



City of Saint Paul

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Master

File Number: ALH 11-236

File ID: ALH 11-236	Type: Appeal-Legislative Hearing	Status: Filed
Version: 1	Contact Number:	In Control: City Council
File Name: 1356 Jefferson Avenue		File Created: 02/03/2011
		Final Action: 02/15/2011

Title: Appeal of Robert J. McCarthy to a Vehicle Abatement Order at 1356 JEFFERSON AVENUE.

Notes:

Agenda Date: 02/15/2011

Indexes: Ward - 3; Vehicle Abatement Order

Agenda Number:

Sponsors: Harris

Enactment Date:

Attachments: 1356 Jefferson.appeal.2-2-11.pdf, 1356 Jefferson Ave.Vehicle Abatement 9-22-10.pdf

Financials Included?:

Contact Name:

Hearing Date:

Entered by: Racquel.Naylor@ci.stpaul.mn.us

Ord Effective Date:

Approval History

Version	Date	Approver	Action
1	02/03/2011	Moermond, Marcia	Approve

Notes: This appeal needs to be reviewed very carefully to determine if the items being appealed now have already been handled by the Council in the previous appeal.

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Legislative Hearings	02/15/2011	Referred Under Master Resolution				
	Action Text:	Referred Under Master Resolution (deny appeal and grant extension to Fri, Feb 18, 2011)					
	Notes:	Deny appeal and grant extension to Friday, February 18, 2011.					
		<i>Robert McCarthy and wife appeared.</i>					
		<i>Inspector Essling reported on this Vehicle Abatement Order. The original complaint came in on August 9, 2010: "Two non-working vehicles filled with junk on 1356 Jefferson Avenue property now has a pop-up trailer sitting on the boulevard. The van that is parked in the back yard is tagged incorrectly and hasn't moved in over two (2) years. The original inspection was done August 10, 2010. A Vehicle Abatement Order was issued and appealed. The Legislative Hearing Officer recommended</i>					

to the City Council that an extension be granted until December 31, 2010 to move the vehicle out of the rear yard. The property was re-inspected on January 25, 2011 and found to be non-compliant. The van is still sitting in the back yard. A Vehicle Abatement was issued and mailed on January 26, 2011 with a compliance date of February 2, 2011. On February 2, the white van had been removed but the brown Dodge remained in violation.

Mr. McCarthy responded that there were a few mis-statements in Mr. Essling's report. The original complaint read the same except Mr. Essling neglected to point out the fact that the vehicles that were there were: 1) a 1976 Cadillac, the Elegance, a classic car in perfect shape (no junk in it); and 2) a 1969 very rare Travco Camper Vehicle. One vehicle was moved in his presence on the day that he was there in the pouring rain; and he did not want to stay around to watch the other one start. It didn't start, however, because of a bad battery. At that time, his wife had just had her leg amputated and all of the basement contents was inside the garage. Mr. McCarthy appealed because Mr. Essling had told them that the only way they could deal with the brown car was to put it into the garage, which was a total fabrication. At the previous LH, they asked for an extension that had been granted. Mr. Essling, however, did not read the clause on the bottom of the Order which said that we had five (5) days to get the vehicle running and moved. Their appeal to having to get the vehicle running was basically denied and their appeal was approved ("you can't do both"). They went to City Council regarding the problem. In the meantime, they got the vehicle running and met all of the requirements, so, it no longer was an abandoned vehicle (City's definition). At the City Council public hearing, the hearing officer had all of the old information. Apparently, Mr. Essling had not informed her that he had been by and seen that the brown van was operating and had been moved. At City Council, Mr. McCarthy pointed out that the City can't order them to move the vehicle in the future when that wasn't an issue (it was either get the car moving within 5 days or move it). The City Council told the hearing officer to go check it out; and they agreed with Mr. McCarthy that the City couldn't cite him for something in the future. The City Council told the hearing officer to go to DSI and check it out. If, in fact, the car was running, to dismiss the case; otherwise, bring it back in two (2) weeks. They never heard from the City again and assumed that the case was dismissed.

