



MAYOR AND COUNCIL COMMUNICATION

DATE: 6/21/16

CONSENT

ITEM #: 19

AGENDA ITEM: Hazardous Building Order, 8004 50th St-Adopt Resolution

SUBMITTED BY: Mike Bent, Building Official

THROUGH: Mike Bent, Building Official

REVIEWED BY: Kristina Handt, City Administrator

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve Resolution No. 2016-48 and the Hazardous Building Abatement Order for the property at 8004 50th Street N. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

STAFF REPORT: The property located at 8004 50th Street N has received multiple complaints from nearby neighbors. The property has been inspected and found to be in disrepair, unsecure, and a public nuisance per city ordinance and state statute. The Abatement Order (Exhibit A) and the resolution have been prepared by the city attorney based on the information gathered during the investigation of this case.

RECOMMENDATION: Based on the aforementioned, the staff recommends the City Council approve Resolution No. 2016-48 ordering the Abatement of the property listed.

ATTACHMENTS:

1. Resolution No. 2016-48
2. Exhibit A – Abatement Order
3. Photos of the Property

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2016-48

*A RESOLUTION ORDERING THE ABATEMENT OF CONDITIONS CREATING A NUISANCE
AND A HAZARDOUS PROPERTY EXISTING AT 8004 50th STREET NORTH, IN THE CITY OF
LAKE ELMO*

WHEREAS, the property located at 8004 50th Street North, legally described as:

Lots Thirty-eight (38), Thirty-nine (39), Forty (40), Forty-one (41), Forty-two (42), Fifty-seven (57), Fifty-eight (58), Fifty-nine (59), Sixty (60), and Sixty-one (61), LANE'S DEMONTREVILLE COUNTRY CLUB, as surveyed and platted and now on file and of record in the office of the Registrar of Titles of Washington County, Minnesota

contains a single family dwelling (the "Subject Property"); and

WHEREAS, a physical inspection by the City Building Official of the Subject Property on May 12, 2016 found that the foundation has caved in and no longer supports the structure, siding, windows, soffits and fascia are rotting and have mold and water damage, there is exposed high voltage electrical wiring, and there are broken windows and doors; and

WHEREAS, by notice dated May 16, 2016, the owner was ordered by the City of Lake Elmo to repair these items; and

WHEREAS, the owner did not complete the repairs as required by the notice; and

WHEREAS, the City Building Official has determined that failing foundation, the exposed high voltage electrical wiring, the rotting windows, siding, soffits and fascia, and the broken windows and doors are a violation of Section 96.03(B)(10) of the City Code and create hazardous and nuisance conditions and that the City must perform all work necessary in order to abate the hazardous and nuisance conditions on the Subject Property unless the owner performs all work set out in the attached order; and

WHEREAS, Marysville LLC, the owner of the Subject Property has taken no steps to abate the hazardous conditions; and

WHEREAS, Minnesota Statutes Section 463.161 authorizes the governing body of any city or town to order the owners of any hazardous building within the municipality to correct or remove the hazardous condition; and

WHEREAS, Minnesota Statutes Section 463.15, subdivision 3 defines a "hazardous building" as "any building..., which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition or abandonment, constitutes a fire hazard or a hazard to public safety or health;" and

WHEREAS, Minnesota Statutes Section 463.161 et seq. authorizes a city to correct or remove a hazardous condition of any hazardous building if the owner of record fails to do so after a reasonable time and the district court enters a judgment sustaining the city's order; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo as follows:

1. The house and garage located on the Subject Property, specifically the foundation, siding, soffits, fascia, exterior doors and windows, are hazardous as defined by Minnesota Statutes Section 463.15.
2. The house and garage also constitute a public nuisance within the meaning of Minnesota Statutes Section 609.74 and Section 96.03(B)(10) of the Lake Elmo City Code.
3. An Abatement Order substantially similar to that attached hereto as Exhibit A shall be served upon all parties with an interest in the Subject Property in order to effectuate this Resolution.
4. The City Attorney is authorized to take all necessary legal steps to secure compliance with the Order and to obtain authority to remove and abate the hazardous conditions on the Subject Property by court order or consent and assess the costs thereof against the Subject Property.

Passed and duly adopted this 21st day of June, 2016, by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

EXHIBIT A

Abatement Order

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

TENTH JUDICIAL DISTRICT

Case Type: Other Civil

In the Matter of the Hazardous
Building Located at 8004 50th Street N,
Lake Elmo, Minnesota

**ORDER FOR ABATEMENT OF
A HAZARDOUS BUILDING**

TO: All owners, occupants, and all lienholders of record.

