

ONEONTA, NEW YORK - FEBRUARY 2, 2012 - 4:00 P.M.

REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 1

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

ABSENT: Commissioner Louis Tisenchek

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

OLD BUSINESS

1. Administrative Fee Appeal: 216 & 218-222 Main Street – WHH Realty Corp – Joseph Ruffino & Anna Tomaino
2. Administrative Fee Appeal: 64 Church Street – Vincenzo Avanzato
3. Administrative Fee Appeal: 53 Gilbert Street – Heath Stein
4. Follow-up on the status of the property: 62 Elm Street – Alpha Delta Omega

Chair Merzig stated the board would hear testimony on the Administrative Fee Appeals and the status of the 62 Elm Street property. She said placed on the desks was a spreadsheet from Code Enforcement on the properties for Administrative Fee Appeals and she asked Code Inspector Hester to explain what that was.

Code Inspector Hester stated the form was a breakdown of all the properties on the agenda for Administrative Fee Appeals. He said it was a breakdown to make it simpler for everybody to read. He said it was input compiled from the Code Enforcement staff and the intent was to clarify the large packets of documentation on each property that were distributed.

Chair Merzig gave a brief summary on the background on the adoption of the Local Law establishing Administrative Fees and the responsibility of the board to hear appeals of those fees. She said the City Code states that the board could adjust the fees and then send a recommendation to the Common Council for their agreement under only one circumstance and that was that the Code Enforcement Office acted in error. She said the board would review the documentation from the Code Enforcement Office and hear from the property owners as to why they think the Code Enforcement Office acted in error. She said the board would then make a decision based on the appeal, send the recommendation to the Finance/Administration Committee and then ultimately it would go to the Common Council to agree or disagree with the board. She said this was a very difficult process and that the property owner would still have to go to the Common Council because in many cases the Council has not agreed with the board's decision. She said the Common Council feels that these fees were essential to get people to comply with the Code Enforcement Office's directives and the board did not want to do anything that basically did not support Code Enforcement because they all think they live in a safe city because of what the Code Enforcement Office does but the board also understood the property owner's situation.

216 & 218-222 Main Street – WHH Realty Corp – Joseph Ruffino & Anna Tomaino

The following Memorandum was received from the Code Enforcement Office with documentation including the request for the appeal for 216 Main Street attached:

"216 Main Street

Owner Joseph Ruffino Sr.

PUT ON ADMINISTRATIVE FEES ON 7/12/2011 For

Electrical Violations, Electrical Inspection, Housing Inspection, Smoke Detectors, and Property Use Certification Form.

Joseph Ruffino Sr. received a letter via certified mail to return a completed Smoke Detector Inspection form and an Electrical Inspection. Letter is dated November 9, 2001.

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(Administrative Fee Appeal – 216 & 218-222 Main Street) continued

Joseph Ruffino Sr. received a letter via certified mail to return a completed Smoke Detector Inspection form within five days. Letter is dated December 20, 2002.

A Rental Residence Registry was received on February 5, 2005.

Joseph Ruffino Sr. received a letter via certified mail to return a completed Smoke Detector Inspection form within five days. Letter is dated April 4, 2005.

Joseph Ruffino Sr. received a letter via certified mail to schedule a Housing Inspection within five days. Letter is dated June 3, 2005.

Joseph Ruffino Sr. received a letter mailed certified mail stating Final Notice Prior To Unsafe Building Declaration because of overdue Housing Inspection, Electrical Violations, and Sprinkler System Inspection. Letter is dated August 9, 2005.

Joseph Ruffino Sr. received a Housing Inspection on August 9, 2005. He was still overdue for Electrical Violations and a Sprinkler System Inspection. Letter is dated September 8, 2005.

Joseph Ruffino Sr. received a letter mailed certified mail to correct Electrical Violations within thirty days. Letter is dated November 28, 2007.

Joseph Ruffino Sr. received a letter via certified mail to schedule a Housing Inspection within five days. Letter is dated November 30, 2007.

Joseph Ruffino Sr. received a Housing Inspection on January 23, 2008. He was still overdue for Electrical Violations and a Sprinkler System Inspection. Letter is dated March 6, 2008.

