

CITY OF NORTH SALT LAKE
LAND USE APPEAL AUTHORITY
NOVEMBER 20, 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: Nate Bramhall, Ping Men, Elisa Love, Tracy Archuleta, Sherrelyn Larsen, residents; Richard Lane Jenson, Cannon Law Group.

1. CASE N19-01042. TRACY LYNN ARCHULETA AT 134 EAST 175 NORTH-VIOLATION OF CITY CODE SECTION 10-10-6 (NOTICE TO SHOW CAUSE, REQUEST FOR ABATEMENT)

Sherrie Llewelyn reported that this matter was presented at the September 18, 2019 hearing. At that hearing, Ms. Archuleta was found to be in violation of City ordinance 10-10-6 harboring an unlawful goat on her property. As a result of that violation Glenn Bronson ordered that the goat be removed from the property within seven (7) days of the decision and hearing that was held on September 18th with a deadline for an inspection verifying the removal of the goat prior to September 26, 2019. A penalty was also assessed for fifteen (15) days violation at \$100 per day for a total of \$1,500 to be waived if compliance was obtained on or before September 26th and verified by the City's code enforcement officer.

The City's code enforcement officer, Kurt Imig, inspected the exterior of the property on September 30th and found no goat in the yard at that time. He did not inspect the interior of the home at that time. On October 5th Mr. Imig received photographs and video evidence of the goat on Ms. Archuleta's property from the adjacent neighbor, Sherrelyn Larsen. A notice to Appear and Show Cause was served to the defendant on October 17, 2019 in person and via US Mail by Kurt Imig requesting her appearance at the November 20th hearing.

Tracy Archuleta has submitted an application requesting a code amendment; however, the City Council advised her that they could not stay the order of the appeal authority and she could not keep the goat on the property until/unless the code was amended to allow her to do so. As the property remains in violation of City ordinances, the City requests an order that the goat be surrendered to Davis County Animal Control and Ms. Archuleta be fined \$1,000.

Glenn Bronson asked Ms. Archuleta if she understood the charges and the explanation given by City staff. Ms. Archuleta responded affirmatively.

Kurt Imig reported on the events since the last hearing. He stated that he inspected the property by appointment on September 30th. He said Ms. Archuleta was not present but her boyfriend permitted Mr. Imig to enter the rear of the property and inspect the area for the goat. As he did not see the goat on the property at that time he submitted for closure of the case as it appeared the property was in compliance.

Mr. Imig said he later received a telephone call from a neighbor indicating the goat was on the property. The adjacent neighbor stated that she was on her roof cleaning her rain gutters and discovered the goat on the adjoining property. She recorded video of the goat on the property with her cell phone. A copy of that video was sent to Mr. Imig and saved in the case files. Kurt Imig then stated that he prepared an order to show cause and served it on Tracy's daughter at Ms. Archuleta's residence in North Salt Lake on October 17th.

Richard Lane Jenson stated that he was representing Ms. Tracy Archuleta.

Glenn Bronson asked Lane Jenson if he was familiar with the citation that was issued to Ms. Archuleta. Mr. Jenson replied that he had reviewed the citation and said his firm was trying to obtain a legal variance or other means of bringing the goat back on the property.

Lane Jenson commented that Ms. Archuleta received the citation and removed the goat from the property on September 25th. He said that the goat has been staying on the property of Ms. Archuleta's cousin, Cliff Archuleta. Mr. Jenson then said the goat did come back to Ms. Archuleta's property for a brief visit but that she was not harboring the goat. He felt that Ms. Archuleta did not break the ruling as the animal was only visiting and did not stay. Mr. Jenson stated that they were hoping to obtain a variance and asked if Mr. Bronson wanted to see the goat.

Glenn Bronson replied that he did not want to see the goat but had viewed it on the aforementioned video. He asked if Ms. Archuleta contested the date of the video showing the goat on her property.

Tracy Archuleta commented that the time stamp on the video was for October 5th at 10:01 a.m. and that she was not home at that time due to circumstances with her job. She explained that she brought the goat back to her home for a visit that day around 2:30 p.m. Ms. Archuleta felt that the time stamp on the video was not correct.

Glenn Bronson asked Ms. Archuleta if she agreed with what her lawyer, Mr. Jenson, had stated and if she conceded that the goat had been back on the property after the order to remove the goat had been issued. Tracy Archuleta replied that she did have the goat back on the property for a visit, and stated she was unaware that a visit of less than 24 hours was against the order.

