

**Meeting Minutes for Suspension Hearing
417 East Prospect Avenue
Rental Housing Revocation Appeal Board (RHRAB)
February 21, 2019**

The hearing was called to order by Chairman Miles at 8:07 a.m.

RHRAB Board Members Present:

Larry Miles, Chair; David McClelland; Ian Boswell

Also Present:

Betsy Dupuis, RHRAB Solicitor
Terry Williams, Borough Solicitor
Thomas J. Fountaine II; Borough Manager
Tom King, Assistant Borough Manager for Public Safety
Officer Adam Salyards, Community Relations and Crime Prevention Specialist
Walter Schneider, Centre Region Council of Governments
Tony Lopinsky, Supervisor of Inspections
Dave Jordan, Ordinance Enforcement Officer
Sandra Lieb, Administrative Assistant
Jeffrey M. Bower, Attorney for the Property Owner
Christopher Temple, Nittany Co-op
Ted Liberti, Biomagnetic Solutions
Eric Levine, 417 East Prospect Avenue
William Hoffman, 417 East Prospect Avenue
Paxton Terris, 417 East Prospect Avenue

Swearing in of All Who Would be Testifying

Ms. Dupuis had everyone stand who would be testifying and swore everyone at once.

Testimony

Mr. Williams stated that Mr. King would give the background information of the case.

Mr. King testified to the following points:

- The Borough placed properties under suspension when they reach 10 or more assigned points. Mr. King explained the distinction between pending and assigned points.
- He said a letter was sent on April 27, 2018, which indicated the property was at four assigned points and one pending point.

- On October 10, 2018, a certified letter was sent to report that there were five or more assigned points. The Borough ordinance required that a notice of violation be sent to inform the property owner that their rental property was creating a nuisance and to prompt them to take corrective action to eliminate the offenses.
- On October 31, 2018, a certified letter was sent to inform the property owner that the property had accumulated eight assigned points and three additional pending points.
- The Borough had a meeting on October 26, 2018, with members of the fraternity, and a Corrective Action Plan (CAP) was submitted on November 16, 2018.
- On December 7, 2018, a certified letter was sent to Brian Becker which indicated that the property was now at 10 or more assigned points and that effective May 6, 2018, the rental permit would be suspended for six months.
- The December 7th letter was unable to be delivered and it was returned to the Borough.
- Mr. King stated that Ordinance Supervisor Tony Lopinsky reached out to Mr. Temple to deliver the letter and have the letter signed for. Mr. Temple signed for receipt of the letter on December 21, 2018. To Mr. King's knowledge, the letter was never delivered to Mr. Brian Becker.
- A letter was received from Attorney Jeff Bower on January 10, 2019 appealing the suspension on behalf of the property owner. This appeal was received in writing after the required 15-day appeal period. The appeal deadline was January 5, 2019.
- A letter dated January 18, 2019 was sent to Mr. Bower advising him that he missed the 15-day appeal deadline.
- Mr. King advised there was some informal, verbal communication between Mr. Bower and Mr. Fontaine within the 15-day appeal period, but nothing was received in writing.
- Mr. Fontaine had made his decision to suspend 417 East Prospect Avenue.
- Mr. King said that staff was present to speak about each of the violations.

Mr. Fontaine stated the appeal did not arrive in time, so he denied the appeal.

On February 1, 2019, Mr. Bower appealed to the RHRAB to hear this case.

Mr. Bower asked if the Board had a chance to read the letter he sent to Mr. Fontaine on February 1, 2019. He added that the Borough has never perfected the procedure for notifying the owners. He said this has been a problem with the Borough.

Mr. Bower stated that he was requesting the Board to return the case back to the Borough Manager's desk for action at his level. He explained that when the written appeal was not returned in the required time, it was because he did not have a fee agreement in place from the owner to be able to respond to the Borough.

Mr. Bower said that anytime there has been a meeting between Mr. Fontaine and himself it has never been a failure.

Mr. Williams stated that the point was not what the individual points are against the property, but that was the service of notice adequate under the ordinance.

Mr. King explained that staff had access to the county records, and the information is obtained from Centre County Tax Assessment. He said that Mr. Becker received a certified letter on October 15, 2018, and it was signed by him. He also added anyone who owns a property but does not live within 25 miles of the Borough, must have a Person-in-Charge (PIC). Ms. Dupuis asked if that was a requirement for all rental property owners. Mr. King replied yes.

The Board spent a few minutes reviewing Mr. Bower's February 1, 2019 appeal letter to Mr. Fontaine.

Mr. Bower stated they were challenging the effectiveness of the service of the letter. He said they were asking to return the appeal back to the Borough Manager. He questioned Mr. King and Mr. Fontaine if they supported having the appeal returned to the Borough Manager.

Mr. Williams objected.

Mr. Bower asked again. Mr. Williams objected again.

Ms. Dupuis asked Mr. Bower to give more facts about the service of the letter. She added if the service was incorrect, how would they have known differently.

Mr. Bower said through the Centre County Recorder of Deeds. He added the argument was about the fraternity and not the owner of record.

Ms. Dupuis asked who was getting the tax bills. She questioned if there was an issue of the owner of record why it was not corrected sooner.

Mr. Bower said the reality was the property owners' right are being adversely affected.

Mr. Williams stated receipts signed by Mr. Becker, in New Jersey, were returned to the Borough for October 5, 2018 and October 25, 2018 certified letters.

Mr. Bower said this was more of a procedural issue and he is only asking for the case to be remanded back to the Borough Manager.

Mr. Bower asked if he could ask Mr. Fontaine and Mr. King again his question. Mr. Williams objected.

Ms. Dupuis stated the Board can have Mr. Fontaine and Mr. King respond if they would like to hear what he had to say. Mr. Miles said he would like them to respond.

Mr. Fontaine said he did not know how he would rule on this case but if remanded back to him, would hold an administrative review and determine the case based on the merits of the case.

Ms. Dupuis asked if Mr. Bower would want additional information about the service issue. Mr. Bower said if the Board chose to return the matter to Mr. Fontaine they would not go forward with the issue of the service procedure.

Mr. Miles stated he had 50 years experience dealing with the fraternities and finding the PIC was always difficult. He added the Board takes a dim view of Mr. Bowers service challenge.

Mr. Bower said Mr. Temple was there because he accepted the letter, and he could have him testify why he signed for the letter.

The Board adjourned at 8:35 a.m. for an Executive Session to discuss the case.

The Board returned and resumed the hearing at 8:47 a.m.

Mr. Miles said they reviewed the individual violations. They also do not agree with Mr. Bower's argument over the service of the letter. However, the Board would like to return this case back to the Manager for review. The suspension would be on hold pending the Borough Manager conducting an Administrative Review.

Mr. Bower said they were working on a Corrective Action Plan (CAP).

Mr. Miles thanked everyone for being there. The hearing was adjourned at 9:00 a.m.

Respectfully submitted,

Sandra Lieb
Administrative Assistant