Joseph Ruffino Sr. received a letter with a requirement schedule stating outstanding Electrical Violations, Housing Violations, Smoke Detector Inspection, and Sprinkler System Inspection. Letter is dated August 15, 2008.

Joseph Ruffino Sr. received a letter mailed certified mail ordering him to complete a Smoke Detector Inspection within ten days. Letter is dated October 14, 2008.

Joseph Ruffino Sr. received a letter mailed certified mail stating Final Notice Prior To Unsafe Building Declaration because of overdue Housing Violations, Electrical Violations, Smoke Detector Inspection and Sprinkler System Inspection. Letter is dated February 13, 2009.

Joseph Ruffino Sr. received a letter to schedule a Housing Inspection. Letter is dated August 17, 2010.

Joseph Ruffino Sr. received a letter to schedule a Housing Inspection within ten days. Letter is dated September 20, 2010.

Joseph Ruffino Sr. received a Housing Inspection on October 21, 2010 with a requirement schedule stating that he was overdue on Sprinkler System Inspection, Electrical Violations, Electrical Inspection, and Property Use Form. Letter is dated November 1, 2010.

Joseph Ruffino Sr. received a letter that an Electrical Inspection Report is overdue and to deliver a report within thirty days. Letter is dated April 6, 2011.

Joseph Ruffino Sr. received a second letter that an Electrical Inspection Report is overdue and to deliver a report within fifteen days. Letter is dated June 5, 2011.

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(Administrative Fee Appeal – 216 & 218-222 Main Street) continued

On July 12, 2011 a final notification was mailed certified mail and the property was put on Administrative Fees. The owner had 60 days and 30 days from the date of the letter before the penalties started.

Joseph Ruffino Sr. received a letter to correct outstanding Electrical Violations. Letter is dated August 18, 2011.

Joseph Ruffino Sr. received a letter stating he was accruing fees for failure to supply inspections of Corrected Electrical Violations, Electrical Systems, Smoke Detectors, Housing, and Property Use Certification for Rental Property. Letter is dated October 13, 2011.

Joseph Ruffino Sr. received bills for Electrical Violations- \$607.00, Electrical Inspection-\$607.00, Housing Inspection- \$607.00, Smoke Detector- \$817.00, and Property Use Certification Form-\$278.50. The bills were done on October 31, 2011.

A Smoke Detector Certification was received November 8, 2011, but was not signed by the listed owner.

A letter was written on November 8, 2011 that the Smoke Detector Certification Form must be signed by the listed property owner or a city of Oneonta licensed electrician, but the letter was never mailed. Ms. Anna Tomaino came in and signed the form.

A Property Use Certification Form was received November 8, 2011 and was signed by Joseph Ruffino Jr.

Joseph Ruffino Jr's and Anna Tomaino's appeal was received on November 8, 2011.

A requirement schedule printed December 28, 2011."

The following Memorandum was received from the Code Enforcement Office with documentation including the request for the appeal for 218-222 Main Street attached:

"218-222 Main Street Owner Joseph Ruffino Sr.

PUT ON ADMINISTRATIVE FEES ON 7/12/2011 For
Electrical Violations, Electrical Inspection, Housing Inspection, Smoke Detectors, and Property Use Certification Form.

Joseph Ruffino Sr. received a letter mailed certified mail stating Final Notice Prior To Unsafe Building Declaration because of overdue Housing Inspection, Electrical Inspection, Smoke Detector Inspection, Furnace Inspection, and Sprinkler System Inspection. Letter is dated December 14, 2001.

Joseph Ruffino Sr. received a letter via certified mail to return a completed Smoke Detector Inspection form within five days. Letter is dated December 20, 2002.

Joseph Ruffino Sr. received a letter with new regulations effecting Bars, Cabarets, and Nightclubs in the City of Oneonta. Letter is dated May 23, 2003.

Joseph Ruffino Sr. received a letter via certified mail to schedule a Housing Inspection and an Electrical Inspection within five days. Letter is dated January 16, 2004.

An Electrical Violation Inspection Report was received February 9, 2004.)

