

**HOUSING CODE BOARD OF APPEALS MEETING
MEETING MINUTES
February 16, 2016**

The Housing Code Board of Appeals held a meeting on Tuesday, February 16, 2016.

I. Call to Order

Acting Chairman Baldwin called the meeting to order at 7:00 p.m.

II. Roll Call

Commissioners present: Joel Baldwin, James McMellon, and Richard Merly, Jr.

Staff present: Deepa Joseph, Director of Health; Laura Miller, RS, Environmental Health Officer; and Tara Mustakos-Wassmer, RS, CHES

Others present: Anselmo DeLia, Attorney for the Appellant; Nicholas Riggione, Appellant

III. Election of Officers. Acting Chairman Baldwin called for the nomination of Chairman. Mr. McMellon nominated Noe Andy Charland, seconded by Mr. Merly. Acting Chairman Baldwin called for a vote as to the election of Chairman. All were in favor.

Acting Chairman Charland then called for the nomination of Vice Chairman. Mr. McMellon nominated Joe Baldwin, seconded by Mr. Merly. Acting Chairman Charland called for a vote as to the election of Vice Chairman. All were in favor.

IV. Appeal of Nicholas Riggione, regarding a Notice of Violation issued by the City of Milford Health Department on November 24, 2015 for the premises at 417 Gulf Street, Milford, Connecticut. Several housing code violations are noted: Non-active construction site, vacant dwelling in a state of disrepair as evidenced by multiple boarded up/missing windows and doors, a tarpaulin covering a portion of the roof, missing exterior siding, exposed floor joists on the front porch, an open foundation and kitchen equipment stored on the property.

Acting Chairman Baldwin commented that the Board had received information containing various notices of violation concerning this address.

Deepa Joseph, Director of Health, stated prior meetings had been cancelled. There is also a pending appeal to the Department of Public Health and the appeal to this Board is being heard first. Mrs. Joseph explained this has been ongoing since 2010 and the Health Department has been working with Mr. Riggione since 2010. The present Notice of Violation (NOV) is dated November 24, 2015. After providing Mr. Riggione with many prior warnings it became necessary to issue the NOV. Mrs. Joseph passed out a package of information with a timeline and photos showing the condition from 2010 to present. She explained the photos show continued deterioration to the exterior of the property.

Tara Mustakos-Wassmer, RS, CHES, Milford Health Department, reviewed the timeline and photos. Mrs. Mustakos-Wassmer explained that she has been working with Mr. Riggione since 2010. In 2010, the exterior and siding, paint was not holding up. Since that time the property has continued to deteriorate. In 2015, more plywood was placed on the windows, porches were propped up, inorganic material –

restaurant equipment – was in the backyard. She explained that the Health Department is striving for continued maintenance on the property. She admits there has been work done on the property, however, it is mostly all interior. Blight is exterior. Windows and siding need to be installed. Having the blight abated is the goal.

Anselmo DeLia, Attorney for Nicholas Riggione, New Haven, explained the issue is whether or not blight exists. Attorney DeLia reviewed the definition of blight and shared photos showing the condition. He stated that if this is considered blight then this is selective enforcement and would give rise to a serious action. He explained this is an active construction site with boarded up windows. All steps that have been taken have been done under active building permits. The property is far from being abandoned and to date Mr. Riggione has expended \$250,000 renovating the property. Attorney DeLia further explained that blight requires a state of disrepair and becoming dilapidated. The property is improving. This is a historic building to be proud of once it is completed. All utility services to the property are current. He reiterated this is selective enforcement and a problem exists when not applied to all. Attorney Delia stated there were witnesses, some historical preservationists, present to testify on behalf of Mr. Riggione. The windows have to be custom ordered and in sequence to the construction. Weather affects progress. Mr. Riggione's master carpenter passed away unexpectedly. To hold Mr. Riggione accountable for a construction site that is active and under permits is unfair. Attorney DeLia explained the Board may not like the speed in which the work is being completed but the Board is not here to determine that.

Acting Chairman Baldwin inquired as to when the building permits will run out.

Attorney DeLia explained that building permits do not run out.

Acting Chairman Baldwin asked how many years to complete the project.

Attorney Delia explained it would not be cost effective for the project to go beyond this year. Mr. Riggione wants this project to end as it is costing him money.

