

Minutes
City of Roseville Board of Appeals
Hearing Panel for Compliance Order
June 16, 2016 at 9:00 a.m.
City Council Chambers
311 Vernon Street

1) Designation of Chair

Leilani Fratis was randomly selected by the City Attorney's office to serve as Chairperson for the June 16, 2016 Compliance Order Hearing Panel.

2) Call to order

Chairperson Fratis called the meeting to order at 9:00 a.m. in the City Hall Council Chambers.

3) Roll Call

The following Hearing Panel members were present:

Pete Constant
Leilani Fratis
Bruce Hagler

The following Staff members were present:

Michelle Sheidenberger	Assistant City Attorney
Pamela Sisk	Legal Clerk

4) Public Comment

No one from the public offered any public comment.

Chairperson Fratis confirmed her selection as Chairperson, administered the Oath, reviewed the agenda, and the procedures for the compliance order.

5) Compliance Order

Issued to James Kin Sing Watt Trustee for the violation of Roseville Municipal Code section 16.35.110 (13), Substandard Buildings, and for the violation of Roseville Municipal Code section 10.54.020 (A)(2), No substantial work on the project for a period of six (6) months.

a. Staff Report:

Senior Code Enforcement Inspector Paul Camilleri presented his staff report and answered panel questions.

Exhibit A:

Compliance Order Hearing Staff Report containing written testimony of Complaint Description / Background and Recent case background / history and the following attachments:

- Attachment 1 – photograph from the May 29, 2014 incident of the referenced fallen deck structure
- Attachment 2 – three photographs of Unit #355 and #365 taken on July 21, 2015 relating to roof repairs
- Attachment 3 – March 29, 2016 letter from City of Roseville Building Official Scott Byrnes to Laura Roughton, Watt Property Management
- Attachment 4 – first three pages of Compliance Order
- Attachment 5 – page one of June 1, 2016 letter from Watt Property Management, Inc. to Chris Gales, Building Inspector and Joseph Speaker, Deputy City Attorney, City of Roseville
- Attachment 6 – Memorandum dated June 16, 2016 to Hearing Panel from Paul Camilleri, Senior Code Enforcement Inspector
- Attachment 7 – Roseville Municipal Code section 16.35.110(13) Dangerous building and Roseville Municipal Code section 10.54.020 Nuisances

Scott Byrnes, Building Official, was called to the podium to answer panel questions and offered testimony.

Joe Speaker offered testimony and answered panel questions.

Scott Byrnes offered additional testimony and answered panel questions.

Joe Speaker offered additional testimony and answered panel questions.

Jim Mangino offered testimony and answered panel questions.

b. Responsible Party's response:

Ivan Gold, Attorney at Allen Matkins Lek Gamble Mallory & Natsis LLP, offered testimony and answered panel questions.

Merritt Mavy, Engineer at Covenant Engineering, offered testimony and answered panel questions.

Ivan Gold offered additional testimony and answered panel questions.

c. Rebuttal testimony:

Joe Speaker offered rebuttal testimony and answered panel questions.

Scott Byrnes was recalled to the podium to answer panel questions.

Ivan Gold offered rebuttal testimony and answered panel questions.

d. Panel discussion/decision:

Violations

Roseville Municipal Code Section 16.35.110(13)

The panel discussed the evidence and testimony presented before them at the hearing in regards to Roseville Municipal Code section 16.35.110(13).

Motion by Pete Constant, and seconded by Bruce Hagler that a violation of Roseville Municipal Code section 16.35.110(13) did occur at the thirteen (13) buildings as of the date of the Compliance Order and the required corrective action did not take place within the fourteen (14) day required time period in the Compliance Order. This is based on the testimony of the Building Official and Building Inspector, written reports submitted, written statements by the parties in the various letters submitted, and other evidence and witness testimony received at the hearing. The panel reasoned that testimony and admissions by the parties showed that without temporary shoring the thirteen (13) buildings are dangerous and an immediate threat to life/safety. Additionally, the panel reasoned that the City did not receive the requested information in the Compliance Order to know whether the shoring was safe or not before the date of the June 16, 2016 hearing.

AYES: Pete Constant, Leilani Fratis, Bruce Hagler

NOES: none

Roseville Municipal Code Section 10.54.020(A)(2)

The panel discussed the evidence and testimony presented before them at the hearing in regards to Roseville Municipal Code section 10.54.020(A)(2).

