

**MINUTES OF THE PUBLIC HEARING OF THE CODE ENFORCEMENT** held on **APRIL 1, 2009** in the **COUNCIL CHAMBERS AT CITY HALL** located at **201 SOUTH CORTEZ ST.**, Prescott, Arizona.

**I. CALL TO ORDER**

Hearing Officer Boris called the meeting to order at 2:00 PM. The following persons were duly sworn: Code Enforcement Officer Donovan, Code Enforcement Officer Taylor and Citizen, Verne Brown.

**II. CASES**

**1. CEH0903-002 CE0811-075 1810 Sequoia Dr. Verne Brown**

APN: 116-12-210

PCC 7-5-4 (A) General-Junk/Trash/Debris

PCC 7-5-4 (A) Exterior Premises- Exterior Surfaces

Code Enforcement Officer D. Donovan

Code Enforcement Officer Donovan reported that the case was continued from the March 4, 2009 hearing. Officer Donovan noted that he had a copy of an appeal letter to enter into the record that was presented to the Legal Department from Mr. Vern Brown. Officer Donovan indicated that the letter was appealing the decision of the March 4<sup>th</sup>, 2009 hearing.

Hearing Officer Boris read the document and entered it into the record.

Code Officer Donovan reported that he had photographs of the property taken this morning. Officer Donovan indicated that there has been some improvement on the property however, there were still items that needed to be addressed. The photographs were presented to Hearing Officer Boris and entered into record.

Code Enforcement Donovan reported that the exterior surface of the property had been corrected and the refrigerator had been removed. Officer Donovan noted that the items on the sides of the house still needed to be removed out of public view. Officer Donovan indicated that the case is still open and the property is not in compliance.

Hearing Officer Boris invited Mr. Brown to the podium to speak.

Mr. Vern Brown, 1810 Sequoia, Prescott AZ viewed the photographs that were presented as part of the record and indicated that all the vehicles on the property were licensed, the items that were stacked along side of the house were done so because, several years ago a different Code Enforcement Officer had told him to do that. Mr. Brown indicated that the Flagstone does not have to be moved, the house has been painted, and that he anticipates that all of the corrections would be completed by the end of April. Mr. Brown also indicated that his letter states he would like to know exactly what he still needs to address on the property.

Hearing Officer Boris reported that the letter was written after the last hearing which was held on March 4, 2009. Hearing Officer Boris asked Code Officer Donovan to review the vehicles.

Officer Donovan reported that the code violation did not include any vehicles; the items that were addressed in the violation notice were for items located on both sides of the house that are in public view.

Mr. Brown noted that some of the items could be removed from the outside. Mr. Brown also noted that the code officer would have to be looking at the property very closely.

Hearing Officer Boris responded that the Code Enforcement Officer can only go by what is in public view.

Code Enforcement Donovan indicated that public view including the front, rear or sides of the property.

Hearing Officer Boris asked Mr. Brown if he could be in compliance by the end of the month.

Mr. Brown noted yes, weather permitting.

Hearing Officer Boris noted that the violation was for general junk, trash, and debris and asked Officer Donovan to meet with Mr. Brown at the property and let him know exactly what he will need to do to be in compliance.

Mr. Brown noted that would be fine as long as Officer Donovan would do it from the public view.

Hearing Officer Boris reminded Mr. Brown that public view is anything that can be viewed from the side of the street and it does not mean it is a drive by look at the property.

Officer Donovan indicated that Mr. Brown's property is on the corner of Delano and Sequoia where you can view at least 2/3 of the property from public view.

Hearing Officer Boris noted that the case will be continued until the May 6, 2009, hearing date and if Mr. Brown is in compliance by that time there will not be no additional fine however, if the property is not in compliance there may be an additional fine.

Mr. Brown indicated that was part of his appeal as he could not pay a fine.

Hearing Officer Boris informed Mr. Brown that there was not a fine for the property violation however, there was an automatic default judgment of \$250.00 because Mr. Brown did not appear at the hearing on March 4, 2009.

Mr. Brown indicated that he still could not afford to pay the judgment.

Hearing Officer Boris informed Mr. Brown that he will have to discuss terms with the Legal Department.

Mr. Brown indicated that he was not aware that he needed to attend the hearing on March 4, 2009.

Code Enforcement Donovan noted that the information regarding the time and date of the hearing was on the face of the citation that was served to Mr. Brown via certified mail.

Mr. Brown commented that he does not pick up certified mail.

Code Enforcement Donovan noted that the certified documentation is located in the chronology of the case.

Hearing Officer Boris asked Code Enforcement Donovan if the certified mail is not accepted, is it returned back to the City.

Code Enforcement Donovan indicated there is a tracking number and that they do generally get the letters back.

Hearing Officer Boris asked Mr. Brown why he did not accept certified mail.

Mr. Brown indicated that he thought that communication should not be certification.

Hearing Officer Boris indicated that certified mail is policy for delivery.

Kathy Dudek, Administrative Assistant for Community Development, was sworn in and indicated that certified mail is done so that the City has a record; and, it is not a question if the certified mail is accepted or not, it is a matter of attempted service. Ms. Dudek indicated that default judgments are given routinely and that the information is sent out via certified mail. Mr. Brown would have to speak to the Legal Department for the City of Prescott regarding the default judgment.

Hearing Officer Boris informed Mr. Brown that he would have until the 30<sup>th</sup> of April to bring his property into compliance and Officer Donovan will go to the property to check the property for compliance. If Mr. Brown is in compliance by the check date of April 30<sup>th</sup>, the case will be dismissed. If the property is not in compliance Mr. Brown will need to return to the May 6, 2009 hearing.

Hearing Officer Boris noted that the case for the property of 1810 Sequoia Drive, CEH0903-002 will be continued until the May 6, 2009 hearing date.

**2. CEH0903-003 CE0811-010 580 Eastwood Pl. Barbara Clougherty**

APN: 110-04-065

PCC 7-5-4 (F) General-Junk/ Trash/Debris

Code Enforcement Officer Donovan

Code Enforcement Officer Donovan entered into record photographs and chronology report of the property. Officer Donovan reported that the owners of the property have cleaned the trash and debris from the property. Officer Donovan noted that Code Enforcement would like to recommend the case be dismissed.

Hearing Officer Boris noted that there is only reference of a date on the photograph, and that there is no indicated of the address location and asked that Code Enforcement please place identification on the photographs in the future.

Officer Donovan noted that they will start doing that.

Hearing Officer Boris indicated that CEH0903-003, 580 Eastwood Place is now in compliance and the case is dismissed.

### III. ADJOURNMENT

Hearing Officer Boris adjourned the hearing at 2:20 PM.



4/9/09

\_\_\_\_\_  
Phyllis Boris, Hearing Officer / Date