Nicholas Riggione, Milford, CT explained this order has him very upset. He put his heart and soul into this project. He asked the preservationists to come tonight because they understand. When he acquired the house there were title problems he had to unravel. He subdivided the property into 3 lots which took him 4 years to complete. Mr. Riggione reviewed the various businesses he has owned in Milford and Florida. He explained his original plan was to demo the building. His architects said the building was in terrible condition and could not be saved. He stripped the interior and found the structure to be good and decided to save the house. He left the exterior siding as a raincoat to protect the frame and interior wood. Mr. Riggione presented a book showing invoices and permits for all the work on the property. Mr. Riggione explained there has been a lot of work both interior and exterior. He discussed the work that has been done on the building and the work still to be completed. He explained that he is continually working on the building and has permits from the Building Department for the boarded up windows. He explained that because of the historical nature of the building it takes time to renovate and do it right.

Attorney DeLia stated the witnesses present would like to be heard and asked that they be brief in their statements.

Anthony Giannattasio, Alderman, explained the ordinance came from his committee and the intent was blight through neglect. He does think that is what this is. It must be done systematically and the intentions are good. When the Health Department receives a complaint they must investigate. Mr. Giannattasio does not think this is blight and should not be enforced. He stated Mr. Riggione has responded to housekeeping and cleanliness issues. He has valid, open permits.

Mr. McMellon stated a permit is only good for one year.

Mr. Giannattasio stated the permit continues to be valid so long as you prove you continue to work on the property. This is not just a remodel, it is the reconstruction of a historic building which take much more time.

Mr. Riggione reviewed the various permits and inspections he has with the last inspection being January 22nd on the foundation wall.

Attorney DeLia stated that when citing blight there must be a state of disrepair and dilapidated. This is not dilapidated it is improving. Mr. Riggione sold an adjacent property, the neighbor constructed a home and Mr. Riggione complained about the lot coverage. There is civil litigation pending. This is not blight when the definition is applied.

Mr. Riggione explained the neighbor called various agencies to file complaints about his property. All agencies found no issues. The neighbor is suing him over a tree limb blocking his view.

Acting Chairman Baldwin stated the Health Department must respond to all complaints.

Raymond Oliver, 404 Gulf Street, stated he is an architect, but not involved in this project professionally. He is a neighbor. He would have agreed for many years that this property needed attention. Over the last 6-8 months he has seen significant progress. Boarded up windows are common on construction sites. Mr. Oliver explained he believes the property is in decent shape, the front porch could use some immediate attention. Mr. Riggione has valid permits and he would consider this an active construction site, not blight.

Tim Chaucer, Milford Preservation Trust, stated he met with Nick when he was considering demolition. He asked Mr. Riggione to consider saving the building. He was inside the building a month ago and saw lots of progress and it does take time to restore.

Richard Platt, Milford, the house is on Milford's historic inventory list. Several years ago he through something needed to be done. Mr. Riggione is now doing it. The Health Department pictures are all exterior, some have peeling paint, that is not beyond repair. Inside is in good shape and that's what needs to be looked at. He is delighted Mr. Riggione is restoring the building.

John Amenta, 30 Parkland Place, Contractor, he has helped Nick since 2014. They are taking 1 part at a time. Mr. Riggione is very particular about how this is being done. He takes the time to look at books, catalogs. There isn't a day that they haven't discussed the project or worked on the building. The place is immaculate, completely clean. This is what it takes to restore such a building.

Attorney DeLia again stated the property has to be deteriorating to be blight. This is not affecting the public health. Should the Board determine there is no blight they must vacate the order and accrual of fines.

Mrs. Joseph stated she agrees with much of what was said. It is the Health Department's job to enforce. When the order was issued on November 24th the property did meet the definition of blight. The Health Department does a comprehensive investigation and actively monitors sites. When issuing an order it must meet one or more condition of the ordinance. When issued this property did. Over the years the Health Department has worked with Mr. Riggione, provided a time with a deadline of October 1st and that was not met. Record shows numbers of calls, visits, meetings, it all goes to investigation leading to November 24th. Agrees it is a wonderful property with potential. Interior is not blight, only exterior.

Acting Chairman Baldwin asked if there has been any progress since November 24th that would change the position of the Health Department.

Mrs. Joseph commented that there has been progress.

Mr. Riggione shared pictures of work since November 24th.

Acting Chairman Baldwin commented the pictures were of the interior.

Mr. Merly asked if the inspection last week shows progress.

