

ONEONTA, NEW YORK - JANUARY 3, 2013 - 7:00 P.M.

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 1**

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

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 December 6, 2012 without benefit of a motion.

**CORRESPONDENCE**

The following Memorandum, dated December 27, 2012, was received from Code Inspector Hester:

*“To: Board of Public Service*

*Subject: January 3, 2013 Board of Public Service Items*

**Updates:**

***13 Baker Street- (Margo Heck: 13 Baker Street, Oneonta 13820)- The Code Enforcement Office would like to inform the board on the current condition of this property.***

**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 January 3<sup>rd</sup>.***

**Unsafe Buildings:**

***8 Cozy Avenue- (Michael Bollo: 4 Water Street Apt. 2A, Brooklyn NY 11201)- The Code Enforcement Office would like to request an unsafe building hearing be conducted at the board's January 3<sup>rd</sup> meeting.***

**OLD BUSINESS**

**Update from Code Enforcement**

**13 Baker Street- Margo Heck**

Chair Merzig recognized Ms. Heck, in regard to her matter listed under old business. She said she would address that matter and asked Code Inspector Hester to give an update. Code Inspector Hester stated the city installed a fence that secured the back of property and had contractors at the property to board up every open spot and every open door. He stated the property had been secured and completely cleaned.

Ms. Heck inquired as to keys to the locks; the process for removing the locks placed by the city and replacing them with her own locks was explained.

Chair Merzig asked if there were any questions for the Code Enforcement Office or Ms. Heck.

**ONEONTA, NEW YORK - JANUARY 3, 2013 - 7:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 2**

**(13 Baker Street)** continued

Commissioner Friedman inquired if the little shed next to the barn had been emptied out. He believed it was full of garbage.

Code Inspector Hester stated he was unsure if it had been emptied, they had not requested to be emptied because it was secured.

Commissioner Friedman stated he believed it was full of garbage. He expressed concerns about having to get into the shed and the barn at some point to see exactly what was in there to eliminate the possibility of a fire hazard.

Ms. Heck questioned how someone could get in the shed to start a fire.

Chair Merzig stated the board's concern was a fire starting there and spreading to other properties. She stated that things were secure and the board was fairly satisfied. The board would probably revisit this in the spring.

**NEW BUSINESS**

1. Administrative Fees Appeal: 39 Maple Street – Ralph Tomeo
2. Unsafe Building Hearing: 12 Division Street – James Deandrea
3. Unsafe Building Hearing: Apartment #2 @ 8 Cozy Avenue – Michael Bollo

Chair Merzig stated our next order of business is an administrative fee appeal.

**Administrative Fee Appeal**

**39 Maple Street- Ralph Tomeo**

The following letter was received from Ralph Tomeo on November 30, 2012

*“Dear Sirs,*

*I am writing you in hopes to compel a reconsideration and review on a series of fines that have been levied against me regarding 39 Maple St. I received thousands of dollars of fines in past year while I was away as an activated Reservist with US Air Force. Fines range from not receiving renewal of property manager to smoke detectors and inspection. My manager did not receive any notices and was only made aware when house was condemned in mid rental year when she contacted me via email. I served in Iraq from 20 June 2011 until June 2012. Upon return I immediately responded to the Code Enforcement office and explained the situation as well as provide additional documentation to the orders I faxed. Some paperwork was at the Code Enforcement Office but misplaced apparently. I provide copies of inspections. I spoke with Oneonta City Attorney and discussed my protection under Federal and State law regarding activated Servicemen under the provisions commonly referred to as USEERA or Soldiers and Sailors Act. He felt the law protect me not my manger (Liz Rose). However, since she was never notified since documents were lost, this doesn't seem fair either. I have been busy as a first responder downstate with the Hurricane and apologize that I have not been able to send this request sooner. I rather not spend the money litigating these fines in Federal Court. I ask that you review my ask and contact me when possible of findings.*

*Very Respectively,*

*Ralph Tomeo*

*MSGT. USAFR, 322 AEW”*

Chair Merzig stated Mr. Tomeo is claiming a couple of things. First, he has some exemption from the fees because he was in active military service at the time and there is a federal law that protects

**ONEONTA, NEW YORK - JANUARY 3, 2013 - 7:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 3**

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

service members from some penalties. Code Inspector Hester had given her a copy that day of the official orders. The orders indicate that his deployment to Iraq would not extend beyond December 31, 2011 and none of these fines were actively accruing but were not applied. The letters that went to him were not sent until after January 1, 2012, but there is some question about that because he is claiming that his deployment was until June, 2012 and it appears he was deployed as per the documentation. He was at the McGuire Air Force Base in New Jersey. He made several statements in his letter, one that documentation was provided to the Code Enforcement Office, but misplaced and the other is that his manager did not receive any notices. Chair Merzig would like to table the appeal and any currently accruing penalties and send him a letter asking him for whatever documentation he believes was misplaced by the Code Enforcement Office and get a copy from the Code Enforcement Office. The board would like to see the latest property manager form. She was told there was a copy in the documents dated June 25, 2012 but apparently this was a new one, that he had one in 2010 but did not have one in 2011. From 2011 to 2012 he did not have a manager and if that's the case therefore there would be no reason why it would have gone to Liz Rose.

