

MINUTES OF PROPERTY OWNERS APPEAL BOARD HEARINGS

SEPTEMBER 6 AND 7, 2023 ~ 6:00 P.M.

BLUE LION, 101 NORTH 2ND STREET, ROOM B

The hearings were held to allow property owners an opportunity to be heard and who feel they have been wrongly charged for City of Fort Smith abatement costs associated with delinquent property cleanup liens. Notice of the hearings was published in the River Valley Democrat Gazette on Wednesday, August 2, 2023. Certified letters dated July 31, 2023 were also mailed to each property owner of record. The Notice and certified letters advised each property owner of their opportunity to appeal to the Property Owners Appeal Board (POAB) as aforementioned, and provided the dates, time, and location of the subject appeal hearings.

WEDNESDAY, SEPTEMBER 6, 2023

Due to advisement of an appellant's intention to attend and not being present at 6:00 p.m., the hearing was called to order when the appellant arrived at approximately 6:09 p.m. by Chairperson Megan Raynor, presiding. The following remaining members of the Property Owners Appeal Board (POAB) were also present: Bobbie Woodard-Andrews, Jack Swink, Justin Sparrow, and Karen Lewis. Chairperson Raynor declared a quorum present.

City of Fort Smith staff present were City Clerk Sherri Gard; Director of Building Services Jimmie Deer; Neighborhood Code Enforcement Supervisor Shawn Gard; Neighborhood Code Enforcement Inspectors Dean Polk, Scott Hamilton, Doug Farris, Doug Mizell, Pablo Mendez, and Eddie Cole; and, Neighborhood Code Enforcement Clerks Tammie Dewitt and Alexis Gonzalez.

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Chairperson Raynor stated the purpose of the hearings, and then each member of the POAB introduced themselves and advised how long they have been property owners in Fort Smith. She further noted that any decision made by the POAB may be appealed to the Fort Smith Board of Directors at a public hearing, which is scheduled for 6:00 p.m., Tuesday, November 14, 2023 at the Blue Lion, 101 North 2nd Street.

The agenda maintained no properties for appeal due to no RSVP received; however, Mr. Kendall Harris contacted the City Clerk’s Office after distribution of the agenda to advise of his intent to attend the appeal hearing. Due to such, below is the information regarding the request for appeal consideration:

1. **1309 North 48th Street**
RSVP: September 5, 2023 / Kendall Harris
Owner(s): Harold and Susan Yates
Cleaned: December 10, 2022 / \$2,267.39

Neighborhood Code Enforcement Inspector Doug Mizell presented videos of inspections, before and after pictures of the subject cleaning, and reviewed the property file as provided below:

VIOLATION OF SECTION 16-4 & 16-5: GRASS/WEEDS AND TRASH/DEBRIS

- | | |
|-----------|---|
| 9/6/2022 | Code violations observed overgrown grass, trash and debris, open storage, indoor furniture, and dead limbs - documented and posted Seven (7) Day Notice |
| 9/14/2022 | Certified letter/notice sent to owner on record with Sebastian County Assessor’s Office to the mailing address of 1122 North 38th Street. |
| 9/14/2022 | Office staff conducted legal search and found no mortgage associated with the property. |
| 9/22/2022 | Certified letter receipt returned back signed by owner Harold Yates. |
| 10/3/2022 | Final inspection whereby the property remained in violation – documented via digital film media. |

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10/4/2022 Assigned to contractor for abatement action.

Inspector Mizell provided additional information to the POAB regarding the subject cleaning and below are his notes attached to the property file regarding the subject cleaning:

11/1/2022 *Met with Mr Harris. He was upset the property was in such bad shape. I explained that our contractor has his address scheduled for this Saturday and Sunday. He said no, he will take care of it tomorrow. He said the contractor will see a noticeable difference. I told him that whatever is not abated the contractor is required to remove. I then walked him around the property with Inspector Dean Polk and showed what needed to be done. He understood.*

11/19/2022 *Contractor was onsite and Kendall Harris ordered him off the property after they had a load on the trailer. Contractor rented a trailer and had 3 hired hands scheduled to help for the day. Per Supervisor Shawn Gard a citation is to be issued. I called Kendall and left a VM. He called back and complained about the contractors. I asked if we could meet on the property? He said yes around 2pm - 3pm. I had Dean Polk standing by to witness the conversation. Mr. Kendall Harris never called or showed up. I left another voice message but no communication received back.*

12/12/2022 *Due to extensive amount of debris, bids were needed for the abatement action as it would exceed the up to 8 hours allotted for normal abatement. Bids were A&W Construction \$3,300, Smiling –H- Services \$2,100 and Cedar Creek Construction \$3,200. Bid awarded to Smiling H.*

