



ADMINISTRATIVE HEARING BOARD

FINAL ORDER

ID#E62022-1 Scott Rogers Estate

Issued to: Scott Rogers Estate
11 Spring Street

Citation No. 220098
Date of Issuance: May 18, 2022

Narrative Description of Violation: Scott Rogers Estate has failed to maintain this property at 212 First Street. Violation notices, invoices, liens, etc. have all gone ignored.

Violation(s): Failure to maintain property at 212 First 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; Section 302.4 Weeds; Section 307.1 Accumulation of rubbish or garbage; Section 302.8 Motor vehicles

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. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.
2. All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten inches. All noxious weeds shall be prohibited. 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.
3. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

4. No inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

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 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 2019, and the City has been maintaining this property for the last few years. The property is abandoned. There has been no response to letters, violation notices or citations over the years. This property was before the Administrative Hearing Board on June 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. The taxes have not been paid on this property since 2002.

Offense Number: 2022-052

ADMINISTRATIVE HEARING BOARD

Hearing Date:	June 20, 2022	Proof of Notice:	Yes
Hearing Contested:	No	Judgment:	\$2,766.62
Default:	Yes		
Remediation Order:	Fine:	Costs:	
		Penalty Fees:	

FINAL ORDER

George Carruba, Board Chair

Date: June 21, 2022