

CITY OF NORTH SALT LAKE  
LAND USE APPEAL AUTHORITY  
JANUARY 20, 2021

**FINAL**

Glenn Bronson called the meeting to order at 5:00 p.m.

STAFF PRESENT: Sherrie Pace, Community Development Director; Glenn Bronson, Appeal Authority/Hearing Officer; Kurt Imig, Code Enforcement Officer; Mackenzie Bennett, Planning Technician.

OTHERS PRESENT: Shawnee Carr, EC North Salt Lake Properties Inc.; Jeremy Eens, 2 Eens Auto Sales; Gavin Wenzel, Miller Harrison LLC.

1. CASE N20-02652. REGENCY FUNDING & DEVELOPMENT LLC AT 265 SOUTH HIGHWAY 89-REVIEW OF VIOLATION AND ABATEMENT, REQUEST FOR REDUCTION IN PENALTY

Glenn Bronson asked if anyone was present represented the property owner.

Sherrie Pace reported that the owners of the property failed to meet the given deadline of January 3<sup>rd</sup>, 2021 to remove the buildings located at the old Hughes RV site, 220 South Highway 89. She said because they did not meet the deadline that the City was not planning to ask for a waiver of the \$5,000 fine they were charged with in December 2020. After several phone calls with the property owners to discuss the severity of the issue, including the possibility of abatement by the City with a lien placed on the property, they were motivated to take care of the demolition and cleanup, which began on January 11<sup>th</sup>. The contractors for that project ensured the job would be completed by Friday January 22<sup>nd</sup>. The police were needed to remove transients from the property prior to the demolition. Kurt Imig stated that the demolition and cleanup had been completed.

Sherrie Pace then said staff indicated to the developer that the City would be willing to ask the judge to reduce or waive the fine for the violation because they did demolish the buildings within two weeks. She said John Loveday would not attend the meeting as he had a COVID exposure but had submitted a letter, which explained the situation and why it took so long to demolish the buildings. Ms. Pace said the City's goal was not to collect fines but for the property to be cleaned up.

Glenn Bronson asked for clarification on when the property would be cleared. Kurt Imig replied that an inspection had been done and the work had been completed. He said he had submitted photos showing all five properties had been cleaned and felt they had complied with the order.

Glenn Bronson stated that there was a prior series of notice of code violation and corrective action dated December 7, 2020 with the same hearing date. He said this was not pursuant to that notice of code violation. Kurt Imig confirmed and said the fire occurred after the windstorm, and the City determined to move forward with the request at that time. He said there was also a request from Mr. Eens' attorney, Mr. Wenzel, that they be granted an extension because of the typos on the original notice. This request was granted.

Glenn Bronson clarified that the original violation was dated November 25, 2020 and was superseded by a notice of violation dated December 7, 2020 with a new compliance deadline of December 23, 2020. That notice of violation was amended to add the violation for the building. Kurt Imig commented that on December 7, 2020 he discussed the matter with City management to extend the compliance deadline to December 23, 2020. He said a memo was sent to Mr. Wenzel and the Carrs via mail, email and affixed to the building.

Jeremy Eens, 2 Eens Auto, stated his father ran an auto sale business from this location and leased the property. He said he obtained an auto dealers license in 2014. Mr. Eens was represented by his attorney, Gavin Wenzel.

Gavin Wenzel explained that there was not a written lease and Mr. Eens was not currently occupying the property.

Glenn Bronson asked why Jeremy Eens and his attorney were present at this hearing. Gavin Wenzel replied that Mr. Eens was provided notice and was present to ensure his rights were protected and that an order was not made pertaining to him.

Glenn Bronson invited Ms. Carr to respond to the City's citation. Shawnee Carr replied that she understood the citation and the deadline of February 22<sup>nd</sup>.

Glenn Bronson clarified the City's requests including the finding that the property was in violation of at least three code sections, that a fine be assessed, and prior to February 22 the property owner must remove the remaining vehicles and parts and to secure the building from trespass or obtain a building permit to restore the building or demolish it. The City also requested that if this was not done within 30 days that an order of abatement be given to allow the City to address the issue and eliminate the nuisance while assessing the property owner for the cost. He asked if Ms. Carr understood the requests. Shawnee Carr replied affirmatively and said they would comply.

Glenn Bronson asked Ms. Carr if she disputed the condition of the property. He said staff presented 30 photographs of the property in the file, which he had reviewed. Ms. Carr said she would not be disputing anything and would comply.

Gavin Wenzel stated they did have some disputes regarding the notice and the condition of the property. He said they had a general objection to some of the background given which was irrelevant to the proceedings today. He clarified that the background facts that there was never a permit issued was not correct. Mr. Wenzel said that in regards to the notice from November was defective. Glenn Bronson replied that the City was not pursuing those earlier notices.

Gavin Wenzel asked to review the notices, particularly the December 7th notice. He clarified that the November and December notices were for code violations related to overgrown vegetation, trash/debris, damaged structure, and unsightly objects and structures. Mr. Wenzel said part of the problem was that vehicles were being considered part of the problem even though they were not specifically noticed to be removed. He said the code required a description of the condition of the property that violated the applicable codes but cars were never noticed in any of the notices.

