

# Minutes - Final

# **Legislative Hearings**

Tuesday, October 24, 2017	9:00 AM	Room 330 City Hall & Court House
	legislativehearings@ci.stpaul.mn.us 651-266-8585	
	Jean Birkholz, Hearing Secretary	
	Mai Vang, Hearing Coordinator	
Ma	arcia Moermond, Legislative Hearing Of	ficer

# 9:00 a.m. Hearings

**Remove/Repair Orders (NONE)** 

# Special Tax Assessments

1 <u>RLH TA 17-396</u> BUREN AVENUE. (File No. J1715A, Assessment No. 178528; amended to J1715A1, Assessment No. 178536) (Public hearing held October 4 and 18)

Sponsors: Thao

Attachments: 575 Van Buren Ave.Summary Abatement Order.5-4-17

Rukhan Ghazi, Pinewood Consulting LLC, owner, appeared.

## Supervisor Joe Yannarelly:

-Summary Abatement Order issued May 4; compliance May 11; re-checked May 16 -remove garbage, rubbish, loose & scattered litter, etc. from yard areas -work done May 17, 2017 for a cost of \$432 + \$162 service charge = \$594

*Ms. Moermond:* -almost 2 full weeks from the date of the Orders to when the crew came to do the clean-up

VIDEO - crew removed trash & debris behind the garage near the alley: carpet, trash, cabinet, dresser, etc.

## Ms. Moermond:

-in the order itself, the inspector gave a general statement of yard area behind the garage next to the alley, considered part of the yard -it is clear from the VIDEO that the crew did not go inside of Mr. Ghazi's yard; the clean-up happened outside the fence -the Orders were sent to the previous owner, Mr. Ron Peltier & also to the current Owner, Pinewood Consulting LLC -we will retain the VIDEO tape for tomorrow's City Council meeting, should they wish to view it Mr. Ghazi arrived late.

*Ms.* Moermond explained that the Council referred this back to LH so we could do some fact finding so that they could have a more complete report.

Supervisor Yannarelly repeated his report and we viewed the VIDEO again

#### Mr. Ghazi:

-any trash that I had would have been inside my yard; there are people who come through there & dump in the alley; I would not know what was going on outside my yard; the way I interpreted this report is that somebody complained about stuff inside my yard; that's why when I provided my testimony at CC, how can somebody see inside my yard over a 5 ft brick wall; like this Video shows, when your talking about the yard, it's misleading; that's not the yard; that's the alley; that's not inside my yard; that's outside in the alley where somebody could come by & drop junk; I've literally seen garbage there one night & the next night, it's gone; I'm wondering who's doing this? some are scrappers & they'll dump some of their stuff; once they get their metal, they'll come back

*-I wouldn't put my debris outside in the alley when I have a yard with a 5 ft high brick fence* 

## Ms. Moermond:

-you make a point; but I have to say that that would be considered part of your yard, clearly, because it is something that you need to mow; the city did send a letter saying, "Clean this up;"

## Mr. Ghazi:

-in the report, it implies my yard & that's a pretty big stretch because when you watch the Video, it doesn't show inside my yard; it's behind the garage in the alley way -even if I'm in the house, I still could not see what's going on behind the garage

### Ms. Moermond:

-you have to mow that part; it's not like it's invisible & that you'd never go there; you have to maintain it & it's obvious because there's about 3-4 feet of grass behind the garage, then the alley

-I get what you're saying & I want to give you a little bit of credit for that but at the same time, that area is distinctly yard

-you have dumping & there's a little confusion about whether or not this is your yard; so, what I'd like to do is to split this assessment in half - to give you some credit for confusion about whether or not this was your yard

#### Mr. Ghazi:

-I appreciate you splitting the assessment

-the problem I'm having is I'm not saying that it's not my yard; what I find odd is that there was apparently, some type of complaint; why would somebody just come into my yard?

#### Mr. Yannarelly:

-this is a Vacant Building & it's periodically inspected by the city inspector (every 2 weeks about)

#### Ms. Moermond:

-the VB inspectors drive by to make sure that the bldgs are secure & that the yard doesn't have dumping in it, etc, so there was a complaint generated by Inspector Mike

## Kalis

-Mr. Ghazi purchased this in Jan 2017; Mr. Yannarelly, is there a history of exterior maintenance during Mr. Peltier's ownership?

