



## FINAL ORDER

### ID#E72020-6 John Greene Estate

Issued to: Thomas Greene  
40 Fourth Street

Citation No.  
Date of Issuance: May 16, 2022

**Narrative Description of Violation:** Thomas Greene, on behalf of the John Greene Estate, has failed to maintain this property at 40 Fourth Street. Violation notices, invoices, liens, etc. have all gone ignored.

**Violation(s):** Failure to maintain property at 40 Fourth Street

**Code Section:** KRS 65.8825(6) failure to pay or contest, KRS 65.8828(1) failure to appear; KRS 99.705 blighted property, IPMC 302.1 Sanitation, IPMC 302.4 Weeds, 307.1 Accumulation of rubbish or garbage, 307.2 Disposal of rubbish and 304.1 - Exterior Structure General

**Code Title:** Winchester Code of Ordinances - Chapter 2 – Administrative Hearing Board ARTICLE VII, Section 2-401 Public Nuisances Related to Maintenance, Section 2-392 Hearing, Notice & Final Order

#### **Full Description:**

1. Any exterior property or premise that is not maintained in a clean, safe and sanitary condition.
2. Any premises and exterior property that is not maintained free from weeds or plant growth in excess of ten inches (10") in height.
3. All exterior property and premises that has not been maintained free from any accumulation of rubbish or garbage and rubbish has not been disposed of in a clean and sanitary manner by placing such rubbish in approved containers.
4. The original structure was found to be dangerous to the life, health or safety of its occupants because it was deemed to be structurally unsafe or of such faulty construction that it was likely to partially or completely collapse.
5. The structure was deemed unfit for human occupancy or use in that it was found to lack maintenance, be in disrepair, vermin or rodent infested, lacked ventilation, illumination,

sanitary or heating facilities or other essential equipment required by the code. (See attached condemnation notice and verification by Thomas Greene.)

Sec. 2-395. - Lien; fines, charges, and fees.

- A. The city and county shall possess a lien on property owned by the person found by a final, nonappealable order issued based upon an uncontested citation; by a final, nonappealable order of the board; or by a final judgment of a court of competent jurisdiction, to have committed a violation of an ordinance which the board is authorized to adjudicate, for all fines assessed for the violation and for all charges, costs, penalties, and fees, including attorney's fees, incurred by the city and county in connection with the enforcement of the ordinance.
- B. The lien shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest, at the rate of four (4) per cent interest, until paid.
- C. Pursuant to KRS 65.8835, the lien shall take precedence over all other liens on the property, except state, county, school board, and city taxes, and may be enforced by judicial proceedings or to the extent permitted by law administrative hearing board enforcement proceedings.
- D. In addition to the remedy prescribed in subsection (a), the person found to have committed the violation shall be personally responsible for the amount of all fines assessed for the violation, including a fifteen dollar (\$15.00) administration fee, and for all charges and fees incurred by the city and county in connection with the enforcement of the ordinance. The city and county may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.
- E. The city and county shall be entitled to recover from the responsible party or parties all reasonable attorney fees and others costs incurred by the city and county by reason of the collection upon and enforcement of the responsible party's or parties' liability hereunder and the lien which secures the same.
- F. Upon payment, determination of the board or court order, the city and county shall be authorized to release any lien filed hereunder and recorded in the office of the county clerk.

(Ord. No. 10-2011, § 15, 7-27-11; Ord. No. 9-2020, 7-7-20)

Sec. 2-233. - Additional penalties for litigation. In the event litigation or an enforcement proceeding of the administrative hearing board is instituted to compel compliance with this section, the defendant, if found liable by a final order shall, in addition to taxes, penalty and interest, be responsible for all costs, including reasonable attorney's fees. Also, the city shall have a lien upon the property of the defendant for the entire amount determined to be delinquent. (Ord. No. 3-2005, § 1, 2-15-05; Ord. No. 10-2020, § I, 7-7-20)

Sec. 2-393. - Appeals; final judgment.

- A. An appeal from any final written order of the board may be made to the Clark County District Court within thirty (30) days of the date the order is issued. The appeal shall be

Sec. 2-393. - Appeals; final judgment.

- A. An appeal from any final written order of the board may be made to the Clark County District Court within thirty (30) days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the board's final order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.
- B. The action before the district court shall be de novo. If the court finds that a violation occurred, the offender shall be ordered to remedy the violation and pay to the city or county all fines, charges, fees, including attorney's fees, and penalties occurring as of the date of the judgment. The district court judge shall provide the offender a reasonable time to remedy the violation. If the offender does not remedy in the time provided, another notice of violation may be issued, in accordance with subsection 2-391(2), for another violation of the code.
- C. If no appeal from a final order of the board is filed within the time period set in subsection (a) above, the board's order shall be deemed final for all purposes.

(Ord. No. 10-2011, § 13, 7-27-11)

**Facts Constituting the Offense:** This property has violations on it since 2013, and the City has been maintaining this property since that time. There has been no response to letters, violation notices or citations over the years. The house was condemned February 21, 2017 and ultimately demolished. Liens were attached to the property for demolition. This property was before the Administrative Hearing Board on July 20, 2020 and May 16, 2022, with proper notification given through mail to Thomas Greene and by a Police Officer posting the notification on the property, and no one responded to the Citation to appear. There was never an attempt by anyone else to maintain these premises.

The Administrative Hearing Board, in its capacity as a Vacant Property Review Commission, has found:

1. The property is blighted as defined by KRS 99.705.
2. The parcel is vacant in a predominantly built-up neighborhood, which by reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris and a haven for vermin.
3. The parcel has required continuing maintenance by the city for a prolonged period of time and will continue to require maintenance in the future. Encumbrance liens upon the property are delinquent.
4. The parcel has been tax delinquent for a period of more than three years and has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency.

**Offense Number:** 2022-041

## **ADMINISTRATIVE HEARING BOARD**

**Hearing Date:** May 16, 2022

**Proof of Notice:** Yes

**Hearing Contested:** No

**Judgment:** \$15,285.65

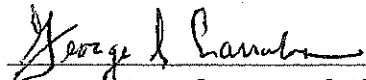
**Default:** Yes

**Remediation Order:** **Fine:**

**Costs:**

**Penalty Fees:**

## **FINAL ORDER**

A handwritten signature in cursive script, appearing to read "George Carruba", is written over a horizontal line.

George Carruba, Board Chair

Date: May 16, 2022