Gavin Wenzel said the exterior of the property was cleaned up by the compliance deadline. He said the adjacent property was a truck bed company and the remaining items were part of that business. Mr. Wenzel objected that the evidence put forth as violation was actually not all evidence of a violation of the notice that was given per City code. He said that the property either needed to be repaired or demolished and all other matters were brought into compliance before the 23<sup>rd</sup>.

Glenn Bronson clarified that Gavin Wenzel was representing the lease owner. He asked if the property owner would like to make any further comments.

Kurt Imig commented in response to the vehicles on site and said they were junk. He said Jeremy was not the actual owner of the vehicles but they were there for repairs per his father. Jeremy Eens clarified that the cars on site were either from people that had brought the vehicles to be sold or appraised as well as several that had been vandalized. He said there were over 35 vehicles on the property the day of the fire/windstorm in September and they were removed except three vehicles. Mr. Eens said that as they did not have the titles for those three vehicles they could not legally remove them from the property. He explained that they were also preoccupied with the inventory that was destroyed in the fire and a pending lawsuit with Rocky Mountain Power.

Jeremy Eens said that they were leasing a location in Centerville but it was much smaller than this location. He said he was not trying to cause any problems but he needed help to complete everything.

Glenn Bronson said that Kurt Imig met with Jeremy Eens on November 19<sup>th</sup>, 2020 in which Mr. Imig notified Mr. Eens that the cars needed to be moved. Jeremy Eens responded that he did not recall understanding that vehicles needed to be removed. He said he was focused on cleaning the interior of the building and did not understand all of the cars needed to be removed. Mr. Eens said he thought the property was in full compliance on the 23<sup>rd</sup>.

Gavin Wenzel commented that it was irrelevant if Kurt Imig mentioned the need for the removal of vehicles or not as to whether or not the notice was complied with. He said under City code that only what was described in that notice was required to be brought into compliance. Glenn Bronson responded that was a fair objection but the question was whether or not the details of the violation, which stated “remove the property and lawfully dispose of any unsightly or deleterious objects or structures” and whether “deleterious objects” covers the vehicles.

Gavin Wenzel said Kurt Imig was noticed of this issue before the December 7<sup>th</sup> notice. He explained that he told him if they wanted the vehicles removed it should be part of the order. Mr. Wenzel said per the order the weeds were removed and the trash was picked up.

Glenn Bronson asked the property owner if she had any comments at this time. Ms. Carr responded that she did not.

Glenn Bronson said his question in regards to Mr. Eens was whether or not, for the purposes of 4-2-2 “cleaning the property” was whether the vehicles constituted “deleterious objects” and whether this notice of code violation was sufficiently broad to cover vehicles. Gavin Wenzel said specifically City code 12-2-102A4 stated, “all code sections violated and description of the condition of the property that violates the applicable codes”. He said it was not sufficient to only quote the code as it was too generic and it was missing the second part where it specified vehicles.

Glenn Bronson clarified that Mr. Wenzel’s argument was that “debris and garbage” as noticed in the violation was not sufficiently clear notice with regard to vehicles.

Kurt Imig said that he did not have personal contact with Jeremy Eens until recently and asked how he could have told him what to do in person. He said his point was he was working as closely as he could but did not have personal contact.

Kurt Imig asked if the vehicles onsite were operable and licensed. Jeremy Eens replied that they were operable.

Kurt Imig said some of the cars had vandalism and in regards to describing the material or garbage on site that the submitted photos were better at showing this. He said what he would like to do in regards to the abandoned vehicles that Jeremy Eens would be the owner. Mr. Imig said he could serve a ten day notice to Mr. Eens to remove the vehicles from the property. Gavin Wenzel commented that this would be the proper way to require the vehicles to be removed.

Glenn Bronson again asked for clarification in what capacity Mr. Eens was appearing at this hearing. He asked if he was a leasee or agent on the property. Gavin Wenzel replied that he was no longer a tenant but was not lawfully evicted from the property. He said there was some

personal property on the site but the locks had been changed. Mr. Wenzel stated that ultimately this notice was not given for the vehicles.

Glenn Bronson said Jeremy Eens was issued a citation notice as well as the property owner. He explained that Mr. Eens has or had a leasehold interest in the premises and had/has property on the premises and was issued a citation.

Gavin Wenzel said that none of the property on the site that remained after the compliance deadline was relevant to any violation that was alleged.

Sherrie Pace commented that from the City's perspective was to find solutions. She asked if Mr. Een did not want to claim the vehicles if he could help the property owners file the paperwork with the DMV to obtain the titles or to contact the original owners. Ms. Pace said overall the City just wanted to find a solution.

Glenn Bronson said that he was not able to work out the issue with the parties involved. He explained that his duty was to decide whether to uphold the citation and impose the remedy requested or a lesser remedy. Mr. Bronson said he could not work out an agreement between the parties whether they wanted to work out the issues or table them, etc.