12/12/2022 *Since owner is not communicating/cooperating and property is in such bad shape an order of entry was obtained for abatement on 11/30/22. Contractor scheduled job for 12/10/22 @ 7am. I met him onsite, with FSPD and posted the order of entry. The officer was called due to the squatters that have been occupying the property. We made contact with the people on the property. (Very strong drug odor coming from building) The officer explained to them that we were there to clean the property and for them to gather their things and leave. He explained that if*

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they interfered that they could be arrested. They were asked about staying there and about restroom facilities. The man pointed to all of the buckets full of water and said they use the toilet and pour water from the buckets for flushing. He was asked where he got the water, said he got it from another house up the block. They were cooperative until the female asked if they could come back on the property and I said no. She got very loud and went on and on until our contractor said he didnt care what she did after he was done , but until he was finished she needed to stay away. All violations were abated.

12/20/2022 Spoke with Mr. Harris on the phone and is upset with the abatement action by the City. He does not believe that the city done \$2,300 dollars with of work in his point of view. It was explained to him that if wants to dispute the cleaning he can go before the Property Owner Appeals Board which will be September of next year since the cleaning was so late in the year. He asked how does he set that up so he was referred to the City Clerk's Office for more information.

12/10/2022 Met with abatement contractor and FSPD on site – two homeless removed

12/12/2022 Abatement inspection conducted – property was compliant at time of inspection

Abatement costs and associated fees were assessed as follows:

	11/21/2022
Contractor Fees (bid)	\$2,100.00
Code Enforcement Fees	107.82
Finance Fees	<u>59.57</u>
Total Lien	\$2,267.39

Mr. Kendall Harris addressed the POAB and clarified that he concurs that some work was accomplished by the City's contractor; however, he alleged that he removed numerous items from the property that required four (4) trailer loads. He further indicated that he thought he had more time to bring the property into compliance, specifically stating he had to stop his attempt to comply halfway through due to weather conditions (snow), but he alleged Inspector Mizell failed to advise him of the specific deadline for completion. Regardless, his main point for the requested appeal is the cost

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associated with the work completed by the City whereby he reiterated his previous allegation that he completed half of the work.

Multiple members of the POAB submitted several inquiries regarding the violation and timelines, and there was much back-and-forth discussion between Inspector Mizell and Mr. Harris.

Mr. Swink specifically requested clarification that a tree was removed whereby such was confirmed; therefore, he expressed concern that tree removal was not identified as a violation. Additionally, Mr. Harris insisted he personally removed the tree, but Inspector Mizell disputed the claim citing the contractor cut down the tree leaving only the stump.

POAB Action ~ 1309 North 48th Street

Lewis, seconded by Sparrow, moved to reduce the amount due to \$1,900.00, which is a reduction of \$367.39 that consists of all above noted fees and a \$200 reduction of the contractor fee for the aforementioned tree removal. The motion included that the reduced amount due be recommended to the Board of Directors for certification to the Sebastian County Tax Collector for placement on the tax records for collection. The members all voting affirmatively, Chairperson Raynor declared the motion carried.

There being no further business to come before the POAB, Lewis moved that the hearing adjourn. The motion was seconded by Sparrow and the members all voting aye, Chairperson Raynor declared the motion carried and the hearing stood adjourned at 6:52 p.m.

Note: Due to previous issues and combative discussions between Mr. Harris and Neighborhood Code Enforcement staff, police presence was requested; therefore, two (2) police officers from the Fort Smith Police Department were in attendance throughout the subject appeal hearing. Additionally, due to an outstanding arrest warrant for Mr. Harris for failure to appear in Fort Smith District Court for other unrelated environmental violations, Mr. Harris was arrested immediately following adjournment.

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THURSDAY, SEPTEMBER 7, 2023

The hearing was called to order by Chairperson Megan Raynor, presiding. The following members of the Property Owners Appeal Board (POAB) were also present: Justin Sparrow, Bobbie Woodard-Andrews, and Karen Lewis; absent – Jack Swink. Chairperson Raynor declared a quorum present.

City of Fort Smith staff present were City Clerk Sherri Gard; Director of Building Services Jimmie Deer; Neighborhood Code Enforcement Supervisor Shawn Gard; Neighborhood Code Enforcement Inspectors Dean Polk, Scott Hamilton, Doug Farris, Doug Mizell, Pablo Mendez, and Eddie Cole.