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(Administrative Fee Appeal – 216 & 218-222 Main Street) continued

A Rental Residence Registry was received on February 3, 2005.

Joseph Ruffino Sr. received a letter via certified mail to return a completed Smoke Detector Inspection form within five days. Letter is dated April 4, 2005.

Joseph Ruffino Sr. received a Housing Inspection on August 16, 2005. He was still overdue for Electrical Violations, Furnace Inspection, and a Sprinkler System Inspection. Letter is dated September 8, 2005.

Joseph Ruffino Jr. received a letter mailed certified mail ordering him to complete several inspections effecting Bars, Cabarets, and Nightclubs. Letter is dated November 22, 2006.

Joseph Ruffino Jr. received a letter mailed certified mail ordering him to complete several inspections effecting Bars, Cabarets, and Nightclubs within thirty days. Letter is dated February 9, 2007.

Joseph Ruffino Sr. received a letter mailed certified mail to correct outstanding Electrical Violations within thirty days. Letter is dated November 28, 2007.

Joseph Ruffino Sr. received a letter via certified mail to schedule a Housing Inspection within five days within five days. Letter is dated November 30, 2007.

Joseph Ruffino Jr. received a letter mailed certified mail ordering him to complete several inspections effecting Bars, Cabarets, and Nightclubs within thirty days. Letter is dated December 7, 2007.

Joseph Ruffino Sr. received a Housing Inspection on January 23, 2008. He was still overdue for Electrical Violations, Heating System Inspection, and a Sprinkler System Inspection. Letter is dated March 6, 2008.

Joseph Ruffino Sr. received a letter with a requirement schedule stating outstanding Electrical Violations, Housing Violations, Heating System Inspection, Smoke Detector Inspection, and Sprinkler System Inspection. Letter is dated August 15, 2008.

Joseph Ruffino Sr. received a letter mailed certified mail ordering him to complete a Smoke Detector Inspection within ten days. Letter is dated October 14, 2008.

Joseph Ruffino Sr. received a letter mailed certified mail stating Final Notice Prior To Unsafe Building Declaration because of overdue Housing Violations, Electrical Violations, Heating System Inspection, Smoke Detector Inspection and Sprinkler System Inspection. Letter is dated February 13, 2009.

An Electrical Inspection Certificate was received August 18, 2009. It was not of the complete building.

Joseph Ruffino Sr. received a letter to schedule a Housing Inspection. Letter is dated August 17, 2010.

Joseph Ruffino Sr. received a letter to schedule a Housing Inspection within ten days. Letter is dated September 20, 2010.

Joseph Ruffino Sr. received a Housing Inspection on October 21, 2010 with a requirement schedule stating that he was overdue on Sprinkler System Inspection, Electrical Violations, Electrical Inspection, Furnace Inspection, and Property Use Form. Letter is dated November 1, 2010.

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(Administrative Fee Appeal – 216 & 218-222 Main Street) continued

Joseph Ruffino Sr. received a letter stating that the Electrical Inspection Certificate from August 4, 2009 was for only part of the building. The entire building must be inspected. Letter is dated November 1, 2010.

Joseph Ruffino Sr. received a letter that a Heating System Inspection Report is overdue and to deliver a report within thirty days. Letter is dated November 30, 2010.

Joseph Ruffino Sr. received a letter that an Electrical Inspection Report is overdue and to deliver a report within thirty days. Letter is dated April 6, 2011.

Joseph Ruffino Sr. received a second letter that an Electrical Inspection Report is overdue and to deliver a report within fifteen days. Letter is dated June 15, 2011.

On July 12, 2011 a final notification was mailed certified mail and the property was put on Administrative Fees. The owner had 60 days and 30 days from the date of the letter before the penalties started.

Joseph Ruffino Sr. received a letter to correct outstanding Electrical Violations. Letter is dated August 18, 2011.

Joseph Ruffino Sr. received a letter stating he was accruing fees for failure to supply inspections of Corrected Electrical Violations, Electrical Systems, Smoke Detectors, Housing, and Property Use Certification for Rental Property. Letter is dated October 13, 2011.

