

CITY OF NORTH SALT LAKE
APPEAL AUTHORITY HEARING
JUNE 27, 2019

FINAL

Hearing Officer Glenn Bronson called the hearing to order at 3:31pm.

PRESENT: Glenn Bronson, Hearing Officer; Virginia Meyer, Property Owner; Sherry Greenwood, resident at 986 Longleaf Drive

NOT PRESENT: Joseph Meyer, Property Owner

STAFF PRESENT: David Church, City Attorney; Kurt Imig, Code Enforcement Officer; Troy Johnson, Assistant Chief of Police; Kate Werrett, Planner.

Glenn Bronson introduced himself as the hearing officer. Advised that everyone was present for the case regarding the violation of abatement at 983 West Longleaf Drive.

Those present introduced themselves. David Church as a representative of the city, Kurt Imig as the City's Code Enforcement Officer who may be presenting testimony. Virginia Meyer as a property owner. Sherry Greenwood came to support Ms. Meyer.

Bronson advised that this was the time and place for this notice of abatement. The city had issued a notice of hearing after no request for a hearing was made by the property owners. As such this hearing was a default hearing and the procedures for a default were to be followed. Mr. Church advised that this was in conformance with section 12-2-5-4: Default Hearings and Orders as the guiding procedural code for the hearing. Church advised that this section states that if the responsible person fails to request a hearing before the expiration of the 10 day period, a default hearing will be scheduled. The default hearing was scheduled and the property owners were notified. Church advised that the City would offer testimony that notice had been given.

Church advised that the responsible person had the opportunity at the default hearing to present evidence that good cause existed to do one or more of the following: waive or reduce fees or fines; ability to postpone an abatement action by the City; and to excuse them from their failure to request a hearing during the 10 day period. The City's position is that the defendant had failed to request a hearing that they are in default and that the City was entitled to an order from hearing officer to enter the property and efface the nuisance.

Imig advised that the notices did not include the possible fine of \$100 per day which is listed in the fee schedule. Imig advised that none of the notices included the per diem fee. Church stated that as the notices did not state the per day fines, therefore the City has not assessed any per diem penalties.

Mr. Church advised that one individual with their name on the title is present. Church advised that Mr. Imig was present to testify regarding the notices he posted, the photos taken of the weeds and grass, and that the condition continued to exist at that moment. Mr. Church displayed images from the yard showing the current condition.

Mr. Bronson advised that evidence he could hear was limited to the case file.

Mr. Church stated that Mr. Bronson had the right to review the case file and no other evidence and asked to confirm that the case file includes the complete story and condition exists today. As in default, Church reads the file as the equivalent of a default judgment in favor of the city.

Church advised that the early submission of the case file does not limit the involvement of the photos from today. Church advised that per the section of the code, the early filing of the case file does not limit nor prohibit the addition of items currently presented as part of the case file. Church stated that the case file meets the three items and that Bronson is entitled to review to proceed with default judgment.

Bronson asked about the three servicing documents. One notice was taped to the garage, one delivered by mail, and one notice given by personal service. Bronson advised that he did not have page two of the personal service notice. Bronson requested page 2. Imig advised that Ms. Meyer was personally served and received page 2 personally at her residence. Bronson asked where Ms. Meyer was served and Imig advised that she was not served at the property of issue, but at her personal residence which is not in the city.

Bronson asked Ms. Meyer if she would like to present anything.

Ms. Meyer advised that she had not lived at the property since 2013. She presented documentation showing when she moved out and details on an apartment she lived. Bronson advised that he was restricted on what evidence he could admit. Ms. Meyer gave Mr. Bronson the opportunity to receive the documents for review, Mr. Church gave no objection to this and commented that he felt this would fall within option number three of the items Mr. Bronson was reviewing for the default case. Ms. Meyer advised that the documents presented, a background check and divorce papers showed she had not lived at the property since October 2013. Mr. Bronson accepted the background check as exhibit A. Ms. Meyer advised that the divorce paperwork states that Mr. Meyer is responsible for the property. Mr. Church had no objection to these documents being made part of the file. The Decree of Divorce and Judgment and was added as exhibit B.

Ms. Meyer advised that she was sorry the city had to do this and that the property was a mess. Ms. Meyer said she could not go there to fix this and that she had reached out to Joseph Meyer with no response.

Mr. Bronson asked to confirm that she wanted his attention drawn to the statement in the Decree of Divorce and Judgment that Mr. Joseph Meyer was awarded the residence and all the value and

equity of the home. Ms. Meyer confirmed that was correct. Mr. Bronson asked to confirm that her comment or testimony was that she was not an owner of the home. Ms. Meyer confirmed. Mr. Bronson asked if she was on the title, and she confirmed that she was.