### Mr. Ghazi:

-when my yard was cleaned up (inside my fence) & outside, I thought somebody came in & stole the materials that I had there

-I believe that when the crew came there, their concern was that I was working on that roof & that's the reason - they're teed off

-when the camera points at the property, they're not talking about the yard as stated in the record, their camera is on the roof & then when he reads the document, he's referencing car parts, tires, which is also not there

*Ms. Moermond: -that's boiler plate language* 

## Mr. Ghazi:

-what should a property owner do in situations like this where it's admittedly a Cat 2 VB; I buy Cat 2 buildings in St. Paul; it's just odd that the inspector would be driving by.....

*Ms. Moermond: -it's once every 2 weeks about; there are hundreds of Vacant Buildings in St. Paul* 

## Mr. Ghazi:

-there's some information missing; that's the reason that I'm barking at this; when I came back to my property, there were ten 4x8 sheets of roofing plywood all gone from my yard; & the barrel with a lid that held car parts was also gone from my yard; the Video doesn't show those 4x8 sheets that they took

#### Ms. Moermond:

-the crew didn't take them -somebody stole them from your yard; the city has no reason to take them

#### Mr. Ghazi:

-but this all happened at the same time; that's the point I'm trying to make; my entire yard (inside & outside the brick wall) was cleaned up at the same time

## Ms. Moermond:

-if you think that the city took those things from inside your fence, file a claim against the city (Rm 310 has the forms); however, that's not something that I can deal with as part of this process; this is strictly about the nuisance abatement (dumping)

## Mr. Ghazi:

-I honestly believe in my heart that something's going on here, like the Video was started after the inside yard got cleaned up because inside that fence/brick wall......

## Mr. Yannarelly:

noticing anything in your yard

-the Work Order for the crew says specifically, 'behind house & alley' & that's all those guys are looking for; they have the Work Order saying this is behind the house & alley; they're not looking for extra stuff to do -inspector wrote: "Trash behind garage in alley; May 3; SA Order sent;" he wasn't

## Mr. Ghazi:

-prior to making this specific distinction, I assumed that we were talking about the yard - inside the yard; so, when I see the VIDEO, we're not talking about inside the yard; we're talking about in the alley way; and these items in the alley are not my items; what's inside the yard are my items

## Ms. Moermond;

-if someone comes & dumps a bed spring in my front yard today, that is my problem & I need to pay to have it removed; it's my responsibility -somebody unfortunately dumped on you; you got a letter to address the problem; it was not addressed & I'm trying to give you a little bid of credit here

Reduce assessment by half, to \$297.

Referred to the City Council due back on 10/25/2017

## 11:00 a.m. Hearings

## **Summary Abatement Orders**

2 <u>RLH SAO 17-90</u> Making finding on the appealed nuisance abatement ordered for 1011 SELBY AVENUE in Council File SAO 17-85.

<u>Sponsors:</u>	Thao	
<u>Attachments:</u>	1011 Selby Ave. Seeber Ltr.10-12-17.doc	
	1011 Selby Ave.Vang-Seeber email.10-23-17.pdf	
	1011 Selby Ave.Vang-Seeber email.11-15-17.pdf	

Laid Over to the Legislative Hearings due back on 11/7/2017.

*Ms. Moermond: -this matter is to be Laid Over to Nov 7, 2017 LH -City Council Public Hearing has been continued to Nov 15, 2017* 

Laid Over to the Legislative Hearings due back on 11/7/2017

# **Correction Orders**

3 <u>RLH CO 17-35</u> Appeal of Mary Beth Leone-Getten to a Correction Notice at 1290 GOODRICH AVENUE.