Lane Jenson clarified that Cliff Archuleta could testify that the goat had been living on his property since September 25th. He also explained that when Ms. Archuleta originally viewed the City code on her cell phone that it appeared she had enough points to have a goat on her property and was in compliance with the code. He stated he had screenshots of how the code appeared on her cell phone. Mr. Jenson said that the Archuleta's loved the goat and did not feel a visit was against the ruling. He said the City code has an exception for pot belly pigs and felt the pygmy goat should have a similar carve out.

Lane Jenson then spoke on the fine and said that while he was providing the majority of his assistance pro bono that Ms. Archuleta would still need to come up with attorney fees, etc. Glenn Bronson replied that the screenshots Mr. Jenson had could be entered into evidence as an exhibit; however, he said they were not relevant as there was a history of notice and a prior order of understanding.

Three exhibits were added including a) screenshot of how the code appeared on Ms. Archuleta's cell phone, b) copy of the ordinance as found on the City's website, and c) a picture of the pygmy goat in question and Ms. Archuleta's granddaughter.

Lane Jenson spoke on the video submitted by Ms. Archuleta's neighbor and said that the footage was not from a cell phone, as she claimed, but from surveillance cameras mounted on the side of her home. He believed this was a violation of the privacy rights in Utah and said he would also submit this code into evidence. Mr. Jenson explained that he believed this evidence was obtained illegally. He asked that the images be included as exhibits as well.

Glenn Bronson marked the surveillance images as exhibit e.

Tracy Archuleta said that in regards to mitigating factors that she had a conversation with Kurt Imig about how the City code presented on a cellular phone and on a website.

Glenn Bronson asked Ms. Archuleta if she was disputing that the presented video was of her goat. Tracy Archuleta replied that she did not dispute it was a video of her goat; however, she said the time stamp on the video was incorrect.

Sherrie Llewelyn stated that the neighbor who recorded the video was present and willing to testify to the time and circumstances of the video.

Lane Jenson objected that the City rested their case and he rested his case and everything should have been in front of them from the beginning.

Sherrie Llewelyn invited Ms. Larsen to testify.

Sherrelyn Larsen confirmed that she was an adjacent landowner to Ms. Archuleta and that the previously presented video of the goat was taken from her rooftop with her cell phone. She explained that the video had a time and date stamp for October 5th. Ms. Larsen said she originally heard the goat in March and had been in contact with the City several times as her dog reacts to the goat. She said her main concern was to avoid complaints against her dog.

Lane Jenson said that he wanted it on the record that Ms. Larsen stated that she heard the goat making sounds but had previously stated she had hearing loss.

Glenn Bronson stated that he had previously ruled for a civility penalty of \$1,500, which would have been waived upon compliance of the order to remove the goat. He said the City inspected the property and found there was no goat at the time of inspection but new evidence shows that the goat was returned for some period of time.

Glenn Bronson determined that Tracy Archuleta was in violation of the order and the only reasonable interpretation was to permanently remove the goat from the property. He stated he had reviewed the ordinance and felt that the maximum fine he could assess was \$1,000. He ruled that Ms. Archuleta had previously been in violation of the order and ordered again that she permanently remove from, and keep, the goat off her property and imposed a civil penalty of \$1,000. He said given the amount of time it has taken the imposition of the penalty would motivate Ms. Archuleta to keep the goat off her property.

2. 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 (REQUEST TO AMEND ORDER DATED OCTOBER 23, 2019)

Sherrie Llewelyn reported that at the last hearing on October 16th Ms. Love was unable to attend. Testimony was received that the property was still in violation of the ordinance for the upkeep of the yard and storage of junk on the property. At that time, Mr. Bronson issued an order fining Ms. Love \$1,000 with the ability for the fine to be waived if the issues were resolved prior to today's date of November 20th, 2019 and the property was cleaned up. Due to a miscommunication between Ms. Llewelyn and Kurt Imig the order was not delivered to Ms. Love until November 18th. The City requested that the order be amended to give Ms. Love an additional month, until the next hearing on December 18th, to remedy the property and if it was found in compliance the fine would be waived.

Glenn Bronson asked Elisa Love if she understood what the City was requesting and if she was in accord with an additional 30 days.

