,000 civil penalty to be assessed upon the effective date of the Order.

Mr. Bolden also asked for two additional civil penalties of \$10,000 each as incentives for Mr. Zachrisson to complete correction of the violations in a timely manner. Mr. Bolden recommended one of the additional \$10,000 civil penalties to be assessed if the corrections are not completed in 60 days and the other additional \$10,000 civil penalty to be assessed if the corrections were not completed in approximately 90 days from the date the Hearings Officer Order becomes effective. The Hearings Officer finds that an incentive is appropriate and necessary in this case. However, the Hearings Officer finds that only a single incentive civil penalty is required. The Hearings Officer finds that a civil penalty of \$15,000 should be assessed. If all violations are confirmed corrected within 90 days, the \$15,000 additional civil penalty shall be cancelled. If all violations are not confirmed corrected within 90 days, the \$15,000 additional civil penalty shall become due and payable and a lien upon the Subject Property.

ORDER AND DETERMINATION:


1. Respondent, or any successor in interest, shall correct all violations set forth on Attachment A of Exhibit 1.
2. A civil penalty is assessed in the amount of \$1,971.48, which if not paid by May 8, 2009, shall become a lien against the Subject Property.
3. An additional civil penalty in the amount of \$15,000 is awarded. This additional civil penalty (paragraph 3 of this Order) shall be suspended until 4:30 p.m. on August 14, 2009. If a writing is received by the Hearings Office from the Bureau of Development Services prior to 4:30 p.m. on August 14, 2009 that all violations set forth on Attachment A of Exhibit 1 have been corrected, then the \$15,000 additional civil penalty shall be cancelled. If a writing is not received by the Hearings Office by 4:30 p.m. on August 14, 2009, then the additional \$15,000 civil penalty shall become due and payable and become a lien against the Subject Property.
4. The Hearings Officer retains jurisdiction until August 28, 2009.

5. This order has been mailed to the parties on May 4, 2009, and shall become final and effective on May 18, 2009. Any objections to this order must be in writing and received by the Code Hearings Office prior to the effective date. This case will be closed on August 31, 2009.
6. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: May 4, 2009

GJF:rs

Enclosure



Gregory J. Frank, Hearings Officer

| Exhibit # | Description | Submitted by | Disposition |
|------------------|---|---------------------|--------------------|
| 1 | Complaint | Bolden, Edgar L. | Received |
| 1a | Attachment A - List of Violations | Bolden, Edgar L. | Received |
| 2 | Notification List | Bolden, Edgar L. | Received |
| 3 | Photo | Bolden, Edgar L. | Received |
| 4 | Multnomah Assessor Property Information | Bolden, Edgar L. | Received |
| 5 | PortlandMaps Detail Report | Bolden, Edgar L. | Received |
| 6 | 4/10/07 Photos | Bolden, Edgar L. | Received |
| 7 | 11/29/07 Photos | Bolden, Edgar L. | Received |
| 8 | 7/2/08 Photos | Bolden, Edgar L. | Received |
| 9 | 8/28/08 Photos | Bolden, Edgar L. | Received |
| 10 | 1/28/09 Photos | Bolden, Edgar L. | Received |
| 11 | TRACS printout | Bolden, Edgar L. | Received |
| 12 | TRACS printout | Bolden, Edgar L. | Received |
| 13 | Case history | Bolden, Edgar L. | Received |
| 14 | 6/7/06 Notice of Violation-Property Maintenance Code letter, Lynda Byers to Zachrisson | Bolden, Edgar L. | Received |
| 15 | 1/25/07 Progress Report letter, Byers to Zachrisson | Bolden, Edgar L. | Received |
| 16 | 12/3/07 Progress Report letter, Bolden to Zachrisson | Bolden, Edgar L. | Received |
| 17 | 1/29/09 Progress Report letter | Bolden, Edgar L. | Received |
| 18 | 1/29/09 Referral of Housing Case to Code Hearings Officer letter, Bolden to Zachrisson | Bolden, Edgar L. | Received |
| 19 | City Lien Report | Bolden, Edgar L. | Received |
| 20 | 7/7/06 Notice of City of Portland Housing Code Violation and Possible Lien Against the Property | Bolden, Edgar L. | Received |
| 21 | 9/26/07 Enforcement Fee Increase Notification letter | Bolden, Edgar L. | Received |
| 22 | 6/30/08 Enforcement Fee Increase Notification letter | Bolden, Edgar L. | Received |
| 23 | Mailing List | Hearings Office | Received |
| 24 | Hearing Notice | Hearings Office | Received |
| 25 | Notice of Rights and Procedures | Hearings Office | Received |
| 26 | Photos (9 pgs.) dated 4/23/09 | Bolden, Edgar L. | Received |