Sponsors: Tolbert

<u>Attachments:</u>	1290 Goodrich Avenue.appeal.09-29-17	
	1290 Goodrich Ave.photos.08.04.17	
	1290 Goodrich Ave.Aerial Photo w Plat 2015	
	1290 Goodrich.Leone-Getten Ltr.10-12-17	
	1290 Goodrich Ave.Varland-Moermond email & Survey.10-13-17.pdf	
	1290 Goodrich Ave.Photos.10-3-17.pdf	
	1290 goodrich.photo.10.24.17 property owner	
	1290 Goodrich.Photo.10.24.17	
	1290 Goodrich.Leone-Getten Ltr.10-25-17	

Mary Beth Leone Getten, owner, appeared. Adjacent neighbor at 1282 Goodrich was also present: Anna Kendall

#### Ms. Moermond:

-the owner missed the hearing on Oct 10; then, there was a call to reschedule & some confusion - that's how we end up here on Oct 24, 2017 rather than Oct 10; a report was put onto the record

#### Supervisor Lisa Martin:

-originally, a complaint came in for a pizza oven in the back yard built too close to the property line

-Inspector Hesse had gone out to take a look at this; he brought it to my attention because he had never seen a pizza oven in a backyard, nor had I -on Aug 4, 2017, the fire inspector issued a Correction Notice to 1290 Goodrich, which said all fires on the ground must be a minimum of 25 ft from structures, contained in a grill/outdoor fire place, wind speeds must be under 10 m.p.h; remove or discontinue using the fire pit immediately; we assume that they were referring to the pizza over; after speaking with Fire Supervisor Neis (he had looked at it), he suggested that what was originally written up was what may have been a fire pit - now, the oven was there; the oven was not originally written up; because the pizza oven is considered an accessory structure, typically, you would file with Zoning to make sure you have the required setbacks; Zoning requires a 3 ft setback from the property line; the Fire Code requires 15 ft setback from any combustible material; the neighbors have a wooden fence; we had issued a Correction Notice on Sep 21, 2017 to Tim & Mary Beth Leone Getten at 1290 Goodrich Ave, advising them that this structure had to have an approved plan, to remove the structure from yard that appears to be some sort of outdoor fire place or oven that had been constructed without approval & does not meet code as it is too close to the property line

-I was not available for the last hearing; I did speak with Mary Beth Getten & explained this information to her & my understanding was that at the last missed hearing, we needed to go out to measure

-I understand that one of the parties has had a survey done

-I went out this morning & I sent a copy of those photos but our system seems to be having some difficulty sending them

## Ms. Moermond:

-the measurement that I asked for was from the corner of Goodrich & \_\_\_\_\_, inside the sidewalk line, measuring outward.... looking at the plat map, I was asking for a general idea of the location of the fence - it's going to be pretty close; what was your finding when you went to measure?

## Ms. Martin:

I measured several different ways

-we went from the property stake & the fence, which is 41 inches; I drew a nice little map

-I measured from the so called oven..... where the oven is built appears to be overlapping the property line by 18 inches

-Ms. Martin & Ms. Moermond discussed the maps, photos, measurements, etc.

#### Ms. Moermond:

-so, when the neighbors installed the fence, they left 18 inches on the other side of the fence

-we have an old Order from Fire but because it's considered a permanent structure, it would fall under Code Enforcement (per Ms. Martin); Code is saying that it should be removed

-the appeal says, "lot line near which the oven sits, is in dispute; we request a Hold on Correction Notice until the property boundary's been legally determined; please see attached email written after consultation with Mr. Benner;" this is addressed from Ms. Getten to Ms. Martin re: Correction Notice: you spoke with Mr. Benner; Mr. Benner determined the matter should be put on Hold until the property line is resolved, clarified; location of the oven can't be determined.....

-this hearing is the correct forum for resolving this dispute; not Mr. Benner; I will set aside Mr. Benner's email and say, "He was wrong"

#### Ms. Getten:

-it's my understanding that the city doesn't have jurisdiction over this because it's in the hands of District Court until the property line dispute is legally resolved -we have an Adverse Possession Claim; we've lived in that house for 19+ years; the previous owners were there for 40+ years; the hedge, boundary line, was roughly in the same position as the fence -it's our oven

#### Ms. Moermond:

-I'm hearing from Code, the oven is half with the neighbor, as we understand the property line, right now -and, you're litigating to get that property via Adverse Possession Claim to make all that oven yours

#### Ms. Getten:

-after we spoke, I talked to someone in Zoning & Angie & Jerome; today, I went to confirm, what I thought I was understanding, was correct with Steve Granstrand, Plan Examiner, & we spoke with A.J; they said that this is an improved burning appliance and there isn't anything on the books re pizza ovens, which makes it complicated but from a fire inspection point of view, they said that it's OK to remain in the current location pending the legal resolution of the lot line (photo); it's not an open burning structure; it has one side that's open; there's isn't a vent or anything; it's like a bread oven - a primitive structure

