



## FINAL ORDER

### **ID#E051222-1 Timothy W. Cook**

Issued to: Timothy W. Cook  
12 Pocahontas Trail

Citation No. 220106  
Date of Issuance: July 19, 2022

**Narrative Description of Violation:** Timothy W. Cook has failed to maintain the property at 12 Pocahontas Trail. Violation notices and a citation have gone ignored.

**Violation(s):** Failure to maintain property at 12 Pocahontas Trail

**Code Section:** KRS 65.8825(6) failure to pay or contest, KRS 65.8828(1) failure to appear; KRS 99.705 blighted property, 2015 IPMC 304.7 Roofs and drainage

**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. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

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 had violations since March 2022. There has not been any response to violation or citation notices. The house was condemned July 20, 2022 and will likely be demolished. The property is believed to be abandoned. The house is in a dilapidated state with no outlook of repairs or upkeep being made. The roof has large holes in it, which has allowed precipitation and animals to enter the house for quite some time. This property was before the Administrative Hearing Board on July 18, 2022, with proper notification given by the City of Winchester Code Enforcement Officer.

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 blight on the neighborhood and has the potential to attract vagrants and vermin.
3. Abatement of the conditions rendering this property blighted and deteriorated shall be completed within ninety (90) days of this Final Order.
4. The property owner has been notified in accordance with local ordinance to eliminate the conditions which are violation of local codes or law.

**Offense Number:** 202251

### **ADMINISTRATIVE HEARING BOARD**

<b>Hearing Date:</b>	July 18, 2022	<b>Proof of Notice:</b>	Yes
<b>Hearing Contested:</b>	No	<b>Judgment:</b>	\$0.00
<b>Default:</b>	Yes		
<b>Remediation Order:</b>	<b>Fine:</b>	<b>Costs:</b>	
	<b>Penalty Fees:</b>		

### **FINAL ORDER**

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George Carruba, Board Chair

Date: July 22, 2022