

**ONEONTA, NEW YORK - FEBRUARY 7, 2013 - 7:00 P.M.**  
**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 1**

**PRESENT:** Chair Margery K. Merzig  
Commissioner Louis Tisenchek  
Commissioner Joseph Temming  
Commissioner David Hayes  
Council Member Madolyn Palmer  
**ABSENT:** Commissioner Barry Warren

Chair Merzig called the regular meeting to order and asked the Clerk to call the roll.

**PETITIONERS**

The Chair indicated there were no petitioners for matters other than those listed on the agenda.

**APPROVAL OF MINUTES**

The board approved the minutes of the regular meeting held January 3, 2013 without benefit of a motion.

**CORRESPONDENCE**

The following Memorandum, dated January 31, 2013, was received from Code Inspector Hester:

*“To: Board of Public Service*

*Subject: Items for the February 7, 2013 Meeting*

**Administrative Fee Appeals:**

*39 Maple Street- (Ralph Tomeo: 55 Otis Road, East Patchogue, NY 11772) - The Code Enforcement office would like the board to hear this administrative fee appeal on February 7<sup>th</sup>, 2013.*

**Emergency Unsafe Building Hearing**

*32 Cliff Street- (Mr. Michael Caimano: 39 S. Windsor Ave. Bright Waters, NY 11718)- The Code Enforcement Office would like the board to hear this emergency unsafe hearing at the board's Feb. 2013 meeting.*

**OLD BUSINESS**

**Administrative Fee Appeals:**

*39 Maple Street- Ralph Tomeo: 55 Otis Road, East Patchogue, NY 11772”*

Chair Merzig said the board would begin the meeting with 39 Maple Street owned by Mr. Tomeo. She stated she had researched the Soldiers and Sailors Act and it did apply to Mr. Tomeo for the majority of this administrative appeal. However he also received an administrative appeal for failure to name a local agent. She stated had a local agent been designated this issue would not be before the board. He has owned the property a long time and he was aware of the need for a local agent, as it applied before he was deployed.

**MOTION**, made by Chair Merzig and seconded by Commissioner Hayes, based on the documentation received from the Code Enforcement Office and recommendation from the City Attorney the board waives the administrative fees on all but the designation of local agent and that fee will stand regarding property at 39 Maple Street, Oneonta, NY of Ralph Tomeo.

**Voting Ayes:** Chair Merzig  
Commissioner Temming  
Commissioner Tisenchek

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**(Administrative Fee Appeal: Ralph Tomeo -39 Maple Street) voting continued**

Commissioner Hayes  
**Noes:** None  
**Absent:** Commissioner Warren

**MOTION CARRIED**

**NEW BUSINESS**

**Emergency Unsafe Building Hearing**

*32 Cliff Street- Mr. Michael Caimano: 39 S. Windsor Ave. Bright Waters, NY 11718*

Chair Merzig opened the Emergency Unsafe Hearing for 32 Cliff Street owned by Mr. Michael Caimano. She stated the board was just recently made aware of the condition of the property. Code Inspector Schlafer provided testimony and presented pictures to board members.

Code Inspector Schlafer stated it was actually accidental how Code Enforcement found out. He stated that while doing inspections a call came across the city radio to the Police Department related to 32 Cliff Street stating there was a water leak. Code Enforcement went to the property and was only able to talk to the Police. The Officers stated someone had called it in and they were trying to find out who the owner was. Code Inspector Schlafer informed the Police he knew who the owner was.. Code Enforcement Officer Chiappisi attempted to contact the owner and did not get any response. The Police were not able to make contact either. The Police eventually had to enter the premises and turned the water off. However, the furnace was running and the heat was on.

Commissioner Hayes asked if there was a history for this landlord

Code Inspector Schlafer stated it was a new owner. Mr. Caimano had not been cooperative since he has had the property with the required inspections, as he was an absentee landlord. Anything that was highlighted referred to that property although some may have come from the old owner.

