

CITY OF NORTH SALT LAKE
LAND USE APPEAL AUTHORITY
SEPTEMBER 18, 2019

FINAL

Glenn Bronson called the meeting to order at 5:00 p.m.

STAFF PRESENT: Sherrie Llewelyn, Community Development Director; Glenn Bronson, Appeal Authority/Hearing Officer; Kurt Imig, Code Enforcement Officer.

OTHERS PRESENT: Ashley Dausilio, Dan Dausilio, Charles Swensen, Tracy Archuleta, Elisa Love.

1. CASE N19-01013. ELISA LOVE & CHAD TERRY AT 71 EAST 250 NORTH-
VIOLATION OF CITY CODE SECTION 4-2-2; 10-1-42; AND 10-6-21

Glenn Bronson explained that this was an informal proceeding and that the City had the burden to show a violation. He asked Elisa Love if she had received the notice of violation. Ms. Love replied affirmatively.

Sherrie Llewelyn reported that the property in question was located at 71 East 250 North. She said the first citation occurred April 16, 2019 and was related to tree limbs, trash, and other items littering the property as well as an inoperable and unlicensed motor home and Dodge 4x4 truck that were not stored on a hard surface or behind an enclosure. After the initial notice a dilapidated ATV was added to the lot. The front lot was overgrown with vegetation. A third complaint was received about an individual living in the motor home on the property. During the summer months some progress was made but the property has remained in violation of the following City ordinances: **Title 4-2-2 (E) Cleaning of Real Property and Weed Control.** Real Property to be kept clean and secured. The yard has been allowed to grow uncut, solid waste material is stored on the property. **10-1-42. Maintenance, condition and appearance of properties.** The dwelling exterior has siding missing. **10-6-21. Surfacing.** Vehicles stored on the property must be stored on a hard surface.

Kurt Imig reported that his first observation occurred on December 17, 2018. At that time he observed cut tree limbs stored on the property, other materials stored on the property, an inoperable and unlicensed white motor home and an unlicensed 4x4 Dodge Ram stored on the dirt portion of the property. Mr. Imig completed several additional reports culminating on 9/3/19 including complaints from neighbors with similar observations. These reports also included contacts made with the residents James Peak and Elisa Love and discussion with how to improve the property including proper disposal and the unlicensed vehicles to be parked on a hard surface and stored behind an enclosure. He said the motorhome was removed from the property but the

property was continually used for storage of material. A citation was issued to Elisa Love on September 3, 2019 directing her to appear before the administrative law judge of this court. Elisa Love said that as of now everything was taken care of. She said a new fence had been constructed at the driveway and all the debris had been removed from the property. Ms. Love said the ATV and the motorhome had been removed from the site. She also said the siding had been replaced and the residence would be painted soon.

Glenn Bronson asked in regards to the uncut weeds and solid waste material stored on the property. Elisa Love replied that these items had been taken care of. She said there were a few waste items remaining behind the fence but these items would be removed. She showed pictures that she had taken today of the property to Mr. Bronson and Mr. Imig. She confirmed that all the vehicles on the property were parked on a hard surface.

Elisa Love said she planned to improve and upkeep the property going forward.

Kurt Imig stated he would like to conduct an onsite investigation and review of the property before the case was closed.

Glenn Bronson made the determination to continue the case at the City's request, to hold the citation and not issue any penalties or fees subject to the verification that the property had been remedied.

2. CASE N19-01854. ASHLEY JEAN DAUSILIO (TENANT) AT 22 SOUTH 300 EAST-VIOLATION

Glenn Bronson asked if Ashley Dausilio was the new property owner and if she had received the notice of violation. Ms. Dausilio replied affirmatively.