#### Ms. Moermond:

-asked Supervisor Neis if there was anything that he'd like to share for the record

#### Mr. Neis:

*-Fire Insp Sebastian Migdal went out; it was a 2-fold complaint: 1) secure the fire pit; and 2) pizza oven; at the time, he didn't see the pizza oven - he didn't know what the structure was* 

-I spoke with the plan examiner this morning about this; he asked what my thoughts were; this is a structure that was built without pulled permits; the Fire Code does not explicitly indicate anything in regards to permanently affixed structures such as this; it talks about "open burning" which typically is about an open flame - recreational fires, etc; here, the pot is enclosed - not an open flame - it has a door on it -however, this is in close proximity to the wooden fence & it would be a Zoning issue -the plan examiner advised me that the adjacent property owner has expressed interest in actually pushing the fence closer to the property line, which would mean the pizza oven would be even closer to the fence; if that's the case, there may be something in the Fire Code making it a distinct hazard to a combustible wooden fence

#### Ms. Moermond:

-when I looked at the Fire Code, I was looking at the proximity to the wood fence & concerned about the setback

## Ms. Getten:

-the pizza oven doesn't get hot on the outside, no matter how hot it is on the inside (700+ degrees), you can always have your hands on it; it holds the heat on the inside

#### Mr. Neis:

-the disposal of the hot coals could become a concern if that fence was pushed closer to the property line

*Ms. Moermond:* -would you consider this to be a nuisance?

*Mr. Neis: -no; there is no noxious smoke* 

## Ms. Martin:

-most times when you build an accessory structure, you have to go thru Zoning to make sure that we have the correct information about setbacks; a lot of times there are kits that tell you where it can be built, etc; but here, we have no idea of what this is even made of; it looks homemade -it's probably 2 feet from a wooden fence, which is always a concern

-provided a diagram: the door opens into the yard; if the neighbors move the fence, they'd still need a 3-foot setback from the property line

## Ms. Moermond:

-so, what if the court determines that the 23 inches/41 inches belongs to your neighbor, we still have a setback problem

#### Ms. Getten:

-we believe that there was a 3 ft setback when we built it back when the hedge was there instead of the fence

-I keep going back to "this is under legal dispute......"

## Ms. Moermond:

-the property line is under legal dispute; what we're talking about today is a matter of city jurisdiction; you can bring it to the next level but it is absolutely appropriate for it to be addressed here

*Ms.* Getten: -city planning can't even say where the appropriate location would be until we have a resolution of where the property line is

#### Mr. Neis:

-if something is determined to be a distinct hazard by the Fire Code Official, they may order it removed

-the setback requirement seems to be the most appropriate enforcement action

#### Ms. Martin:

-when I spoke with the owner of the pizza oven, I said that they could either move the pizza oven closer into the yard or just remove it because it does not meet the setback requirements

## Ms. Getten:

-brought up a photo of the pizza oven; we believe that it was 3 ft from the original hedge; we hadn't done a survey but the hedge was considered the property line -we do not typically use it during the winter & will not use it until this is resolved

#### Ms. Kendall, adjacent neighbor:

-we got the survey & pulled the permit prior to building our fence, which is the right way to go about building structures on your property

-we struggle with the fact that their pizza oven was built without getting a survey & without pulling a permit long before we owned our house; so, we're stuck -the fence is clearly on our property; it's up to code

#### Ms. Moermond:

-your attorney sent us the survey

-if someone wants to have permission to have less of a setback than what's legally required, it would need to go before the Board of Zoning Appeals (BZA) -do you have a court date about your claim of Adverse Possession? -regardless of what the court's finding is, the oven would not be able to be within 3 ft of the property line (Ms. Martin: the oven is 23 inches from the fence)

## Ms. Getten:

-the hedge, which was the property line before, was a greater distance than the fence is.... (historical boundary)

### Ms. Moermond:

-when did you guys (Kendalls) want to move the fence to the true property line?

