

COMMONWEALTH OF KENTUCKY
CITY OF BEREА
CODE ENFORCEMENT BOARD

IN RE THE MATTER OF:)	
)	
ELIZABETH BOWMAN)	FINAL ORDER
(Property located at 103 Railroad Street,)	
Berea, Kentucky))	

* * * * *

This matter having come on for a hearing before the Code Enforcement Board upon the issuance of a complaint charging that the grounds at 103 Railroad Street constitutes a nuisance, which complaint was made by the Code Enforcement Office of the City of Berea. Code Officer Amanda Haney, originally on August 17, 2017, and subsequent notice dated January 5, 2018, both of which alleged that the grounds at 103 Railroad Street in violation of the Property Maintenance Code, pursuant to Section 70.005(b) and Section 50.001 of the Berea City Code, this Board held a hearing to determine whether the grounds constitute nuisance and whether the temporary housing units located thereon are permitted.

A hearing was held on this matter before the Code Enforcement Board on January 23, 2018, at the hour of 4:00 p.m. Board Members present were Andrew Baskin, chair, Ken Vasey, Mike Barnett and Terry Bingham. Also present was Amanda Haney of the Code Enforcement Office, and Cheryl Chasteen, City Clerk, who made notes and prepared the minutes of the meeting; and Jerry W. Gilbert, City of Berea Corporation Counsel.

After being duly sworn, Amanda Haney of the City of Berea Code Enforcement Office, offered testimony and a written and photographic record of the inspections of the grounds at 103 Railroad Street, summarized as follows:

Codes Director Amanda Haney testified there were three issues with this property that need to be addressed; demolition, clean-up of the property, and the minimum housing standards are not being met. On May 23, 2017 the Codes Enforcement Office condemned the structure that was on the property; the owners agreed to tear-down the house but did not have the means to clean it up afterwards. On August 2, 2017 a contractor hired by the City at a cost cleaned up the area at a cost of \$3,950.57 be placed on the property. Shortly afterwards the owners hauled in old tires to sell from the property; Codes officers informed them that they could not do so. The minimum housing standards are currently not being met as the owners have placed a tent, a camper and a storage building on the property, all of which they have lived in. This is only temporary housing and there is not electric, water or sewer service on the property. Only a permanent housing unit is allowed on the lot. Elizabeth Bowman is the owner of the property according to records at the Madison County Property Valuation Office. She was notified on August 17, 2017 of the current violations and was given a 30 day notice. The Codes office is asking to allow the city's Public Works Department to clean-up the tires and excess debris, with the charges to be added to the lien.

Holly Hill neighbor resident, Jason Berry testified he has witnessed a large number of traffic going in and out of this property; he has called the police numerous times.

101 Railroad Street owner, Scott McIntosh, testified that people coming on the property and using the restroom on and around the area. A storage building was brought in yesterday, and they are currently living in it. Haney stated Ms. Bowman has been told they could not live in the storage building.

Tina McIntosh testified their property at 101 Railroad Street, borders 103; this is a rental property, but due to the condition at 103, no one wants to rent their property. She has witnessed

people burning trash, using the bathroom outside, and bringing in rubbish and tires. They have called the police and fire departments numerous times.

The owner of the property, Elizabeth Bowman, did not appear despite having been properly notified of the violations and hearing.

Based on the evidence, the Codes Enforcement Board makes the following Findings of Fact:

1. The city of Berea is entitled to a lien on the property in the amount expended to demolish and clean-up the property.
2. The owner of the property at 103 Railroad Street was properly notified of the violations and of the hearing.
3. The City of Berea properly invoked Section 70.005 with the owner's agreement to demolish the structure on the property on August 2, 2017. The City incurred costs of \$3,950.57.
4. The grounds located at 103 Railroad Street are in violation of Section 50.001 of the Berea City Code and constitute a nuisance.
5. The temporary housing units presently being occupied on the property are in violation of the Property Maintenance Code and are not authorized in an R-1 zone.

Based upon the foregoing findings, the Code Enforcement Board concludes as follows:

1. The city of Berea is entitled to a lien against the property located at 103 Railroad Street in the amount of \$3,950.57.
2. The owner of the premises of the structure at issue located at 103 Railroad Street is in violation of the aforesaid provisions of the Property Management Code and the garbage and refuse on the grounds constitute a public nuisance.

Based upon the foregoing Findings and Conclusions, it is hereby ORDERED pursuant to Section 70.005 and 50.001 that a lien in favor of the City of Berea in the amount of \$3,950.57 against the property located at 103 Railroad Street and placed in the City's tax books against the property to be collected and foreclosed upon in the same manner as taxes and tax liens are collected and foreclosed, that the grounds be cleared of all trash and refuse and that the temporary housing units located thereon be removed, no later than February 24, 2018, which is thirty (30) days from the date of the hearing. The Code Enforcement Office of the City of Berea shall cause to be posted on the main entrance a notice that property and temporary housing units are in violation and occupation is unlawful. It is further ORDERED that in the event the owner of the property located at 103 Railroad Street does not remove the garbage and refuse and does not remove the tents, outbuildings and tires within the time period ordered herein, the building official shall cause the trash, garbage and temporary housing units to be removed and the total cost of said removal shall constitute a lien against the real property at 103 Railroad Street to be placed on the City's tax books against the property and to be collected and foreclosed upon in the same manner as taxes and tax liens are collected and foreclosed.

Date: _____

2-6-18

BEREA CODE ENFORCEMENT BOARD

By: _____

Andrew Baskin, Chairman

CERTIFICATE OF SERVICE

I certify that true copies of this Order has been sent to the persons listed below, by first class United States mail, or hand-delivery, on the date set out below.

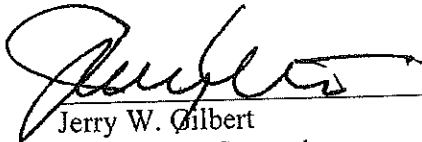
Date: 2-10-18

By: Cheryl Chastien
City Clerk

Elizabeth Bowman
103 Railroad Street
Berea, Kentucky 40403

Amanda Haney
Code Enforcement Office
City of Berea, Kentucky

Prepared by:



Jerry W. Gilbert
Corporation Counsel