Sherrie Llewelyn reported that this property was located at 22 South 300 East and owned by Keith Dausilio who is now deceased. The property has been in violation for some time, even before Mr. Dausilio's death, and his heir, Ashley Dausilio, has since allowed the property to continue to be in violation of the following ordinances: **Title 4-2-2 (E) Cleaning of Real Property and Weed Control**. Real Property to be kept clean and secured. The rear yard has been allowed to grow uncut, solid waste material is stored in the rear yard. **10-1-42. Maintenance, condition and appearance of properties**. The dwelling exterior has garage door parts missing. The rear of the dwelling has been added onto for unknown purposes.

Kurt Imig reported that he had been involved with this property since 2014. Most recently on June 4, 2019 when material stored on the property which was destined for disposal was not removed due to continued investigation he was permitted access to the neighbor's rear yard to view the property in question. The material appeared to be still on the Dausilio property, with some potentially dating back to 2014. He clarified that this case had been before the appeal

authority and an abatement order was issued. Mr. Dausilio passed away and the case was then held until Mr. Imig could work with his daughter, Ashley. No abatement has occurred on the property. The citation was posted on the door and mailed via US mail to Ashley Dausilio to appear today to address the code violations. He has not inspected the property recently and would do so with Ms. Dausilio's permission.

Ashley Dausilio stated that she had been working on the issues since her father's death and had removed many of the weeds and debris. She said she has also fixed the garage door. She will continue to remove the debris and try to recruit volunteers to help.

Glenn Bronson asked about the weeds and additional debris/solid waste that still needed to be removed in the rear yard. He also asked about the broken garage door and the addition to the residence. Ms. Dausilio confirmed there was additional waste to remove, the weeds had been cut, and the garage door had been repaired.

Sherrie Llewelyn presented an image of the addition and said she believed the issue is that it may require a building permit. She said if the City was permitted on the property that the building inspector could make this determination.

Dan Dausilio previously stated that he was Ashley Dausilio's uncle. He clarified that the purported addition was that way when the home was purchased by Keith Dausilio. Sherrie Llewelyn replied that regardless of how the home was when it was purchased that the City and building inspector was responsible to ensure that it was safe for occupancy.

Dan Dausilio also clarified that the City was welcome to view the property but that Ashley would prefer that this occurred when either he or her grandmother were present.

Glenn Bronson asked if there would be anything that would prohibit the Dausilios from bringing the property into compliance. Dan Dausilio replied that Ashley was sorting through the items and removing them. They invited the City to view the property.

Kurt Imig said that he had photos from 2014, which showed that the structure was added. He requested that the property owner grant him access to the property along with the building inspector.

Kurt Imig asked the Dausilios if the water and electricity were on and that they email him a date and time when he could come for the inspection.

Sherrie Llewelyn suggested that the inspection occur soon so Mr. Imig and the building inspector could identify any issues. She asked that the court give an extension to complete those items before a new hearing date was set. Kurt Imig felt this was acceptable and that an inspection this coming week would be appropriate.

Glenn Bronson asked if a notice of violation was issued. Kurt Imig confirmed this was correct. He said he was previously denied access to the property by Ms. Dausilio.

Glenn Bronson stated while he would like to issue a fine and condition the payment of that fine upon compliance that he was unsure he could do so without a notice of violation and a ten day period of notice.

Glenn Bronson made the determination that an inspection occur within the next five business days and if the inspection was not allowed by the Dausilios or if there were ongoing violations with no agreement for remedy that the hearing would be continued at the request of the City. If a hearing was necessary then a determination would be made whether a penalty would be issued.

The City and the applicant were in agreement with this determination.

3. CASE N19-01927. PAUL A ALLEGREZZA & NORMA I ALLEGREZZA AT 601 EAST OAK VIEW COURT

Sherrie Llewelyn reported on the property owned by Paul and Norma Allegrezza at 601 East Oak View Court. She stated the property, which is a vacant lot, was cited on July 8, 2019 due to weeds greater than six inches in height. Mr. Alegrezza attempted to remove some of the weeds after the notice of this hearing was received on September 9, 2019 but the property remains in violations. Mr. Alegrezza stated that he could not attend the hearing on the scheduled date and was told that the date could not be changed without a written request submitted to the hearing officer. No written request was received. The property is in violation of the following ordinance **Title 4-2-2 (E) Cleaning of Real Property and Weed Control**. Real property to be kept clean and secured. The lot has been allowed to grow uncut. Photographs of the property were shown to those present.