(Ms. Kendall was too far away from a microphone; I could not understand her)

#### Mr. Neis:

-if the fence gets any closer than 23 inches to the pizza oven, then, it would be considered a distinct hazard & I would write it up under "nuisance" of the Fire Code

#### Ms. Moermond:

-Ms. Getten, if the neighbors are correct, this prevents them from enjoying the full use of their property; if you're correct, you're still going to have to move the pizza oven or get a variance from the Bd of Zoning Appeals (BZA)

-I will recommend that the City Council grant to Jul 1, 2018 for this to be abated -if the court gives you a new property line, great; if they don't do it by Jul 1, 2018, the oven has to be gone; & they can hire their fence company to do the moving of the fence; I can't determine the property line; I believe the survey is the right instrument for doing that rather than a hedge -I do believe that you are trying to act in good faith but I do see that this was an unwise decision to not check the property line before installing the oven

Deny the appeal and grant an extension to July 1, 2018. Pizza oven should not be used in the interim.

Referred to the City Council due back on 11/15/2017

# 11:30 a.m. Hearings

## **Orders To Vacate, Condemnations and Revocations**

4 <u>RLH VO 17-48</u> Appeal of Lance Holder to a Revocation of Fire Certificate of Occupancy and Order to Vacate at 1108 WESTERN AVENUE NORTH.

Brendmoen Sponsors: 1108 Western Ave N.appeal.10-10-17 Attachments: 1108 Western Ave N.Photos.10-9-17.pdf 1108 Western Ave N.Photos.10-9-17 #2.pdf 1108 Western Ave N.Holder Ltr.10-19-17.doc 1108 Western Ave N.Holder Ltr.10-25.17 1108 Western Ave N.Rent Roll.12-1-17 1108 Western Ave N.Rehab Loan Application as of 12-1-17.pdf 1108 Western Ave.Revocation Notice-SPANISH.10-27-17 1108 Western Ave.Work Orders.12-4-17 1108 Western Ave N.Agreement to Amend Contract.12-1-17.pdf 1108 Western Ave N.Purchase & Sale Agreement.5-9-17.pdf 1108 Western Ave N.H&M Services.12-5-17.pdf 1108 Western Ave N.Brown Ltr.12-11-17.doc 1108 Western Ave N.Franguiz Email.12-13-17 1108 Western Ave N.Franquiz Email.12-18-17 1108 Western Ave N.Photos.12-18-17 1108 Western Ave appeal.Laurel Hedlund appellant.12-19-17 1108 Western Ave N.Purchase Agreement.12-14-17.pdf 1108 Western Ave N.Letter from Laurel Hedlund.12-19-17.pdf 1108 Western Ave N.Maintenance Services Agreement.11-3-17.pdf 1108 Western Ave N.Hedlund Ltr.12-21-17.doc

No one appeared.

Supervisor A.J. Neis:

*-I have not received anything on 1108 Western; my understanding is that they were supposed to be here at 11:30 am today to provide financial & work plan documents* 

Ms. Birkholz: -read the letter of Oct 19, 2017 from Mai Vang to Lance Holder (attached)

Ms. Moermond: -Ms. Mai Vang did not receive anything from Mr. Holder; nothing in LH email -lacking the required specified documents, I will recommend that the building be vacated Dec 1, 2017 -this should go to Council Nov 15, 2017

Recommend denial of the appeal and an extension to Dec 1, 2017 for the building to be Vacated.

Referred to the City Council due back on 11/15/2017

# 1:30 p.m. Hearings

## Fire Certificates of Occupancy (NONE)

# 2:30 p.m. Hearings

## Vacant Building Registrations

5 <u>RLH VBR 17-74</u> Appeal of Floyd Johnson to a Vacant Building Registration Notice at 505 FOREST STREET.

Sponsors:PrinceAttachments:505 Forest Street.appeal.10-17-17505 Forest St.Photos.10-6-17505 Forest St.Fire C of O Orders.8-2-17

Supervisor Matt Dornfeld read report into the record: -was a Category 1 Vacant Building & the file was closed this morning per Fire Supervisor A.J. Neis and Vacant Building Inspector Tom Friel due to the property being sold & soon to be owner occupied by new owner

Ms. Moermond: -the appeal has been Withdrawn by staff

## Withdrawn

6 <u>RLH VBR 17-72</u> Appeal of Douglas Grimm, Real Estate Broker, to a Vacant Building Registration Fee Warning Letter at 1779 MONTREAL AVENUE.