Commissioner Hayes asked what the board was looking for in the pictures presented.

Code Inspector Schlafer said the pictures were of 32 Cliff Street. He had been there two years ago to inspect and believed there was at least one inspection since Mr. Caimano had taken ownership.

Chair Merzig asked that he summarize the nature of the water leak for the board.

Code Inspector Schlafer stated Code Enforcement could not actually get in to see the interior of property. The Police had reported there was water on the kitchen floor. The Code Office has had to have the snow shoveled at this property very recently. There is a garage to the left of the building that had probably twenty bags of garbage or more in it. It was not known if there were any tenants or if someone had been in there and moved out. The Code Office could not contact the landlord or anyone else. There was no agent on record as of now for this property. The Code Office had contacted an agent associated with that property in the past regarding the trash but nothing happened so the city had to have the garbage removed.

Chair Merzig asked if the concern was to keep this house from being rented or reoccupied until the Code Enforcement Office had had a chance to go into the house to assess the damage that has occurred due to the major water leak. She stated the Code Enforcement Office could not enter the premises until they could reach the new landlord. She asked what the new landlords' address was.

Code Inspector Schlafer said he would have to verify it, as he didn't have it at the meeting. He stated it was not a local address it was either downstate or out of state.

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**(Unsafe Building Hearing: Michael Caimano – 32 Cliff Street) continued**

Chair Merzig asked if the board had any questions.

Commissioner Hayes stated the steps seemed to present a safety issue, as the second step appeared deteriorated.

Code Inspector Schlafer said he didn't remember seeing it specifically when he was there but he was there briefly to take pictures not really inspect. He had taken pictures of anything he noticed at that time.

Chair Merzig stated some if not all of the board had visited the property. It did not appear there was a danger to the public other than accumulated trash which the city had already addressed. At this point the issues were related to habitability and apparent neglect by the owner.

Code Inspector Schlafer and there was also the inability to contact the property owner.

Commissioner Tisenchek said also the owner had no agent.

The board then discussed administrative fees that were associated with the property.

Code Inspector Schlafer said this owner had not been in possession for over a year. There were old fees. He assumed those fees had been placed on the tax bill. It had been a foreclosure, as the first owner had lost the property to First Federal and then the Mr. Caimano had purchased it.

Commissioner Hayes asked if fees were accruing at this point.

Commissioner Temming asked if the sale would have stopped the process if someone bought the property to live in. He then asked if the owner was aware of the fact that he had to file this paperwork.

Code Inspector Schlafer said the board was provided a copy of the letter that was sent. He has not turned anything in and that is why his name does not appear on the requirement schedule.

Chair Merzig stated this was a foreclosure action so the fees just hadn't transferred and she thought that was why the fees were zero.

Commissioner Hayes stated that suggested he was not that responsive.

Code Inspector Schlafer said that was correct and there was no agent in place.

Commissioner Temming asked if Code Enforcement was aware of his intention to rent the premises..

Code Inspector Schlafer said since Mr. Caimano had owned the house he just hadn't done anything and basically he should have as far as the required paperwork. There had been tenants there the last time he had inspected the property but was not sure where it currently stood.

The board reviewed Chapter 92 to determine which parts applied to the property.

Commissioner Temming asked which part of Chapter 92 referenced the zoning issue.

Chair Merzig stated the zoning issue was that the property owner had failed to meet the zoning requirements of the code enforcement Office by providing the required documentation which would have included the local agent.

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**(Unsafe Building Hearing: Michael Caimano – 32 Cliff Street) continued**

Commissioner Temming said it seemed like there were two different issues, the unsafe and the rental aspect. He did not know if board could determine if it was a rental property at that point.

Chair Merzig said no, as she felt the board could not determine anything because nothing had been submitted. The city did not know. It had been a rental property. The current property owner had not submitted anything so the city did not know what it was. She said she had no problem if the zoning part was left out of the motion.