Motion by Pete Constant, and seconded by Bruce Hagler that the violation of Roseville Municipal Code section 10.54.020(A)(2) occurred at the thirteen (13) buildings as of the date of the Compliance Order and the required corrective action did not take place within the fourteen (14) day required time period in the Compliance Order. This is based on the testimony of the Building Official and Building Inspector, written reports submitted, written statements by the parties in the various letters submitted, the evidence and testimony of the multiple expired buildings permits, and other evidence and witness testimony received at the hearing. The panel reasoned that the evidence of the multiple expired building permits and long periods of time with no substantial construction met the definition of abandonment under 10.54.020(A)(2). The written reports, testimony, and admissions by the parties showed that the thirteen (13) buildings have sat for approximately two (2) years without substantial work being completed on them.

AYES: Pete Constant, Leilani Fratis, Bruce Hagler

NOES: none

Order to Correct

The panel discussed the evidence and testimony presented at the hearing. Assistant City Attorney Michelle Sheidenberger answered questions from the panel.

Motion by Pete Constant, seconded by Bruce Hagler that the Order to Correct directs James Kin Sing Watt Trustee to:

Provide a single, comprehensive structural engineer's written report summarizing the information in the previous reports and testimony provided at the June 16, 2016 hearing regarding the current condition of the temporary shoring at the thirteen (13) buildings, whether the shoring requires any repairs or remediation, and a timeline for how long the shoring can remain in place. The comprehensive report is to be wet stamped (electronic submission is acceptable) and submitted to the City of Roseville's Building Division for approval within twenty-one (21) days of the June 16, 2016 hearing; and

By October 1, 2017, have a structural engineer re-inspect and evaluate the remaining shoring and provide a written report with an evaluation of the condition of the temporary shoring that remains in place, whether the shoring requires any repairs or remediation, a timeline for completion of any repairs and remediation, and a timeline for how long the shoring can remain in place. This report is to be wet stamped (electronic submission is acceptable) and submitted to the City of Roseville's Building Division by no later than fourteen (14) days from the date of the shoring inspection; and

Have all plans submitted, permits issued, and final permit sign-offs for the remaining thirteen (13) buildings (400, 401, 410 Rocky Pointe and 401, 405, 415, 420, 425, 435, 444, 446, 448 and 450 Forest Knoll) by no later than January 31, 2017; and

Within twenty-one (21) days of the June 16, 2016 Compliance Order hearing, a proposed construction schedule that ensures compliance by January 31, 2017 be submitted for approval to the City of Roseville's Building Division.

Administrative Penalties

In conjunction with the Compliance Order, the following administrative penalties were assessed:

Fifty dollars (\$50) per day, per building for all thirteen (13) buildings, from May 12, 2016 to June 16, 2016 (35 days), totaling twenty-two thousand, seven hundred and fifty dollars (\$22,750.00) due and payable immediately; and

Fifty dollars (\$50) per day, from May 12, 2016 to July 7, 2016 (57 days) held in abeyance, due if the engineer's report is not received by the Building Division in compliance with the order by July 7, 2016 (twenty-one (21) days from the June 16, 2016 hearing); and

Fifty dollars (\$50) per day, per building for all thirteen (13) buildings, from June 17, 2016 to January 31, 2017, held in abeyance until February 1, 2017, payment due in full if plans have not been submitted, permits issued, and final permit sign-offs received for any of the remaining thirteen (13) buildings (400, 401, 410 Rocky Point and 401, 405, 415, 420, 425, 435, 444, 446, 448, and 450 Forest Knoll) by January 31, 2017 (228 days); and

One hundred dollars (\$100) per day, per building, beginning February 1, 2017 for any of the remaining thirteen (13) buildings (400, 401, 410 Rocky Point and 401, 405, 415, 420, 425, 435, 444, 446, 448, and 450 Forest Knoll) that does not have all plans submitted, permits issued,

and final permit sign offs until such conditions are satisfied or the sum of fifty thousand dollars (\$50,000), per building, has accrued.

AYES: Pete Constant, Leilani Fratis, Bruce Hagler

NOES: none

Administrative Costs

The panel discussed and reviewed the request by staff for recovery of administrative costs.

Motion by Pete Constant, seconded by Bruce Hagler for payment of administrative costs to the City of Roseville for actual costs incurred in the enforcement of the action in the amount of \$2,347.92, due and payable immediately, pursuant to Section 2.52.150 and the staff report introduced into evidence by the City detailing costs incurred.

AYES: Pete Constant, Leilani Fratis, Bruce Hagler

NOES: none

6.) Adjournment

Motion by Pete Constant, seconded by Bruce Hagler, to adjourn the June 16, 2016 Compliance Order hearing.

AYES: Pete Constant, Leilani Fratis, Bruce Hagler

NOES: none

Chairperson Fratis adjourned the hearing at 12:00 p.m.

Pamela Sisk
Legal Clerk