Joseph Ruffino Sr. received bills for Electrical Violations- \$607.00, Electrical Inspection-\$607.00, Housing Inspection- \$607.00, Smoke Detector- \$817.00, and Property Use Certification Form-\$278.50. The bills were done on October 31, 2011.

A Smoke Detector Certification was received November 8, 2011, but was not signed by the listed owner.

A letter was written on November 8, 2011 that the Smoke Detector Certification Form must be signed by the listed property owner or a city of Oneonta licensed electrician, but the letter was never mailed. Ms. Anna Tomaino came in and signed the form.

A Property Use Certification Form was received November 8, 2011 and was signed by Joseph Ruffino Jr.

Joseph Ruffino Jr's and Anna Tomaino's appeal was received on November 8, 2011.

A requirement schedule printed December 28, 2011."

Chair Merzig summarized the data submitted by Code Enforcement and said the fees did not start accruing until September 2010. She asked Code Inspector Hester if he had anything else to add.

Code Inspector Hester stated everything was included in the documentation submitted to the board. He said he hoped the breakdown submitted clarified the documentation. He said he did want to add that on 216 and 218 Main Street there was a pending housing inspection and that was scheduled for February 8th.

Chair Merzig stated she would like to direct attention to document #32 in the packet on 218-222 Main Street where the change address was listed for the corporation on the Property Use Certification Form. She said it listed two addresses for the owners, Joseph Ruffino Jr. at 15 Miller

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Street and Anna Tomaino at 5 Suncrest Terrace. She said the date of that was 11/2008 and she thought that enters into the board's consideration. She said the appellants' contention was that the property transferred away from 28 River Street.

Mr. Ruffino, Jr. stated that was part of the contention. He said they had been working closely with Code Enforcement particularly the last few weeks especially. He said he thought they were all working for the same thing and his challenge with it was that there were fees and fines that were being assessed against them that were just kind of put together and going back as far as 2001. He said he thought the communication had been a challenge as far as their getting information and understanding where they stood on these things.

Chair Merzig stated there were really three essential documents and one was April 6, 2011 - a notification that the Electrical Inspection Report was overdue.

Mr. Jim Tomaino stated there was contention about that particular electrical inspection as the building went through a massive renovation of the top floors. He said there was an electrical inspection done but there was miscommunication about the different units of the building, which addresses went to each particular building as well as what was actually done and inspected in that particular building. He said a lot of these issues don't just get taken care of quickly and was something they were working toward and getting completed as of that time. He said they had been working with the Code Enforcement Office as of 2009 and one of those renovations started to be completed. He said where their confusion comes from was that the city was putting fines on things that were being worked on.

Chair Merzig stated no fines were assessed until September 10, 2011. She questioned if the appellants' contention was that those things were complied with.

Mr. Tomaino responded they were being worked on at that time because an electrical inspection was something that was not just done because it was a large building with a mass of 40,000+ square feet in it. He said they could not just call up a guy and say inspect this because that just did not happen. He said things were wrong with it and they were working to fix it. He said in their particular situation where the building had a massive amount of money spent in that building to remedy some of those things. He said it was a hundred year old building and there were a lot of issues in that particular building that they fixed. He said they worked closely with the Code Enforcement Office when there was no Code Enforcement Officer in 2009. He said much of the confusion stems from that particular situation. He said they were trying to clear that up and as late as November about how many actual units were in the building. He said up until that point in time there was not an understanding of what those units were. He said they were trying to have that communication but yet there were fines levied during the process so they did in fact have an issue with that.

Commissioner Hayes stated in regard to what the appellants were saying about a communications problem he said he was concerned about the process and particularly going back a couple years when the Code Enforcement Office was not fully staffed. He questioned if in the appellants' view they were confident when they brought documents in saying they did this or that to the Code Enforcement Office at the time

Mr. Tomaino responded that he would first say the Code Enforcement Office was understaffed and there was a massive amount of work that office had to do and there were not enough people there to do that job. He said when he has a state inspection he gets a copy of that report when they leave which was proof the state or another agency was there but when the city comes they do not give

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anything like that. He said without the city giving proof they were there it was the city's word versus their word or whether or not something was misplaced in the office, and it leads to a lot of confusion. He said there was an issue with that and somehow the city had to clear that all up and figure out how to better streamline this so this does not happen. He said they were not absentee landlords and were here, live and work in that building 12-15 hours every single day and it was not like Code Enforcement could not find them. He said if this was a communication issue and a problem the city should have come to large landlords and large building owners like themselves and said what they were looking for and ask if they could help them get to this point. He said instead Codes just issues these letters and they were supposed to take it. He said it was about something that they were working with Code Enforcement on at that time.