The agenda maintained no properties for appeal due to no RSVP received; however, Mrs. Brenda Bentz, who lives in Tulsa, Oklahoma, contacted the City Clerk’s Office at approximately 4:00 p.m. and conveyed her intent to be in attendance to appeal cleanings at her and her parents properties. Due to such, below is the information regarding the requests for appeal consideration:

1. 7712 Texas Road

RSVP: September 7, 2023 / Brenda Bentz
Owner(s): Roger and/or Brenda Bentz
Cleaned: July 11, 2022 / \$277.90
September 20, 2022 / \$256.57

- Inspected on 6/10/22
- Legal search and notification mailed out on 6/11/22
Certified mail returned “Unclaimed”
- Final inspection 7/1/22
- Assigned to contractor 7/5/22
- Abated on 7/11/22
- Re-assigned on 9/16/22
- Abated on 9/20/22

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Abatement costs and associated fees were assessed as follows:

	7/11/2022	9/20/2022
Contractor Fees	\$115.00	\$115.00
Code Enforcement Fees	103.33	82.00
Finance Fees	<u>59.57</u>	<u>59.57</u>
Total Lien	<u>\$277.90</u>	<u>\$256.57</u>

2. 7800 Texas Road

RSVP: September 7, 2023 / Brenda Bentz, daughter of owners
Owner(s): Bobby Joe & Wanda J. Dean (deceased)
Cleaned: July 8, 2022 / \$332.40

- Inspected on 6/10/22
- Legal search and notification mailed out on 6/11/22
Certified mail returned "Unclaimed"
- Final inspection 7/1/22
- Assigned to contractor 7/5/22
- Abated on 7/8/22
- Re-assigned on 9/16/22
- Abated on 9/20/22

Abatement costs and associated fees were assessed as follows:

	7/8/2022	9/20/2022 *
Contractor Fees:	\$167.50	\$ 97.50
Code Enforcement Fees:	105.33	82.00
Finance Fees:	<u>59.57</u>	<u>59.57</u>
Total Lien	<u>\$332.40</u>	<u>\$239.07</u>

** This cleaning was paid in full by Mrs. Bentz; therefore, not subject to appeal. Added solely to identify the additional cleaning.*

Neighborhood Code Enforcement Inspector Doug Farris collectively presented the videos of inspections, before and after pictures of the above identified cleanings, and reviewed the property files for each property.

Mrs. Brenda Bentz addressed the POAB advising she was experiencing significant medical issues and had an extended hospital stay in late 2021 with a long recovery extending through much of 2022. Regardless, she alleged to have never received the aforementioned Notices, but conveyed much assurance that she did not intentionally ignore such. She explained that since both properties are vacant, she and her husband allowed a Fort Smith resident to utilize the driveways for parking and in exchange, the resident would and did consistently maintain the properties. Unfortunately, the resident abruptly stopped said maintenance with

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no advisement to her or her husband, which prompted the subject violations. They were only made aware when an invoice was received the September 20, 2022 cleaning at her parents property of 7800 Texas Road, which she paid in full. She was unaware of the previous cleaning in July. Regardless, upon revelation that no maintenance was being conducted at the properties, she and her husband immediately rectified such and hired someone to ensure both properties properly maintained. Much assurance was conveyed that the properties will remain in compliance.

Multiple members of the POAB submitted inquiries regarding the violation and timelines whereby much empathy was extended for the ongoing medical issues that Mrs. Bentz endured during that time, and the unfortunate circumstance of that the resident they relied on to maintain the properties expired without advisement.

POAB Action ~ 7712 Texas Road & 7800 Texas Road

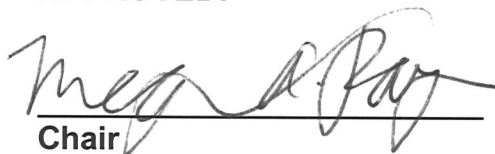
Sparrow, seconded by Lewis, moved to waive the Finance Charge of \$59.57 for each property thereby reducing the total liens due for 7712 Texas Road to \$474.90, and the lien due for 7800 Texas Road to \$272.83. The motion included that the reduced amount due be recommended to the Board of Directors for certification to the Sebastian County Tax Collector for placement on the tax records for collection. The members all voting affirmatively, Chairperson Raynor declared the motion carried.

Due to such Mrs. Bentz indicated her intent to pay the reduced amount of liens due first thing in the morning.

Note: The subject liens were paid in full on Friday, September 8, 2023.

There being no property owner in attendance and no further business to come before the Property Owners Appeal Board, Lewis moved that the hearing adjourn. The motion was seconded by Sparrow and the members all voting aye, Chairperson Raynor declared the motion carried and the hearing stood adjourned at 6:47 p.m.

APPROVED:


Chair

ATTEST:


City Clerk