Regarding the latest Abatement Order, Mr. Essling stated that regarding the brown Dodge, Mr. McCarthy is in violation of d and f: d) "appears undrivable and inoperative; and f) other violation: collector lacks screen. The following vehicles are in violation of Saint Paul Legislative Code Chapters 45 or 163." Mr. McCarthy finds nothing in Chapters 45 or 163 that deals with the screening of a collector vehicle. He said that under the law, the question of screening of a collector vehicle is in Section 126.2 of the Minnesota Statute Subsection 1E. And that law says that a person is to be notified and then he has twenty (20) days to solve the problem. In Subsection 1E, it says that the vehicle, operating or non-operating, should be screened from ordinarily public view by fence, shrubbery, rapidly growing trees or other appropriate means. When Mr. Essling showed up on February 3, 2011 and was taking pictures, Mr. McCarthy's daughter went out and asked him who he was and she asked to see some identification. He was extremely rude to her and almost refused to provide her with his identification. When Mr. McCarthy went out, Mr. Essling proceeded to yell at him and told him that the car had to be in the garage and there was no other rule, etc. So, Mr. McCarthy wants to know why he is here, since the previous Abatement Order had been dismissed by the City Council and there's been no other complaint. Why is he being singled out by Mr. Essling when he knows of at least 50 classic vehicles sitting uncovered or tarped in the city? Mr. McCarthy called Mr. Essling's supervisor and got all of the answers he had been seeking when he came to the first legislative hearing; i.e., a number of ways to screen his vehicle, most of which required a bunch of hoops to jump through and he didn't have time to do any of those before today's hearing. He made further inquiries and found that there is nothing in the law that says you cannot tarp a vehicle - that tarp is not an other appropriate means. Tarping seems to be the most popular way of parking classic vehicles around town. He found out from Steve that Section 162 subdivision 1E does not apply to any vehicle that has regular license plates on it. Currently, every vehicle parked on his driveway has regular license plates and is running. He sees no complaint here.

Ms. Nhia Vang asked DSI staff whether the City normally charges residents under the state statute. Mr. Essling replied, "Yes." The Order says that the vehicle lacks collector screening as required by the state statute. The state statute says that operable or inoperable, the vehicle may be stored in compliance with local government zoning and ordinances. Mr. McCarthy countered that in Mr. Essling's notification, he said that Mr. McCarthy was in violation of Saint Paul Legislative Codes 45 and 163. There is no mention, whatsoever, of collective vehicles in either one of those. Mr. Essling noted that the City statutes extend to the state statutes. Mr. Essling stated that a different inspector would be assigned to this.

Mr. Essling stated that the legislative hearing officer at the first LH was willing to give Mr. McCarthy an

extension to demonstrate that the vehicle was operable and to clean-up the yard as long as he was willing to comply with other provisions of the ordinance, which included screening the vehicle as required in the state statute. Mr. McCarthy repeated that when he went to the City Council, they agreed that they had no power to add that provision when it wasn't a matter of issue in the first place. Mr. Essling noted that the new Order, dated January 26, 2011, is to address the inoperable vehicles and the improper screening. He stated that he would recommend that Mr. McCarthy have 21 days from January 26, 2011 to bring the vehicles into compliance. Mr. McCarthy asked why tarping of a vehicle is considered not appropriate. Mr. Essling responded that it is DSI's policy to not accept tarped vehicles. The citizens of Saint Paul have conveyed to their elected official that they don't want vehicles stored in residential areas. A vehicle is considered storage if it is not driven weekly.

Mr. Essling stated that since the vehicle is now in the garage, DSI will have a different inspector drive by to verify that and close the file by the end of the week.

Ms. Nhia Vang will recommend denying the appeal and granting an extension through Friday, February 18, 2011.

Text of Legislative File ALH 11-236

Appeal of Robert J. McCarthy to a Vehicle Abatement Order at 1356 JEFFERSON AVENUE.
(See Application for Appeal for details.)