Kurt Imig reported that he was familiar with the property dating back to 2014. He said the Allegrezzas purchased the property and have received a notice each year to cut the weeds. The most recent notice was July 8, 2019 when the property was still in violation. A notice was sent to the property owner dated July 15, 2019. As Mr. Allegrezza is a truck driver his son in law was sent to cleanup the property; however, the property was not brought into compliance and a citation was issued September 3, 2019 by US Mail. When Mr. Imig met with Mr. Allegrezza on September 9, 2019 a portion of the weeds trimmed down with a promise that the remainder of the property would be cut. As of his visit after September 9, 2019 the remaining portion of the property had not been completed.

Charles Swensen spoke on behalf of Paul Allegrezza and said he was primarily responsible for this property. He confirmed he was on the title as well. Mr. Swensen said the majority of the property was not visible from the road nor did it have very much frontage. He said the area

which had a need for cutting was on Oak View Court which he generally maintained himself. Mr. Swensen said he received the notice dated July 15th was received July 24th and he remedied the issue on July 25th. He also explained that there was an area of concern that was not maintained but was not part of their property.

Glenn Bronson asked Mr. Swensen how long he had been an owner of the property. He said that there had been four years of citations. Mr. Swensen replied they closed on the property in July of 2017.

Glenn Bronson asked Mr. Swensen if he felt the property was in compliance today. Mr. Swensen replied in affirmative.

Kurt Imig said that in regards to the property lines there needed to be a fire break between the property in question and the neighboring property. He said this was confirmed with Mr. Allegrezza. Mr. Imig said he would like to re-inspect the property with an inspection of the frontage and the fire break area and if the problems had been mitigated the City would rest at that time.

Glenn Bronson made the determination that as a notice of violation was issued he would issue a fine and abate the fine upon inspection and verification that the property owner was in compliance. He said the citation would be \$100 per day until the property was in compliance.

Charles Swensen said there was a disagreement as he believed he was in compliance as of July 27th. He felt the confusion was based on where the property boundaries were located. Mr. Swensen confirmed that it would not be a problem to ensure the property was in compliance within the week.

Kurt Imig said he inspected the property on July 8, 2019 and that the weeds grew from July 8th to the re-inspection on September 7, 2019.

Glenn Bronson said that if the City wanted to reconvene in another hearing that this could be requested if the property owners were not found to be in compliance.

4. CASE N19-02309. ROBERT TERRY COX & MITZI L COX AT 157 SOUTH 350 EAST (10-6-6) RECREATION VEHICLE PARKING

Sherrie Llewelyn reported that the individuals named in this case were not present. She asked Glenn Bronson if he wanted to act on the case. Glenn Bronson replied that it would be a default.

Sherrie Llewelyn reported that the property located at 157 South 359 East was cited on August 20, 2019. The property is a vacant lot that was part of the Springhill Landslide complex. The

home on the property was demolished by HUD in October of 2007. A complaint was filed that the owner of the property had rented the property for the storage of recreational vehicles and trailers. The property is in violation of City ordinance **10-6-6 Recreational Vehicle Parking**. Recreational vehicle parking is permitted as an accessory use, as the property has no primary use it is not permitted as an accessory use. Furthermore the property is zoned R1-10 (residential) and is not approved for commercial use for the storage rentals. Storage facilities are only approved as conditional uses in the MD and MG zones (industrial). The City is asking for an order of abatement to remove the vehicles and imposing a fine beginning September 1, 2019.

Glenn Bronson said that the copy of the notice of code violation he had was not signed. He asked if they were typically signed. Kurt Imig said that generally they were signed but he did not in this instance.