Commissioner Friedman stated as he recalled there was a time in the Code Office when the agent would not be notified in addition to the owner unless the owner said they wanted their agent notified to avoid notifying two people.

Code Inspector Schlafer stated that was the difference. He believed what the board had a local agent form which meant no forms would go to a local agent unless the owner asked for that to occur. Normally if it was a sole agent, then the sole agent would get all the paperwork and the homeowner would only get what had to be mailed to them

Commissioner Friedman said the first question is did he designate his agent as the person to receive all documents.

Code Inspector Schlafer stated that would be the difference between the two forms. There would be a sole agent if they were to get everything or a local agent.

Commissioner Friedman questioned whether he did that or not.

Code Inspector Schlafer stated he just had the local agent.

Code Inspector Hester stated he designated the local agent only, not the sole agent. He stated he knew that Liz Rose was the designated agent from 2010. So he had placed several calls to her throughout the whole time period which he didn't document on paper. They were just friendly calls inquiring about the local agent and the property. That is how Code got a hold of the official order.

The Board then discussed the paperwork they had that he had provided and what statues of federal protection applied specifically to him.

Chair Merzig stated she would find out what the federal law covered and if the board had to approve his appeal just because he was an active service member at the time because he obviously was an active service member from July 30, 2011 to June 17, 2012. It was whether he was deployed in Iraq is what would have exempted him. It had to do with active foreign deployment.

**MOTION**, made by Chair Merzig and seconded by Commissioner Friedman, that the Board tables the Administrative Fees Appeal, until the February 7, 2013 Board of Public Service Meeting and suspend any additional accrual of fees. The Board requests a letter be sent to him asking for the documentation that he says the Code Enforcement Office misplaced.

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

**ONEONTA, NEW YORK - JANUARY 3, 2013 - 7:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 4**

**(Tabling of 39 Maple Street) voting continued**

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

**MOTION CARRIED**

Chair Merzig stated the next item was Cozy Avenue.

**Unsafe Building Hearing: 8 Cozy Avenue, Apartment #2 - Michael Bollo**

Chair Merzig opened the Unsafe Building Hearing on 8 Cozy Avenue, Apartment #2.

The board reviewed the violations as written in the inspection report and the photographs presented of the property.

Chair Merzig stated the pictures have gone around. The Board discussed this at our last meeting. This property has four apartments. One apartment has had a leak, is filled with combustibles and is basically unsafe. She then recognized Code Inspector Hester.

Code Inspector Hester stated this situation began on September 10, 2012 when the Code Office received a complaint against 8 Cozy Avenue, Apartment #2 from Ms. Veronica Jones. Her complaint was a lack of heat and a water leak within her apartment. On September 11, 2012 Code Inspector Schlafer and he both took a look at the apartment and at that time the thermometer said 56 during the day and should be 70 according to the City Code. There was a leak. It wasn't being contained in any way; she was letting it leak onto the contents of her closet. At that time it really wasn't that bad, it looked like a routine plumbing fix. On September 21, 2012 the Code Office was contacted again, she claimed the plumbing leak had gotten much worse and that the ceiling tiles had collapsed. Code Inspector Schlafer and he went over immediately; there was considerable amount of water build up on the floor because again she did not contain it. It had destroyed her clothes. The ceiling tiles had fallen down. There was standing water probably six feet out from the closet itself. The sheetrock was wet so there was possible electrical damage. It was coming through a light fixture. At that time Code Inspector Hester declared it unsafe and was posted. He asked her what her arrangements were for trying to find someplace else to live. She stated her mother lived in Nader Towers and she could probably stay there. He said she should do that, as the apartment was not safe. He then called the Oneonta Fire Department and they shut the power off. She did not want to leave. She said her cats needed her there, so she didn't leave. He has since received countless phone calls usually in the off hours, which he forwarded to Code Enforcement Officer Chiappisi, complaining about the conditions of the apartment. She has been told on the phone that the conditions of the apartment are understood and she had been told it was unsafe and to get out of the apartment, as the city did not want to evict her. Since then the owner has taken measures to evict her. Code received the court documentation that he landlord did get an eviction order that was stayed until December 14<sup>th</sup> and it hasn't been executed by the Sheriff's Department. She has had a 72 hour notice that she is going to be evicted by the Sheriff's Department. At this time the Code Office thinks he has fixed everything, but each time Code tries to get into the apartment she is either not there or she doesn't want allow entrance to the apartment.