Ms. Mustakos-Wassmer commented that the ordinance does not pertain to construction sites. This is about neglect. Since inspection progress has been made.

Mr. Giannattasio asked what Health is doing. If the find this to be blight he will call everyday and make complaints about construction sites all around the City.

Laura Miller, RS, Environmental Health Officer, Health Department, that if a roof is removed and left for 2 years it would be cited.

Mr. Giannattasio stated he will go back to the committee and amend the ordinance. A line needs to be drawn. The reality is to exclude construction sites.

Mrs. Joseph agreed that the Health Department wants to see progress. They have received complaints and must investigate. A timeline is necessary, it cannot be endless. Extensions have been provided since 2010. Most property owners communicate and work with the Health Department. This has been ongoing for six years and there is no communication until the Health Department investigates.

Mr. Riggione stated this is a Building Department issue and he does not see why he must communicate with the Health Department. There is not blight and the complaint needs to be closed. He wants to be apprised of all complaints and will fix within 1 weeks time. When all other agencies come out there is never an issue.

Acting Chairman Baldwin stated the Health Department is responsible for blight, not other agencies.

Attorney DeLia commented that this becomes selective and arbitrary when applied to construction.

Acting Chairman Baldwin stated the ordinance does not address construction.

Jim Barbera, Milford, stated he lives across the street 9 years. He has been in the building industry. A lot of work has gone into the property. There are 2 ways to build, sub out the work or do it on your own. Mr. Riggione is doing this on his own and he is working on weekends and holidays. They have never been friends, just neighbors. He was asked to address the Board. The material was stripped from the inside and this is very time consuming. There are people working on this property on a regular basis.

Mr. McMellon stated violations started before construction. He asked if those violations were going to be addressed. Health has been leaning over backwards to help.

Mr. Merly stated the property looked like a bomb hit it in 2010 and it has improved. There are 2 separate issues. He is not sure if the work has been diligently continuing or there have been long breaks. Health Department wants closure and deadline. He asked for a timeline and stated they are not here to stop Mr. Riggione.

Acting Chairman Baldwin asked for a recommendation.

Ms. Joseph state the Health Department is looking for an end to be in sight. They are only concerned about the exterior. Items cited in the NOV must be addressed.

Mr. Riggione stated he could agree to 18 months, but hopes to have completed before that date.

Acting Chairman Baldwin stated the time limit would have to include steady progress.

Mr. Riggione stated windows could go in within 4 months when weather is warmer. Roof has to be jacked up, footings and foundations. Inside work has to be done. He is committed to satisfying the Health Department.

Mrs. Joseph suggested continuing the hearing to work out a timeline and agreement with Mr. Riggione.

Attorney DeLia objected to drafting an agreement as the ordinance does not provide for timelines. This Board must find whether or not blight exists. Timeline may not be proper.

Mrs. Joseph stated the Health Department needs to see progress. An end needs to be in sight.

Acting Chairman Baldwin suggested tabling for 1 month for attorney to work out a compromise.

Mr. Merly asked if a decision was required tonight.

Attorney DeLia stated fines are accruing.

Acting Chairman Baldwin stated any decision would address the fines.

Attorney DeLia suggested as a compromise and to bypass Department of Public Health a finding of no blight, fines vacated and a timeline imposed.

Acting Chairman Baldwin suggested the order be extended 18 months and no fines will be imposed retroactively.

Mrs. Miller commented that no fines will be imposed until Mr. Riggione doesn't comply.

Mrs. Joseph stated that the draft agreement will be corrected to extend compliance date 18 months and will include no accrual but if no compliance the fines will be retroactive.

Attorney DeLia stated the problem is the appeal with the Department of Public Health. He is leery of waiving ability to appeal.

Mr. Riggione stated 18 months is a good time period. He wants to get this done. He believes it is fair that no fines accrue during that time. He does not want to go before the Department of Public Health.

Mrs. Joseph agreed to extend the compliance date 18 months and not fines will go into effect until that date of compliance.

Mr. Merly made that the Health Department enter into an agreement with Mr. Riggione extending the compliance date 18 month and fees will accrue from that date if not in compliance, seconded by Mr. McMellon. Motion carried unanimously.

V. Adjournment

There being no further business to discuss, Mr. McMellon made a motion to adjourn, seconded by Mr. Merly. Motion carried unanimously. The Committee adjourned at 9:05 p.m.



Respectfully submitted,
Toni Jo Weeks
Acting Board Secretary