Glenn Bronson said that he felt these notices must be signed per code. He asked for actual evidence of service of the notice of violation, the citation, and notice of the hearing. He said if there was no evidence of the notice of violation he could not assess a civil penalty.

Kurt Imig and Sherrie Llewelyn said that they would send a certified copy through the mail and allow for an additional 10 days.

Kurt Imig withdrew the case at this time until a proper signed notice was served. Glenn Bronson explained that there were various ways for service of the notice if there was not a current address for the owners such as a posting on the property.

Kurt Imig said he would make arrangement to have the notice properly served. The City withdrew the case at this time.

Glenn Bronson closed the case.

5. CASE N19-01853. PING MEN (REQUEST FOR EXTENSION) 502 SOUTH CYNTHIA WAY

Sherrie Llewelyn clarified that they had requested a written continuance to the next meeting as they were out of the Country. They confirmed they would be in attendance at the October meeting.

Glenn Bronson opened the case and granted a continuance. He asked that the City reschedule the hearing.

6. CASE N19-01042. TRACY LYNN ARCHULETA (REQUEST FOR EXTENSION) 134 EAST 175 NORTH (ABANDONED VEHICLE AND THE GOAT)

Tracy Archuleta commented that she had asked for an extension but did not receive notice. Sherrie Llewelyn clarified that an extension could only be granted by the appeal authority judge.

Sherrie Llewelyn reported that the property was located at 134 East 175 North with a citation on May 6, 2019. The City received a complaint that the property owner was permitting a goat to reside on the property which was zoned R1-10. Domestic animals are only allowed on residential lots which contain enough acreage and animal points for the required animals. The property in question is 0.2 acres with 45 animal points. Goats are 50 points and thus the property is not sized appropriately for the keeping of a goat. The goat has caused disturbances in the neighborhood due to the neighboring dogs barking at the goat and which subsequently resulted in that property owner being cited by animal control. The property remains in violation of the following City ordinance **10-10-6 Domestic Farm Animals**. A minimum of 50 animal points is required for a goat, the property only has 45 animal points.

Kurt Imig reported that the first complaint he received on the property was on March 5, 2019. His attempts to work with the property owner continued through May 16, 2019. There were also an issue with regards to a car parked on the driveway under a tarp in violation of the abandoned vehicle clause and an unlicensed pickup truck. He said that the vehicles were remedied as far as his understanding. Tracy Archuleta requested to meet with the City Council and information was forwarded to the Planning Department to arrange for her to petition the Council. This petition did not occur and a citation was issued due to the continuing complaints. The citation was issued September 9, 2019 via US Mail and posted on the property. Ms. Archuleta responded via email and phone calls with the desire to have the Council review the issue. He said as the issue started in March it should be addressed at this hearing.

Tracy Archuleta said she did receive the citation and did speak with Kurt Imig about the goat. She said as her goat was a Nigerian dwarf goat that it did not meet the definition in the code for a sheep, goat and llama due to the diminutive size. She said she was surprised her neighbors had been cited for barking dogs. Ms. Archuleta said she would like to get an exception for the goat from the City Council. She explained that she traveled a lot for work and her intent was to attend a City Council meeting but had been unable due to her schedule.

Glenn Bronson said that he could not change the City code and would only be able to address the citation for violation of the code. He said the notice of violation was mailed May 6, 2019. He said that as she still had the goat she was in violation unless the code was changed or the City provided a variance for her. Mr. Bronson said that the City had asked for civil penalties to motivate her into compliance. Ms. Archuleta asked for a clear process to ask request either a code change or a variance.

Sherrie Llewelyn said that Ms. Archuleta must come to a City Council meeting and ask the Council, during the citizen comment portion of the meeting, and ask them to amend the code and initiate a code change. The second method would be for Ms. Archuleta to apply for a code amendment and make the case that the code should be changed. Either of these methods did not guarantee that the Planning Commission and City Council would vote to amend that code. She said that there have been six months since the initial violation so Ms. Archuleta may consider sending a representative if she could not attend the City Council meeting.