Commissioner Friedman asked if he had fixed everything.

Code Inspector Hester stated he thought he had fixed everything he needed to, but can't confirm that. Ms. Jones now states there is a leak coming through the bathroom ceiling but he has also been unable to confirm that.

Code Inspector Schlafer stated the original leak was in the boiler system, there was a small child in the apartment upstairs that would open and close the valve on the radiator, which is what made the leak. He stated a furnace repairman and the Fire Department went there and shut it all off. The owner put in separate heaters in each unit.

**ONEONTA, NEW YORK - JANUARY 3, 2013 - 7:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 5**

**(Unsafe Building Hearing: Michael Bollo – 8 Cozy Avenue, Apartment #2)** continued

Commissioner Friedman asked if she has had heat.

Code Inspector Hester and Code Inspector Schlafer both stated she did.

Code Inspector Hester stated the owner has had an electrical inspection through the water damage. He has put in the space heaters. There was a problem with the smoke detectors. They were all disabled the first three times the Code Office went to the apartment but on the fourth time they had put batteries in them. He stated that Code has not been able to get in during the past month.

Commissioner Friedman asked if she smoked.

Code Inspector Hester stated she was on oxygen and he did not think she did.

Commissioner Tisenchek asked if the owner was in the apartment prior to all this.

Code Inspector Hester said he did not know, but probably not. The entire building is not cared for the way it should be but that particular apartment at this point appears to be tenant related damage.

Commissioner Friedman asked if the issues that are in the photographs of lots of combustible stuff all over the place, is it due in a small part or a large part to the water damage or is it her?

Code Inspector Schlafer stated probably her lack of cleanliness, he felt as it was basically like that the first time they went. The second time they went she was walking in the water that was on the floor in her bare feet, making no attempt to pick things up and get them out of the water to save them.

Chair Merzig stated one option would be to declare this apartment unsafe and notify the owner that we would like an inspection of the entire house with specifics that we want corrected in this apartment, that way the Code Enforcement Office would have access to things that aren't unsafe but are unacceptable. This apartment is unsafe not necessarily because of the actions of the owner but because of the actions of the tenant. By declaring the apartment unsafe, the board could ensure that the rest of the building would not be adversely affected by the aftermath of this particular tenant. It would be good to have access under an unsafe designation that would give the city more leverage with the entire building and certainly for this one apartment. The board didn't generally find a particular apartment in a building as unsafe, but rather the whole building.

**MOTION**, Chair Merzig and seconded by Commissioner Friedman, that based on testimony heard from the Code Enforcement Office and the observations of the Board of Public Service of the interior of the property under Chapter 92, *Unsafe Buildings*, of the Code of the City of Oneonta, declares the property unsafe of Michael Bollo, at 8 Cozy Avenue, Apartment #2, Oneonta, NY under Section 92-1 sections D, E, I and J, 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.

J. Those buildings existing in violation of any provision of Chapter 300, entitled "Zoning," and any other provisions of the Code of the City of Oneonta.

ONEONTA, NEW YORK - JANUARY 3, 2013 - 7:00 P.M.

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 6**

**(Unsafe Building Hearing: Michael Bollo – 8 Cozy Avenue, Apartment #2)** voting continued

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

**Noes:** None

**Absent:** Commissioner Hayes

**MOTION CARRIED**

Commissioner Tisenchek asked Code Inspector Hester if the Board would hear more at the next meeting.

Chair Merzig stated the Board would order a remedy.

**MOTION**, made by Chair Merzig and seconded by Commissioner Temming, based on the Board of Public Service determination of Unsafe, the Board orders the owners to vacate 8 Cozy Avenue, Apartment #2 within 10 days and immediately thereafter provide access to the Code Enforcement Office access to the building to determine what specific remedies are necessary to make the apartment habitable. The board will revisit the matter at the next meeting.

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

**Noes:** Commissioner Friedman

**Absent:** Commissioner Hayes

**MOTION CARRIED**

There being no further business to come before the board, Chair Merzig adjourned the regular meeting at approximately 4:40 p.m.

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JAMES R. KOURY, City Clerk

JRK/vpw