Glenn Bronson determined that this item would be continued for 30 days with the order to stand amended that if Elisa Love complied before the December 18th hearing than the penalty would be waived and if not the penalty would be enforced.

3. CASE N19-01854. ASHLEY JEAN DAUSILIO (TENANT) AT 22 SOUTH 300 EAST-VIOLATION OF CITY CODE SECTION 4-2-2; 10-1-42 (NOTICE TO SHOW CAUSE, REQUEST FOR ABATEMENT)

Sherrie Llewelyn reported that at the last hearing on October 16th the property was found to be in violation and Ashley Dausilio was ordered to meet with Kurt Imig weekly to abate the violation at his direction. She explained that Ms. Dausilio had not kept her appointments with Kurt Imig as scheduled and discussed. Some cleanup had occurred but the property remained in violation. As the written notice of the order was not received by Ms. Dausilio until November 18th the City would be willing to give her for an additional 30 days.

Glenn Bronson clarified that Ashley Dausilio had an additional 30 days to remedy the property. If the code enforcement officer inspected and found that the property had been remedied the fine would be waived. He asked Ms. Dausilio if she understood that the item would be continued until the next hearing on December 18th.

Kurt Imig stated that regular weekly visits were scheduled for Thursday afternoon that had not been maintained. He asked that the court entertain that Ms. Dausilio keep those appointments.

Ashley Dausilio explained that there was a dumpster on the property and the power was restored.

Glenn Bronson determined that while he could not order Ms. Dausilio to meet with the City he would continue the hearing and give her the opportunity to bring the property into compliance. If she did not bring the property into compliance by December 18th a fine would be assessed.

4. CASE N19-01853. PING MEN 502 SOUTH CYNTHIA WAY-VIOLATION OF CITY CODE SECTION 4-2-2; 10-1-42 (REQUEST FOR ABATEMENT ORDER)

Sherrie Llewelyn reported that at the previous hearing, Glenn Bronson had determined to give a 30 day extension and asked Ms. Men to bring an estimate for the installation of the landscaping and a plan. She also said that the City was requesting an order to abate the violation for the installation and that Ms. Men be given an appropriate time period to install the landscaping with a date of May 31, 2020. At minimum the installation be a sprinkler system and sod and per code section 12-2-24 that a bond in the amount of an estimate from a licensed contractor be posted in the event that Ms. Men fails to install the landscaping the City would install the sprinkler system and landscaping.

Ping Men said they had difficulty obtaining estimates due to the winter season.

Glenn Bronson asked Ping Men if she understood what the City was asking for. Ping Men said that they were being given until May 2020 to install the landscaping.

Glenn Bronson clarified that the City was asking for an order to give Ping Men until May 31, 2020 to bring the property into compliance with City ordinances. The ordinance would require landscaping with a minimum sod and sprinkling system to maintain the sod. The City also asked that the order require Ms. Men to pay a fine, which could be waived if the landscaping was installed by May 31st. He also said that if the landscaping was not completed by May 31st that Ms. Men would be fined and the City would then be authorized to landscape the property. He said that to motivate Ms. Men that the City had requested a bond. He explained the bond was a deposit of money that the City would hold until the landscaping was finished.

Glenn Bronson asked Ping Men if she understood the requests and if she was willing to post a bond. As English was not Ms. Ping's primary language Mr. Bronson said that he would issue a ruling and give the written ruling to Ms. Men to review in the event that she did not understand the ruling and could seek legal counsel at that time.

Glenn Bronson determined that Ping Men was ordered to pay a civil penalty of \$1,000 which Ms. Men would not be required to pay until May 31, 2020. If the property was brought into compliance prior to May 31st the City would waive the penalty. He also ordered that Ms. Men pay a bond in the amount it would take to install lawn and sprinkling system on her property. As he did not have evidence to address the amount of a bond he would give the City and Ms. Men 60 days, until the January hearing date, to address the amount of the bond.

Glenn Bronson explained that the bond would be determined in 60 days and that Ping Men could provide evidence for the amount that the bond should be and the City would also provide evidence in regards to what the City felt the bond should be. He would then determine the amount of the bond at the hearing in 60 days. If the landscaping was installed by May 31, 2020 the City would not keep the bond and it would be released to Ping Men and the \$1,000 fine would be waived.

5. ADJOURN

Glenn Bronson adjourned the meeting at 5:49 p.m.

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

Minutes Secretary


Recorder