The City Council of the City of Lake Elmo orders that within 20 days of service of this Order that you abate the hazardous conditions which exist on the property located at: 8004 50th Street North, in the City of Lake Elmo, which property is legally described as:

Lots Thirty-eight (38), Thirty-nine (39), Forty (40), Forty-one (41), Forty-two (42), Fifty-seven (57), Fifty-eight (58), Fifty-nine (59), Sixty (60), and Sixty-one (61), LANE'S DEMONTREVILLE COUNTRY CLUB, as surveyed and platted and now on file and of record in the office of the Registrar of Titles of Washington County, Minnesota.

The City of Lake Elmo, pursuant to Minnesota Statutes Sections 463.15 to 463.261, finds that the building located at the above-referenced property, specifically the failing foundation, the exposed high voltage electrical wiring, the rotting windows, siding, soffits and fascia, and the broken windows and doors constitutes a hazardous building within the meaning of Minnesota Statutes Section 463.15, subdivision 3.

The City of Lake Elmo, pursuant to Minnesota Statutes Sections 145A.05, subdivision 9, 561.01 and 609.74 and based on the authorization of Section 96.03(B)(10) of the City Code, finds that the property located at the above-referenced address constitutes a "public nuisance"

within the meaning of Minnesota Statutes Section 609.74 and Section 96.03(B)(10) of the City Code.

Pursuant to the above-referenced statutes and ordinance, it is hereby ORDERED that you abate the hazardous property conditions within 20 days of the date of service of this Order by either removing the building or repairing the property by completing the following:

1. Repair the foundation along the west end of the north wall of the house. It has caved in and no longer supports the structure above, posing a significant structural hazard. The foundation blocks that have caved in have created open access to the structure and the foundation area;
2. Secure and repair or replace the front door (it is delaminating and is not weather tight);
3. Repair all siding that has pulled away from the house under the front windows and repair the water damage and remove the mold that is present in these areas;
4. Repair the multiple holes in the siding along the south and west sides of the house and the east side of the garage;
5. Repair the rotting siding panels on the north wall of the house along the west end;
6. Replace the broken window on the east side of the house that has been boarded over;
7. Remove exposed high voltage electrical wiring that is located at the broken exterior light in the gable area of the east side of the house and repair the broken exterior light;
8. Replace the high voltage electrical outlet on the east side of the exterior of the garage with an outlet that is weather protected and GFCI protected;

9. Repair or replace the broken and split overhead garage door;
10. Repair or replace broken and delaminated garage service door that is not weather tight;
11. Replace rotted fascia boards located along the roof line on the south side of the house;
12. Repair or replace the rotted siding and structural members at the rear of the house at the bump out (they are rotted through and the structural integrity of the wall and roof is compromised, causing bowing in the roof and open access inside the house);
13. Repair or replace the rotted soffit and fascia at the rear of the house at the bump out (it is rotted and is falling away from the structure);
14. Repair or replace the west side of the bump out of the house (it is rotted and has separated from the rest of the structure);
15. Remove all mold that is present on the west side of the bump out of the house and the north side of the house on the exterior;
16. Paint the north wall of the house along the west end; and
17. Repair all windows of the house (they are all rotting and not weather tight).

You must apply for and obtain the appropriate permit(s) for the work you intend to perform from the appropriate City offices before abating the hazardous conditions. This Order is not a permit.

You are further advised that unless such corrective action is taken or an Answer is served on the City and filed with the Washington County District Court Administrator within 20 days of

the date of service of this Order upon you, a motion for summary enforcement of this Order will be made to the Washington County District Court.

You are further advised that if you do not comply with this Order and the City is compelled to take any corrective action, all necessary costs incurred by the City in taking the corrective action will be assessed against the property pursuant to Minnesota Statutes Section 463.21. In connection thereto, the City intends to recover all its expenses incurred in carrying out this Order, including specifically but not exclusively, filing fees, service fees, publication fees, attorneys' fees, appraisers' fees, witness fees, including expert witness fees and traveling expenses incurred by the City from the time this Order was originally made pursuant to Minnesota Statutes Section 463.22.

Dated: June __, 2016.

KENNEDY & GRAVEN, CHARTERED

By: _____

Sarah J. Sonsalla (#0313464)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

**ATTORNEYS FOR THE
CITY OF LAKE ELMO**

Hazardous Building Complaint Location 8004 50th Street N