Sponsors: Tolbert

Attachments: 1779 Montreal Ave.appeal.10-13-17 1779 Montreal Ave.Photos.9-21-15 1779 Montreal Ave.Grimm Ltr.10-25-17

Douglas Grimm, owner, appeared.

Supervisor Matt Dornfeld, Vacant Buildings:

-this was made a Category 2 Vacant Building Sep 21, 2015 per Condemnation for a water shut-off by Code Inspector Ed Smith; the owner is/was deceased then & then, I believe the property went into the foreclosure process; it's located in the Highland Park Neighborhood & has been a well maintained home

-I documented that there was a fish pond in the back; had stagnant water; a large crack in a retaining wall; loose, faulty electrical exterior garage outlets; some tall grass & weeds

-the house has been vacant, secured, maintained for the entire time -the VB fee was paid by check the previous 2 years

*-I spoke with Mr. Grimm this morning & the current VB fee went to assessment Oct 2, 2017* 

-it's my understanding that Mr. Grimm has purchased this property via a sheriff's sale; he intends to order the code compliance inspection report & rehab ASAP -Appellant is looking for some leniency on the VB fee

## Mr. Grimm:

-I filled out the code compliance inspection application & was ready to send it in but I was unclear if I just needed to pay the application fee or the application fee plus the VB fee

## Ms. Moermond:

-if you don't pay the VB fee or if it hasn't been paid, the letter will go out doing the billing; if not paid within 30 days, a warning letter goes out giving 15 days - that warning letter is under appeal; if it isn't paid then, the city will process it as an assessment onto the property taxes

-sounds like the appeal came in & the assessment got processed (they passed each other)

-because we're looking at something that has already gone to assessment, DSI treats it as if the bill has been paid

-for practical purposes, you're able to ask for your code compliance inspection & pull permits as of now on this without dealing with the VB fee

-hearing that it's gone to assessment, when it comes forward to me, we will prorate it

Mr. Grimm:

-it will take between 60-90 days to get the place fixed up

#### Ms. Moermond:

-if you're done by Jan 1, 2018, I will definitely Delete the entire VB fee; if you're done by Feb 1, 2018, I probably still would Delete it; on Mar 1, 2018, I'll start to prorate -when you are scheduled for an assessment hearing, you'll get a letter in the mail from the city telling you about it; it will come with a yellow post card asking if you want to appeal it; send that back saying that you want to appeal it; at that hearing, I will recommend granting a 90-day VB fee waiver

-you are able to pull permits & apply for the code compliance; there will be a note in the system

#### Mr. Dornfeld:

-with this being such a recent purchase, I'm concerned that Mr. Grimm may not ever actually receive that letter; it may go to the previous owner, Judy Lumus, Safeguard Properties, \_\_\_\_

Ms. Moermond: -this is not yet scheduled for a hearing -we can forward your name, address to the Real Estate Office, Tonya Townsend; the Lumus name is still showing up on the records but the letters have not yet been generated to be sent out

Grant a 90-day Vacant Building fee waiver. (Note: this has been processed as an assessment and will need to be amended when it comes forward.)

Referred to the City Council due back on 11/15/2017

# 3:00 p.m. Hearings

7 <u>RLH VBR 17-75</u> Appeal of Samuel Tudor and Jason Tudor to a Vacant Building Registration Fee at 1812 LAFOND AVENUE.

Sponsors: Stark

 Attachments:
 1812 Lafond Ave.appeal.10-18-17

 1812 Lafond Ave.Tudor Ltr.10-25-17

Jason Tudor appeared.

Supervisor Matt Dornfeld, Vacant Buildings: -was made a Category 2 Vacant Building Oct 4, 2016 -appears to be a code compliance inspection report on file -all permits are active -I'm assuming we're here to discuss the annual VB fee

*Ms. Moermond: -this is an appeal of the warning letter that was generated on Oct 4, 2017 -I'm guessing that you're close to being done* 

*Mr.* Tudor: -that's correct; we're hoping to have the final approval from Jim Seeger by the end of next week, Nov 3, 2017 -my son will be living there - owner occupied

*Ms. Moermond: -will recommend that Council grant a 90-day VB fee waiver just in case anything happens* 

Recommend 90 day waiver on the Vacant Building.

Referred to the City Council due back on 11/15/2017