



ADMINISTRATIVE HEARING BOARD

FINAL ORDER

ID#E92022-4 James & Sarah Robinson

Issued to: James & Sarah Robinson Citation No. _____
107 Spring Street Date of Issuance: September 20, 2022

Narrative Description of Violation: James & Sarah Robinson have failed to maintain the property at 107 Spring Street. Violation notices, invoices, liens, etc. have all gone ignored.

Violation(s): Failure to maintain property at 107 Spring 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 302.4 Weeds

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.

Sec. 302.4 Weeds – All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten inches (10"). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in

accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

99.705 Definitions for KRS 99.700 to 99.730. As used in KRS 99.700 to 99.730:

1. "Alternative government entity" means an entity established by the legislative body of a local government pursuant to KRS 65.350 to 65.375, 99.330 to 99.510, 99.520 to 99.590, or 99.610 to 99.680, with a purpose compatible with the purposes expressed in KRS 99.700;
2. "Blighted" or "deteriorated" property means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood:
 - a. Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with the housing, building, plumbing, fire, nuisance, or related codes;
 - f. Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;
 - h. Which has not been brought into compliance with the housing, building, plumbing, electrical, fire, or nuisance code of the local government within which it is located within the time constraints placed upon the owner by the appropriate code enforcement agency;

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 sixty dollar (\$60.00) 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 other 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 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 been maintained by the City of Winchester since 2014. There has been no response to letters, violation notices or citations over the years. Liens have been attached to the property. This property was before the Administrative Hearing Board on September 20, 2022, with proper notification given 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: 2022-074

ADMINISTRATIVE HEARING BOARD

Hearing Date: September 20, 2022 **Proof of Notice:** Yes

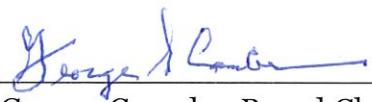
Hearing Contested: No **Judgment:** \$5,172.41

Default: Yes

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

Penalty Fees:

FINAL ORDER



George Carruba, Board Chair

Date: September 20, 2022