



Legislation Details (With Text)

File #: ALH 10-242 **Version:** 1

Type: Appeal-Legislative Hearing **Status:** Archived

In control: Legislative Hearings

Final action: 10/27/2010

Title: Appeal of Robert J. McCarthy to a Vehicle Abatement Order for property at 1356 Jefferson Avenue. [Public hearing held and laid over from October 20, 2010] (Legislative Hearing Officer recommends denying the appeal and granting an extension to September 21, 2010 to fix the flat tire, ensure vehicle is operable, show the inspector that the vehicle is movable, remove barrels of lawn/garden debris, and cover with tarp. Extension granted to December 31, 2010 to move the vehicle into the garage.)

Sponsors: Pat Harris

Indexes: Vehicle Abatement Order, Ward - 3

Code sections:

Attachments: 1. 1356 Jefferson Ave.Photos.9-21-10, 2. 1356 Jefferson Ave.Vehicle Abatement Order.8-11-10

Date	Ver.	Action By	Action	Result
10/27/2010	1	City Council	Granted	Pass

Appeal of Robert J. McCarthy to a Vehicle Abatement Order for property at 1356 Jefferson Avenue. [Public hearing held and laid over from October 20, 2010] (**Legislative Hearing Officer recommends denying the appeal and granting an extension to September 21, 2010 to fix the flat tire, ensure vehicle is operable, show the inspector that the vehicle is movable, remove barrels of lawn/garden debris, and cover with tarp. Extension granted to December 31, 2010 to move the vehicle into the garage.**)

1356 Jefferson Avenue

See attachment to appeal.

August 11, 2010

September 7, 2010

Staff reported this was a vehicle abatement order, for a brown Dodge van located on property. Abatement order was mailed August 11, 2010, with a compliance date of August 17, 2010. In order to be brought into compliance, the vehicle must meet the statute of a motor vehicle, but this appears to be disabled vehicle and under statute, permits removal of an inoperable vehicle, since it apparently hasn't moved in years; DSI unsure if stored on an approved surface, since growth is so thick around vehicle and perhaps in violation of state statute with respect to screening of collector vehicles.

Ms. Moermond addressed Appellant, Mr. Robert J. McCarthy, and asked how long it would take to correct the situation, and to please walk her through it. Mr. McCarthy responded that he does not dispute the City's right, but explained the vehicle is a 1969 TravCo? family van, a "B" class motor home, very rare, in excellent shape with no rust. The tarp that had been covering the vehicle had blown off last year and could not be put back on, and the vehicle was parked under a tree, hence debris. The vehicle is open to viewing on two sides, and the City recommended he get collector's plates, which he did. He wants to replace tarp and recover, but not right now.

Mr. McCarthy stated that he did not think that the Vehicle Abatement Order was issued in a proper legal manner. He stated that the license plate cited was incorrect, but close. He stated that the Abatement order was dated August 11, 2010, with a compliance date of August 17, 2010, not even seven days. State supports his storing collector's vehicle outside on property. Mr. McCarthy stated further that he was upset also by the way the whole thing was handled, and found Mr. Essling to be rude, and accused him of lying. Mr. McCarthy stated that Mr. Essling stated that the vehicle had to be operable, collector's item or not. Mr. McCarthy stated this was a temporary situation, that his wife had her leg amputated, and he would move the vehicle into his garage once they moved the furniture out of the garage, and his wife could climb the stairs. Mr. McCarthy claims that Mr. Essling stated there is no exception. Mr. McCarthy again stated he thought it was not performed legally, nor handled with respect. He stated that he only wanted to work together with the City to find a solution, but had to work with Mr. Essling. He explained he only needed time, an extension, in order to move his wife upstairs and the furniture out of the garage.

Mr. McCarthy commented on his parking a camper on the boulevard to help out his neighbors. He stated he sold the vehicle the same day it was inspected.

Mr. McCarthy again stated he was only given 20 days to fix the issue, and asked for short term and long term solution.

Ms. Moermond commented on the vehicle by viewing pictures presented. Ms. Moermond stated for the record that the photos show five barrels of lawn waste in the front of the vehicle, providing camouflage; tree limbs next to the vehicle; rear tire is submerged in six inches of yard debris and leaves. Staff interjected it had a flat tire.

Ms. Moermond addressed Mr. McCarthy and stated that while State statutes apply so also do City statutes. She goes on to state that the vehicle appears inoperable, and while it has collector's plates, it must comply with the rest of the law. Ms. Moermond stated that she is inclined to provide more time. She asked if three weeks would work for tarping or screening, and fixing flat tire. Mr. McCarthy stated he asked but could not get an answer on what was acceptable. Ms. Moermond asked if the vehicle had the capacity to become operable. Mr. McCarthy stated that in 30 to 60 days his wife may be able to climb stairs; they were waiting on a prosthesis and rehab to function properly.

Ms. Moermond stated that the vehicle be cleaned up, remove the trash bags, area raked out, flat tire fixed, and covered with a tarp within two weeks, September 2, 2010, and if those terms are met, she would recommend that deadline to move vehicle into garage be changed to the end of the year, December 31, 2010. Ms. Moermond also stated that Mr. McCarthy work with Mr. Essling to demonstrate that the vehicle is in fact operable, and can be moved, to his satisfaction.

Grant appeal if agreement terms met by deadline September 21 to fix flat tire, ensure vehicle is operable, show inspector vehicle is movable, remove barrels of lawn/garden debris, and cover with tarp. Recommend deadline to move vehicle into garage by end of year December 31, 2010.

[Enter Recommendation, with specific references to items in orders, deadlines and extensions]