Ms. Meyer advised that she was not comfortable going to the property. Mr. Meyer had made threats against herself and neighbors. She would not feel safe going to the property.

Mr. Bronson asked Mr. Church if there was anything else to add. Mr. Church advised that the while Ms. Meyer was still on the title, it was probably because no quick claim deed had been filed by the divorce lawyers which was a common error. Church advised that the City was not seeking fines from Ms. Meyer as an owner of the property. Church stated there hadn't been fines on this. Mr. Church stated that the City wanted an order from Mr. Bronson that the City had the right to abate this nuisance and bring the property into the compliance. Church stated that he felt the abatement would only consist of cutting the weeds and grass down to below the criteria listed within the City Code, and the City had no plans to take over the property for long term maintenance. Church felt that the City had the right to bring a crew onsite, abate the nuisance and certify the costs of abatement against the property for future collection if the property gets sold.

Mr. Bronson asked if there was anything else.

Ms. Greenwood advised that she was a neighbor and did not want to cause a scene but was concerned due to prior threats to several neighbors. Ms. Greenwood wanted to confirm that the abatement included both the front and backyard. Ms. Greenwood said that the neighbors would want to help maintain the property, but will not go on the property to clean it up due to the threats. Ms. Greenwood advised that the yard had been maintained prior to the divorce and that it was a shame what has happened and that it had gone on for so long.

Mr. Bronson advised that he did not feel he could assess her information except as to whether fines could be assessed against Ms. Meyer as a property owner. Church confirmed that the City not given notice of a fine and had waived their right to fine. Mr. Bronson stated that Mr. Greenwood's comments go to that issue if the City were to seek fines.

Ms. Meyer asked to add one more item. Mr. Bronson confirmed that she could. Ms. Meyer stated she gave her permission to cut the weeds down. Mr. Bronson confirmed that she is still on the title.

Mr. Bronson stated he has to file 12-2-5-4 and that Ms. Meyer had not tried to establish items one through three under C. Mr. Bronson had reviewed the notice of violation and all information submitted with it, including the pictures in the case file. Mr. Bronson stated that he feels that the City has met its burden to show all the requirements of the violation. Mr. Bronson ordered that the City be admitted to go abate the nuisance, to clean up the weed and similar issues. He is not ruling that it is necessarily nuisance but that it does fall within Section 4-2-2: Cleaning of Real Property and Weed Control and 7-1-4: Obstructions to Streets and Sidewalks. Mr. Bronson commented that under 12-2-5-7: Powers of the Administrative Law Judge under paragraph D

gives him continual jurisdiction over this enforcement. As such, if the City were to need additional assistance by way of an order of compliance with the code, and ensuring compliance and authorizing the City to go in and enter what would otherwise be a trespass, to abate the violation, he would be available to do that.

Mr. Church advised that he would prepare a proposed order for Mr. Bronson to sign that reflects that the City has the right to enter the property and abate the nuisance and the continuing right to do so if it is not abated. After it is signed, it will be served on the property owners as required by procedure. Under the ordinance, if the property owners challenge the ruling, they can file a petition in district court.

Mr. Bronson asked Mr. Church to note that the City is not seeking fines against at least Ms. Meyer. The abatement order that will be signed by Mr. Bronson and the Ms. Meyer as a property owner authorized City to access the property. Ms. Meyer advised that if the City needs permission to trespass, to just ask her. Mr. Bronson stated that the condition of the record title states that Ms. Meyer is a property owner.

Ms. Greenwood asked to confirm that the backyard was included. Mr. Bronson stated that his understanding of the citation is the property and that the order he anticipates is that the violations on the property can be abated. The scope of the ruling does not limit it to the front yard.

Ms. Meyer commented that as her name is on the property, the City has permission from her to go in the backyard and if a lock needs to be cut on the gate to abate, permission is granted.

Mr. Bronson closed the hearing at 3:56pm.

Mr. Bronson reopened the hearing at 4:03pm.

Mr. Bronson advised that he had a request from Ms. Meyer to return to her exhibit A. Mr. Bronson back on the record acknowledged the request to return exhibit A, and advised that it is no longer part of the record as it contains information on her current address. Due to concerns for safety the document has been removed and the document has been returned.

Mr. Bronson closed the hearing at 4:04pm.

Minutes were approved as revised and written above.



Linda Horrocks, City Recorder