

CITY OF NORTH SALT LAKE
LAND USE APPEAL AUTHORITY HEARING MINUTES
CITY HALL – COUNCIL CHAMBERS
10 EAST CENTER STREET, NORTH SALT LAKE
JULY 20, 2022

FINAL

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

STAFF PRESENT: Sherrie Pace, Community Development Director; Glenn Bronson, Appeal Authority/Hearing Officer; Sandra Halladay, Code Enforcement Specialist; Mackenzie Johnson, Planner.

OTHERS PRESENT: Gilberto Dionne; Helen Prodan, residents.

1. CASE E5046-2021. GILBERTO DIONNE AT 82 SOUTH ANGELA WAY- DETERMINATION REGARDING VIOLATION OF CITY CODE SECTION 10-1-33 FENCING. (REQUEST FOR ABATEMENT ORDER AND CIVIL PENALTY)

Mackenzie Johnson reported that the property located at 82 South Angela Way was owned by Gilberto Dionne. The City cited the property in violation of City code 10-1-33 regarding fencing standards, specifically that no fence shall be constructed of used or discarded materials in disrepair including but not limited to pallets, tree trunks, trash, tires, junk, or similar items. Ms. Johnson explained that the fence in violation of the code was constructed of used pallets and showed an image of said fence. There were also two additional images shown of the fence including one prior to a 2020 windstorm that caused the initial damage and a second picture showing the results of the downed fence. The property owner reconstructed the fence with pallets which were specifically prohibited as a fencing material by City code and was a patchwork type of replacement.

Glenn Bronson asked to see the picture of the current fence. Staff shared the most recent image of the fence which was taken by Sandra Halladay, Code Enforcement Specialist, on November 24, 2021.

Mackenzie Johnson said that on November 24, 2021, City staff was notified by a neighbor of the subject property of the fence in disrepair. Sandra Halladay then conducted a site inspection of Mr. Dionne's property and took a photo of the subject fence, presented as Exhibit 2. On November 29, 2021, a courtesy notice was provided to Mr. Dionne by mail, Exhibit 3. Between November 2021 to December 2021 there was discussion between Mr. Dionne and Ms. Halladay. In December the City agreed to allow an extension for the completion of and fixing of the fence to meet City code requirements with a deadline for completion by June 1, 2022. This extension was granted due to the inclement weather (winter) and shortages in construction materials and

contractors. Mr. Dionne agreed to the extension and proceeded to continue communication with Ms. Halladay. These email conversations were provided in the exhibits presented. On May 24, 2022, an email was sent to Mr. Dionne reminding him of the June 1, 2022 date of compliance and Mr. Dionne replied that he had been unable to obtain a contractor to complete the work. He stated he understood the property was not in compliance. On May 24, 2022, the second notice of violation was mailed to the property owner stating that the property needed to be brought into compliance by June 1, 2022, as the previously agreed upon date.

Sandra Halladay sent an email on May 26, 2022, to Gilberto Dionne giving him an additional extension to have the fence completed by June 15, 2022. On June 21, 2022, the fence was still out of compliance so an administrative citation and notice of hearing was provided to Mr. Dionne by mail as well as a physical posting on the door of the aforementioned property as shown in Exhibit 7. On June 22, 2022, Mr. Dionne emailed Ms. Halladay that he had received the notice of the hearing and that the fence was not yet fixed. He shared that the fence contractor had not given him the project start or completion dates.

The requested relief included administrative code enforcement order per Code section 12-2-24 ordering the abatement of the code violation and imposing a civil fine with the following:

- 1) that prior to August 22, 2022 the property owner shall bring the fence into compliance with City code;
- 2) Upon expiration of the 30 day extension from July 20, 2022 to August 22, 2022 the City of North Salt Lake be authorized to enter the property to abate the remaining violation and assesses the property owner the cost of such abatement, removal, and replacement of the fence;
- 3) The City requests the maximum civil penalty be imposed of \$100 per day after the ten (10) day compliance period for a total fine of \$1,000;
- 4) If the property owner abates the remaining violations prior to August 22, 2022 as verified by the Code Enforcement Specialist, the abatement order shall be void and the civil penalties waived.

Glenn Bronson asked Gilberto Dionne if he understood the violation he had been charged with. Gilberto Dionne replied that he understood the violation. He showed a receipt for payment on half the fence on May 26, 2022 and was still waiting for the contractor to start the job. Mr. Dionne said he had been in contact with the contractor, United Fence Company, who offered to speak with Code Enforcement. He said the contractor was supposed to start work on July 25th and would take at least 3+ days to complete the work. Difficulties with completing the work included a drop off, finding contractors, supply problems, insurance issues, and overpriced costs.

Glenn Bronson clarified that Mr. Dionne did not take any exception that the fence was not in compliance with the code and did not have adequate time to repair the fence. Gilberto Dionne replied affirmatively.

Glenn Bronson said he read all the submitted materials and spoke on how Gilberto Dionne was at the mercy of the contractor; however, the fence was in violation of the statute, which was not disputed by the property owner.

Glenn Bronson determined to award the remedies the City had asked for specifically an order that the fence was in violation of City Code Section 10-1-33 for fence standards. This included an order that prior to August 22, 2022, the fence be brought into compliance with code. This meant Gilberto Dionne had 30 days to have the work completed. A civil penalty would be assessed of \$100 per day. The second notice of violation dated May 24, 2022, stated that Mr. Dionne had to bring the property into compliance by June 1, 2022, which was extended to June 15, 2022. He explained that from June 15, 2022 to July 20, 2022 had been more than the ten (10) day compliance period and that City code provided for \$100 per day but he would not be assessing the \$100 per day for that time. Mr. Bronson would assess a 5 day penalty at \$100 per day for \$500 total that could be waived if the property was brought into compliance by August 22, 2022. If the property was not brought into compliance by August 22, 2022 it would remain in violation and the penalty could not be waived at that time. The City could then ask for additional penalties. He explained that the \$100 per day would be to motivate the contractor.

Glenn Bronson asked about the potential abatement order. Mackenzie Johnson replied that this request was just in the staff memo.

Glenn Bronson said that as the abatement order was not found in the notice of hearing, draft order, or administrative citation and that he would not order the City to abate the issue at this time.

Sherrie Pace commented that it would be difficult for the City to replace the fence as they may have the same issues as Gilberto Dionne in finding a contractor. Glenn Bronson said that as there was a fine and the ability to waive the fine, the violation would remain in place which would allow the City to return and ask for abatement. He explained that the City could then assess the cost of the repair to the property owner.

Mackenzie Johnson asked for clarification on the fee per day. Glenn Bronson clarified that it was \$100 per day or \$500 total assessment which was waivable if Gilberto Dionne brought the fence into compliance by August 22, 2022.

Glenn Bronson stated that the burden was on Gilberto Dionne to repair the fence and inform the City that the repair was made.

2. ADJOURN

Glenn Bronson adjourned the meeting at 5:21 p.m.

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



Wendy Page, City Recorder