Gavin Wenzel spoke on the option to table the item. He suggested a brief recess for the parties to confer and come to an agreement to solve the problem.

As the City was amenable to this suggestion, Glenn Bronson allowed for a brief ten minute recess from 5:52 to 6:02 p.m.

Sherrie Pace reported that the City and the two parties, Jeremy Eens and Shawnee Carr, had agreed to was that by the 22<sup>nd</sup> of February those cars would be removed. Mr. Eens would contact the DMV to determine how long it would take to obtain the titles for the vehicles. If for some reason the titles were not received by the 22<sup>nd</sup> a letter from the DMV would be provided to the City with specifics on when they would be available. If the proposed time was within a reasonable amount of time the City would provide a small extension but if was a much longer timeframe this item would return to the judge for review. At this time, Mr. Een would move the vehicles from the front of the building to the fence line and would not impeded access to the building. The property owners would apply for either a building permit to demolish the building or a permit to restore the building before February 22<sup>nd</sup>.

Glenn Bronson clarified with City staff with regard to the first count of cleaning the property that the citation would be put on hold and the City allow both parties until February 22<sup>nd</sup> to remove the vehicles. Sherrie Pace then stated that Mr. Een would move the vehicles to allow access for the property owner to either remove the building or remodel and would obtain a permit before February 22<sup>nd</sup> with a date certain for when the work would begin.

Glenn Bronson asked if the City was withdrawing the request for the order of abatement in the real property was not remedied within 30 days. Kurt Imig and Sherrie Pace requested that if the permit was not received by February 22<sup>nd</sup> the City would like an abatement order to take effect February 23<sup>rd</sup> if they did not comply.

**Glenn Bronson determined that regarding the first violation he would not rule on this in light of the parties' agreement as well as the leaseholder's statement to deal with the vehicles. He said the City was able to request for a hearing at any point if the leaseholder did not comply. With regard to violations two and three related to the structure that he found it to be a nuisance and constituted it to be dangerous. He found the property owner and the leaseholder were both authors of the nuisance pursuant to the City statute and he imposed a fine based on this as requested to be waived upon compliance pursuant to the agreement and sufficient compliance by either presenting a building permit or other remediation to satisfy the City by February 22<sup>nd</sup> or 30 days to comply. If they showed sufficient compliance within 30 days the fine would be waived. He said the original compliance date was December 23<sup>rd</sup> and as both parties testified the property had not changed since that date. Per clarification from City staff, the requested fine was \$1,000 and the leaseholder and property owner would be jointly liable for this. The City would be in a position to waive this completely if they showed sufficient progress to obtain a building permit or by securing the property. If the abatement did not occur within 30 days then the City could remedy the property and assess the property owner the cost of remediation.**

Gavin Wenzel (was difficult to hear) but stated that Jeremy Eens would not be able to comply as the Carrs would be responsible for obtaining the building permit. He said if the Carrs did not comply Mr. Eens would not have the ability to seek a building permit with respect to the property. He said Mr. Eens did not have the ability to fulfill the order.

Glenn Bronson stated that he found Mr. Eens and the Carrs in violation. He said the statute was clear and stated "the tenant, his agent, or other persons having control of the property in which the nuisance exists shall be deemed to be the authors there of and shall be equally liable and responsible." He said this meant Mr. Eens would be equally liable and responsible for the violation of the building even if he was unable to remedy it.

Glenn Bronson asked what the City was requesting per the condition of the property in which they would waive the fine. Sherrie Pace replied that if the vehicles were off the site and the owner of the property had applied for a building permit for the restoration of the structure or the demolition with a date certain for when a contractor would start the work must be completed by February 22<sup>nd</sup>.

Gavin Wenzel commented that Jeremy Eens would comply with the portion to remove the vehicles but hoped that if the building permit was not obtained by that time that the City would agree to waive any fines for Mr. Eens.

**Glenn Bronson revised his order to state that given the finding of a violation of the nuisance statute and that Jeremy Eens was agreeing to move the vehicles that if the leaseholder satisfied the City with what he agreed to do that his liability for the fine would be waived. The property owner's liability for the fine would only be waived if the fulfilled the requirement to the City for the structure to obtain a building or demolition permit. The date for abatement would be issued within 30 days of this order if the property owner did not remedy the property or the vehicles were not removed the City was authorized to abate the nuisance and assess the cost to the property owner.**

Glenn Bronson clarified that he did not find a citation on violation one per the parties agreement but did find citation on violations two and three. He stated that the abatement would be 30 days from today's date, or February 19<sup>th</sup>, and if they satisfied the City by that date the fine would be waived.

Sherrie Pace said that the City requested a date for February 22<sup>nd</sup>. Glenn Bronson replied that he was fine to extend the date to February 22<sup>nd</sup>. He closed the matter at that time.

### 3. ADJOURN

Glenn Bronson adjourned the meeting at 6:20 p.m.

Approved as directed and reviewed by Administrative Law Judge, Glenn Bronson.

  
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Linda Horrocks, City Recorder