

Minutes
City of Roseville
Hearing Panel
April 11, 2017 at 9:00 a.m.
City Council Chambers
311 Vernon Street

1) Call to order

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

The following Hearing Panel members were present:

Pete Constant
Bruce Hagler
Brian Stenklyft

The following Staff members were present:

Joseph J. Mandell	Senior Deputy City Attorney
Pamela Sisk	Legal Clerk

2) Designation of Chair

Chairperson for the April 11, 2017 hearing was Pete Constant.

3) Pledge of Allegiance

Chairperson Constant led the audience in the Pledge of Allegiance.

4) Public Comment

No one from the public offered any comments.

5) Swear In

Chairperson Constant administered the Oath to those in attendance who would be offering testimony at the hearing.

6) **Matters to be Heard**

Citation #11790

Appellant: Isabel Ferguson

Roseville Municipal Code Section 7.12.010, Animal at Large

Roseville Municipal Code Section 7.12.050, Aggressive Behavior

Roseville Municipal Code Section 7.14.010, Removal of dog defecation

Roseville Municipal Code Section 7.16.010, Failure to License, two counts

A. Staff Report and Complainant's Statement:

The Complainant, Tim Watson, was not present. The item was trailed to allow 15 minutes from the commencement of the hearing for Tim Watson to appear per the Administrative Hearing Procedures.

Animal Control Supervisor John Bennett offered testimony in regards to the staff materials in Exhibit A pertaining to RMC section 7.16.010, Failure to License, and answered panel questions.

Per RMC Section 2.50.606(D), the Staff Report was submitted to the City of Roseville Attorney's office prior to the hearing, and was provided to the appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative

Complainant's Statement:

The complaining party was not present.

B. Appellant's Response:

The appellant, Isabel Ferguson, contacted the City Attorney's office prior to the hearing. Mrs. Ferguson stated that she was out of town, and gave permission for her granddaughter, Tiffany Gorozpe, to testify on her behalf.

Tiffany Gorozpe, presented testimony in support of the appeal and answered panel questions.

Exhibit C:

(The appellant's Exhibit C was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's office on February 28, 2017

C. Rebuttals and Panel Questions:

The Chair offered the opportunity to present rebuttal testimony, which was declined.

D. Panel Discussion:

The panel discussed the evidence and testimony presented before them at the hearing in regards to Administrative Citation No. 11790 for violating Roseville Municipal Code Section 7.12.010, Animal at Large, and Roseville Municipal Code Section 7.12.050, Aggressive Behavior, and Roseville Municipal Code Section 7.14.010, Removal of dog defecation, and Roseville Municipal Code Section 7.16.010, Failure to License, two counts.

At 9:15 a.m., the Complainant was not present. According to section VII(B) of the rules for Administrative Hearing Procedures, if the complainant fails to appear for the hearing within 15 minutes after the hearing commences, the responsible party's appeal will be automatically granted.

Three of the four violations were charges with the complaining party serving as the witness. In regards to RMC Section 7.12.010, Animal at Large, RMC Section 7.12.050, Aggressive Behavior, RMC Section 7.14.010, Removal of Dog Defecation, the panel granted the appeal and dismissed the charges because the Complainant failed to appear.

On one count of RMC Section 7.16.010, Failure to License, a motion was made by Bruce Hagler and was seconded by Brian Stenklyft to deny the appeal and uphold the charge because the City proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party.

AYES: Pete Constant, Bruce Hagler, Brian Stenklyft

NOES: none

On the second count of RMC Section 7.16.010, Failure to License, a motion was made by Bruce Hagler and was seconded by Brian Stenklyft to grant the appeal and dismiss the charge because the City did not prove by a preponderance of the evidence that the violation occurred; and/or that the appellant is the responsible party.

AYES: Pete Constant, Bruce Hagler, Brian Stenklyft

NOES: none

E. Panel Decision:

Regarding the appeal of Citation No. 11790, the panel granted the appeal and dismissed the charges for RMC Section 7.12.010, RMC Section 7.12.050, and RMC Section 7.14.010 because the Complainant failed to appear. On one count of RMC Section 7.16.010, the panel denied the appeal and upheld the charge because the City proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party. On the second count of RMC Section 7.16.010, the panel granted the appeal and dismissed the charge because the City did not prove by a preponderance of the evidence that the violation occurred; and/or that the appellant is the responsible party.

The decisions were based on the testimony and evidence presented before them at the April 11, 2017 hearing.

Chairperson Constant signed the decision form and asked the appellant to see staff for the paperwork and informed the appellant that she may file a petition for review with the Superior Court in Placer County within 20 days.

Citation #3008

Appellant: Richard Ryan

Roseville Municipal Code Section 16.35.110, Dangerous Building

Roseville Municipal Code Section 16.04.110, California Building Standards Code

A. Staff Report:

Deputy City Attorney Joseph Speaker offered testimony in support of the complaint.

Building Inspector Lorne Green offered testimony in regards to the staff materials in Exhibit A and answered panel questions.

Per RMC Section 2.50.606(D), the Staff Report was submitted to the City of Roseville Attorney's office prior to the hearing, and was provided to the appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including complaint description and case background
- Attachment 1: Code Enforcement warning notice dated 12/1/16
- Attachment 2: Administrative Citation Warning dated 12/23/16
- Attachment 3A: Letter from Joseph T. Speaker dated 1/26/17
- Attachment 3B: Citation No. 3008
- Attachment 4: Page 45, 2013 California Plumbing Code
- Attachment 5: Page 191, 2013 California Plumbing Code
- Attachment 6: Commercial Construction Comment Form dated 4/5/02

- Attachment 7: City of Roseville Building Permit receipt, Permit #BD-098071 issued on 4/5/02
- Attachment 8: Permit Inspection Form for Permit No. BD-098071, Date submitted: 4/3/02
- Attachment 9: Sketch of property composition
- Attachment 10: Plot plan
- Attachment 11: Google map of properties

B. Appellant's Response:

Richard Ryan offered testimony in support of the appeal and answered panel questions.

