

COMMONWEALTH OF KENTUCKY
CITY OF BERA
CODE ENFORCEMENT BOARD

IN RE THE MATTER OF:

502 HIGHWAY 1016
BEREA, KENTUCKY;
JAMES TYREE
NUISANCE

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ORDER

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This matter having come on for a hearing before the Code Enforcement Board upon the issuance of a complaint charging that the property at 502 Highway 1016 constitutes a nuisance, which complaint was made by the Code Enforcement Office of the City of Berea. Building Inspector, Dale VanWinkle, issued a citation on October 21, 2016, alleging that the property at 502 Highway 1016 was in violation of Section 50.02 of the Property Maintenance Code, and pursuant to Section 70.005(b) of the Berea City Code, this Board held a hearing on April 25, 2017, to determine whether the condition of the property constitute a nuisance and to determine if imposing a fine was appropriate. At the hearing on April 25, 2017, the Board found the property to be a nuisance to the public health in that the parking lot on the premises contained numerous used appliances including refrigerators that still had doors attached. The Board also found that Mr. Tyree was working to bring the property into compliance. Based upon the owner's attempt to bring the property in compliance, the imposition of a fine was held in abeyance.

This matter again came on before the Code Enforcement Board on June 20, 2017 for review. The Board after hearing testimony of Dale VanWinkle of the Code Enforcement Office and Mr. Tyree, found that the property continued to constitute a nuisance with appliances stored

in the side parking lot being unsightly and not a compatible or allowed use for the R-1 zone. A fine of \$5,975.00 was imposed (\$25.00 per day for October 21, 2016 to June 20, 2017).

This matter again came on before the Code Enforcement Board on September 5, 2017 at 4:00 p.m. pursuant to notice issued August 14, 2017. Board Members present were Andrew Baskin, Chairman, Ken Vasey, Terry Bingham and Mike Barnett. Also present were Cheryl Chasteen, City Clerk; Jerry W. Gilbert, Corporation Counsel; and Amanda Haney of the Code Enforcement Office and the property owner, James Tyree.

After being duly sworn, Amanda Haney of the City of Berea Code Enforcement Office, offered testimony and a photographic record of her inspections of the property at 502 Highway 1016. The appliances and used appliance parts had been loaded on two (2) trailers earlier on September 5, 2017. The premises still had numerous appliances at the front of the building. The Code Enforcement Office continues to receive complaints from neighbors concerning appliances and appliance debris outside the building. Mr. Tyree testified that he had loaded the trailers to haul off the debris that day and that the appliances out front were being washed and have since been removed. Mr. Tyree acknowledged his non-compliance with this Board's prior orders but stated he would keep the property free from debris and requested the fine be rescinded.

Based upon the evidence, the Code Enforcement Board after due deliberations makes the following findings of fact and Orders:

1. That the continued storage of appliances and parts in the side parking lot is unsightly and is not a compatible or allowed use for the R-1 Zone. Placement of appliances in the front of the building is unsightly and poses a danger to public health.

2. The property at 502 Highway 1016 from a period of October 21, 2016 until September 5, 2017 constituted a nuisance as defined in Berea City Ordinance §50.001.

3. That a fine of \$5,975.00 (\$25.00 per day from October 21, 2016 to June 20, 2017) was imposed upon Mr. Tyree on June 20, 2017. His non-compliance from June 20, 2017 potentially subjects him to an additional fine of \$50.00 per day totaling \$9,725.00 as of June 5, 2017.

4. That pursuant to Berea City Ordinance §22.606, the fine imposed for Mr. Tyree for his continued non-compliance should not be entirely rescinded, rather be reduced to \$2,500.00 (calculated at \$25.00 per day for 100 days) in recognition of the progress made on September 5, 2017 in removing appliances and debris from the property.

5. That the fine imposed herein shall be paid within ninety (90) days from the issuance of this Order. Failure to pay the fine as required herein shall authorize the filing of a lien on the property located at 502 Highway 1016, Berea, Madison County, Kentucky pursuant to Berea City Ordinance §50.005.

BEREA CODE ENFORCEMENT BOARD

Date: 9/11/2017

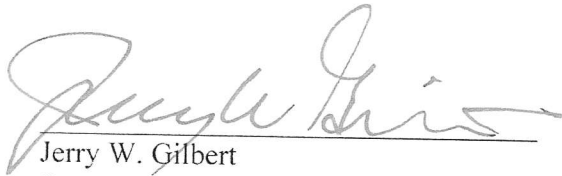
By: Andrew Baskin
Andrew Baskin, Chairman

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order was mailed to James Tyree, 502 Highway 1016, Berea, Kentucky 40403, on this 11th day of September, 2017.

By: Cheryl Christen
Title: City Clerk

Prepared by:

A handwritten signature in cursive script, appearing to read "Jerry W. Gilbert", written over a horizontal line.

Jerry W. Gilbert
Corporation Counsel