Glenn Bronson said that at this point he did not have much choice as she had received a notice of violation in May and the code required a \$100 fine per day after ten days of receiving the violation. He said that was a substantial fine at this point and he had no choice but to issue a monetary penalty for the lack of compliance. Tracy Archuleta said that she had tried to comply but asked for a continuance due to new information. She asked for the opportunity to present her case at a City Council meeting in October to ask for a variance or for the code to be changed.

Sherrie Llewelyn clarified that there was not a variance but just the potential for the City Council and Planning Commission to vote on a code change that would allow for the goat on her property.

Glenn Bronson said that Tracy Archuleta could present to the City Council and obtain a result but that this would not apply to the hearing today. He said she had a citation and lack of compliance and asked if anything precluded her from removing the goat from the property. Tracy Archuleta said that she did not have a place to keep him and wanted the opportunity to present her case to the Council.

Glenn Bronson said that she could take her case to the City Council but she must comply with the code as it required removal of the animal. Tracy Archuleta said nothing would preclude her from removing the goat. She requested that the monetary penalty be removed at this time and that she be provided another opportunity to find a resolution due to her work schedule. Ms. Archuleta said she was told she could keep the goat on the property until she was able to address the City Council.

Kurt Imig said that when Ms. Archuleta requested to approach the City Council that he told her he would hold off on the citation and further action for 30 days from May 16, 2019. Tracy Archuleta said that she thought it was ok to keep the goat on the property as she was moving forward and planning to meet with the City Council.

Tracy Archuleta said the 30 day deadline was to speak with Sherrie Llewelyn on going before the City Council. She said her understanding was that she would be allowed to keep the goat on the property as long as she was making an effort and the City Council meeting took place.

Glenn Bronson determined that under the City Code the administrative law judge shall issue an administrative code enforcement order that affirms, modifies or rejects the notice or citation. He said he did not find anything to reject or modify the citation as he felt the citation was in order and affirmed it. Mr. Bronson continued to read the code, which said the administrative law judge may increase or decrease the total amount of civil penalties and costs pursuant to the City's fee schedule and the procedures of this title. The fee schedule would require \$100 a day ten days after the notice. He said the City offered a 30 day window which he would honor. This meant the penalties would be assessed from 6/16/19 on. The code also provided the administrative law judge with the authority to increase or decrease the civil penalties and costs due. Mr. Bronson said that it was difficult to access a substantial fine for having a goat. He explained that the fine would exceed \$9,000 but that City code capped the penalty at \$5,000. He said he had a hard time issuing a penalty that high; however, he felt it was important Ms. Archuleta complied with the code so he would issue a minimal civil penalty for 15 days of violation at \$1,500 and require the goat be removed from the property. He said if she complied that penalty would be waived if she became compliant with the code by removing the goat within 7 business days and having a re-inspection to confirm compliance. If Ms. Archuleta did not comply he would order that a \$100 a day civil penalty continue from the date of noncompliance to compliance.

Glenn Bronson asked if Tracy Archuleta understood the ruling. Tracy Archuleta replied in affirmative and asked in the event that the code was changed she could bring the goat back on her property.

Glenn Bronson said as long as she was not in violation of the code she would not face the \$100 penalty for having the goat on her property.

Tracy Archuleta asked in regards to the neighbor's complaints about the goat and if there was a violation of privacy due to the photographs that the neighbors had taken. Glenn Bronson said that he could not advise her one way or another. He advised her to obtain her own legal counsel.

7. DISCUSSION OF PROCEDURAL MATTERS FOR CODE ENFORCEMENT HEARINGS

8. ADJOURN

Glenn Bronson adjourned the meeting at 6:30 p.m.

Approved as directed and reviewed by Administrative Law Judge, Glenn Bronson.

Minutes Secretary



Recorder