Exhibit B:

(The appellant's Exhibit B was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's office on February 22, 2017

C. Rebuttals and Panel Questions:

Deputy City Attorney Joseph Speaker offered rebuttal testimony and answered panel questions.

Richard Ryan asked the panel questions, offered rebuttal testimony and answered questions from the panel.

The panel approved the submission of additional evidence from the appellant in Exhibit C and Exhibit D. As a result of not having the required amount of copies available, staff was asked by the panel to photocopy the documents with permission from the Appellant.

Richard Ryan offered additional testimony in regards to Exhibit C and Exhibit D and answered panel questions.

Exhibit C:

- List of terms between Richard Ryan and "RCDC"

Exhibit D:

- Agreement between Richard Burton, Richard Ryan and Randall Adams dated 10/20/94 regarding conditions of dismissal Placer County Superior Court Case Number SCV-1320. Placer County Recorder #94-075295

D. Panel Discussion:

The panel discussed the evidence and testimony presented before them at the hearing in regards to Administrative Citation No. 3008 for one count of violating Roseville Municipal Code Section 16.35.110, Dangerous Building, and one count of violating Roseville Municipal Code Section 16.04.110, California Building Standards Code.

In regards to RMC Section 16.35.110, and RMC Section 16.04.110, a motion was made by Brian Stenklyft and was seconded by Bruce Hagler to deny the appeal and uphold the charges on both violations because the City proved by a preponderance of the evidence that the violations occurred and that the appellant is the responsible party.

AYES: Pete Constant, Bruce Hagler, Brian Stenklyft

NOES: none

E. Panel Decision:

Regarding the appeal of Citation No. 3008, the panel decided to deny the appeal and uphold the charges of violating RMC section 16.35.110, Dangerous Building, and RMC section 16.04.110, California Building Standards Code, because the City proved by a preponderance of the evidence that the violations occurred and that the appellant is the responsible party.

The decision was based on the testimony and evidence presented before them at the April 11, 2017 hearing.

Chairperson Constant signed the decision form and asked the appellant to see staff for the paperwork and informed the appellant that he may file a petition for review with the Superior Court in Placer County within 20 days.

Citation #3023

Appellant: Jason Luna

Roseville Municipal Code Section 16.35.110(13), Dangerous Building

Roseville Municipal Code Section 10.54.020(A)(2)

A. Staff Report and Complainant's Statement:

Building Inspector Mitch Raese offered testimony in regards to the staff materials in Exhibit A and answered panel questions.

Per RMC Section 2.50.606(D), the Staff Report was submitted to the City of Roseville Attorney's office prior to the hearing, and was provided to the appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report containing Complaint description and Narrative
- Code Enforcement Notice dated 3/4/16
- Administrative Citation Warning dated 11/3/16
- Five photos of cited property

B. Appellant's Response:

Jason Luna offered testimony in support of the appeal and answered panel questions.

Exhibit B:

(The appellant's Exhibit B was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's office on March 3, 2017

Jason Luna presented Exhibit C, and offered testimony in support of the appeal and answered panel questions.

Exhibit C:

- Photograph of cited building

Exhibit D:

- Letter dated 11/15/16 to Jason Luna, one page

C. Rebuttals and Panel Questions:

Mitch Raese presented Exhibit E and Exhibit F during his rebuttal testimony and answered panel questions.

Exhibit E:

- Two photographs of cited building

Exhibit F:

- Pages 19-20 of 2013 California Residential Code, highlighted sections R105.3.2 and R105.5

Jason Luna offered rebuttal testimony and answered panel questions.

D. Panel Discussion:

The panel discussed the evidence and testimony presented before them at the hearing in regards to Administrative Citation No. 3023 for one count of violating Roseville Municipal Code Section 16.35.110(13), Dangerous Building

and one count of violating Roseville Municipal Code section 10.54.020(A)(2), Nuisance, no permit.

In regards to RMC Section 16.35.110(13) and RMC Section 10.54.020(A)(2), a motion was made by Brian Stenklyft and was seconded by Bruce Hagler to deny the appeal and uphold the charge because the City proved by a preponderance of the evidence that the violations occurred and that the appellant is the responsible party.

AYES: Pete Constant, Bruce Hagler, Brian Stenklyft

NOES: none

E. Panel Decision:

Regarding the appeal of Citation No. 3023, the panel decided to deny the appeal and uphold the charge because the City proved by a preponderance of the evidence that the violations occurred and that the appellant is the responsible party on one count of violating Roseville Municipal Code section 16.35.110(13), Dangerous Building, and one count of violating Roseville Municipal Code section 10.54.020(A)(2).

This decision was based on the testimony and evidence presented before them at the April 11, 2017 hearing.

Chairperson Constant signed the decision form and asked the appellant to see staff for the paperwork and informed the appellant that he may file a petition for review with the Superior Court in Placer County within 20 days.

7) Adjournment

A motion was made by Brian Stenklyft, and was seconded by Bruce Hagler to adjourn the April 11, 2017 Appeal Hearing meeting.

AYES: Pete Constant, Bruce Hagler, Brian Stenklyft

NOES: none

Chairperson Constant adjourned the April 11, 2017 hearing at 10:33 a.m.

Pamela Sisk
Legal Clerk