Commissioner Temming asked just generally when a house was purchased and the Code Enforcement Office sent the paperwork out and there was no response what would happen.

Code Inspector Schlafer stated it would depend if it had tenants or not. Once the property transfer was received for what was a previous rental that proved there was a new owner and provided an address. The Code Enforcement Office sent a property use form which basically would ask the new owner to provide their name, address, telephone number, email and other basic contact information, if it was going to be owner occupied, was it going to be a rental, how many units there were.

Chair Merzig asked if there wasn't a response would the assumption be made that it would no longer a rental.

Code Inspector Schlafer said most people responded with that form. If it was returned stating it would be a rental the Code Enforcement Office would then send them the inspection requirements and appropriate forms.

Commissioner Terming he just wanted to verify that it was the police that were in the house and the Code Enforcement Office hadn't been able to do inspections because the required paperwork was not available.

Code Inspector Schlafer said that was correct.

The board considered the following motion related to the property.

**MOTION**, made by Chair Merzig and seconded by Commissioner Hayes, that based on testimony heard from the Code Enforcement Office and the observations of the Board of Public Service of the property under Chapter 92, *Unsafe Buildings*, of the Code of the City of Oneonta, declares the property unsafe of Michael Caimano, at 39 Cliff Street, Oneonta, NY under Section 92-1 sections D, E, and I as follows:

- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the City of Oneonta.
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- I. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this city.

**Voting Ayes:** Chair Merzig  
Commissioner Temming  
Commissioner Tisenchek  
Commissioner Hayes

**Noes:** None

**Absent:** Commissioner Warren

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**(Unsafe Building Hearing: Michael Caimano – 32 Cliff Street) continued**

**MOTION CARRIED**

Chair Merzig said based on the motion just passed, the board had three options according to Chapter 92: an order for the property to be repaired, an order to have the property vacated or order the property demolished. She did not believe this property was at the demolition stage. The board could certainly order the property vacated and repaired. She would now entertain a motion.

Commissioner Tisenchek stated he agreed with the Chair and would second that motion.

Commissioner Temming asked if the repair was something the city had to do.

Chair Merzig said the city would not have to do the repair. The property would not be able to be occupied until it was repaired and inspected by the Code Enforcement Office.

Commissioner Tisenchek asked if there was a way for the motion to include any possible permits that would be required.

Code Inspector Schlafer said the property should not be occupied until it had a certificate of compliance which would require all the appropriate inspections, forms and permits.

Chair Merzig said the motion could state the property would remain vacant until it has been repaired, inspected and all the housing requirements have been met.

Commissioner Tisenchek asked if there would be a time period or date in regards to the repair.

Chair Merzig said yes this was an emergency unsafe and it could state the property should be vacated within ten days.

Commissioner Hayes said as far as the Board knew it was vacant now.

Code Inspector Schlafer said no one responded when Code Enforcement was there, but it was not really known at this point.

The board considered the following motion related to the remedy for the property.

**MOTION**, made by Chair Merzig and seconded by Commissioner Hayes, based on the Board of Public Service determination of Unsafe, the board orders the property owners to vacate 39 Maple Street within 10 days and that the property not be occupied until repaired and inspected by the Code Enforcement Department.

**Voting Ayes:** Chair Merzig  
Commissioner Temming  
Commissioner Tisenchek  
Commissioner Hayes

**Noes:** None

**Absent:** Commissioner Warren

**MOTION CARRIED**

Code Inspector Schlafer then reported to the board information recently received by the Code Enforcement Office regarding who was the actual owner of the property at 6 North Seventh Street.

The board held a brief discussion on possible options available to the city for obtaining information regarding property use for all property transactions within the city.

There being no further business to come before the board, Chair Merzig adjourned the regular meeting at approximately 4:20 p.m.

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JAMES R. KOURY, City Clerk

JRK/vpw