Chair Merzig stated she would like to hear from Code Enforcement Officer Chiappisi and Code Inspector Hester and if that was a true statement and that the appellants had been filing building permits and other required forms.

Code Enforcement Officer Chiappisi stated there were building permits pulled out on the building. He said there was a question about the electrical inspection and he wrote a letter that was in the file about a contention that the electrical inspection was done and clearly on the inspection report it said the violations had not been cleared. He said he hand-walked that letter down to the building owner to discuss it. He said Jim Tomaino wrote him a letter on the issue but he was not listed on the property. He said he did not want to surprise Joe Ruffino Jr.'s father with this letter because he would have no clue what it was about because he did not write to him but he had sent it to the owner of the building. He said that was in November 2010. He said the electrical inspection had to be of the entire building not just the renovated apartments. He said it included outbuildings too such as garages, outdoor saunas and hot tubs if there was electrical power supplied there. He said the electrical inspection report he received in August only covered the renovation not the rest of the building. He said there were two public assemblies in that building as well as businesses and the inspection needed to include the entire building.

Chair Merzig stated that the owners received a letter from Code Enforcement Office saying it needed to be done and the owners probably made an assumption that it was done because an electrical inspection was submitted.

Mr. Ruffino, Jr. stated that they have had walk-throughs and there had been some confusion as to what was a full walk-through, a full housing inspection, a partial housing inspection or was Code Enforcement Office just coming through to check how many units were in the building. He said when he was working on the building there were floors under where there was construction and there was no need for Code Enforcement Office to go through a certain floor particularly the basement floor. He said as much communication as they have had there was still a lack of communication. He said he thought they were still working on that and thought they were getting better at it but again his business was not knowing what codes were or knowing what violations were or knowing when things were supposed to get inspected or not get inspected. He said they were trying to stay in business and focus on what they were doing on a daily basis. He said when they get things they try to tend to it and try to do the best they could and he thought they were. He said he thinks that these fines and these letters that were being put on them just puts them in a tight position. He said quite frankly he thought they were ridiculous and thought they should be looked at and eliminated completely and there should be a different way to come up with ways to encourage them to continue putting money into these buildings. He said this was clearly one of the largest buildings on Main Street. He said if it was not for the tenacity of his father for the last 40 years to dump every penny he has made into that building the city would be sitting on another Bresee's that was across the street. He said that was the heart and soul of it right there. He said when they started getting these letters that said they owed \$305 for this, \$125 for that, \$58 for this building, \$58 for that building, it

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started to get confusing. He said most of it was very unclear because there was no code specified, no time limit to fix these things, not a remedy for it but just “fix it, get it checked and make it work and let us know.” He said they have been working with the Code Enforcement Office and want to continue working with them. He said they applaud what Code Enforcement does. He said he had a substantial fire a couple years back on St. Patrick’s Day and Code Enforcement was the reason nobody got hurt and everybody got out of the building and waited to let everybody back in. He said he thought Commissioner Peter Friedman would remember that. He said that was a testimony to good code enforcement. He said they were not saying that there was bad code enforcement but he did not want to pay a fine. He said he had a hard enough time paying his bills now and did not want to pay this fine that was ridiculous.

Chair Merzig stated that the board had nothing to say about the magnitude of it but could hear why it should not be so. She said it was not the board’s decision to enact these charges.

Mr. Tomaino questioned why this had to go through this group to get to the other group and then the owners still do not know if they needed to appeal it.

Chair Merzig stated the practical reason for that was that this was an appeal board on all issues related to charges against people in the city but they also did not have the fiscal authority to change what the City of Oneonta charges or did not charge. She said the Common Council had the fiscal authority.

Mr. Vincenzo Avanzato, Emmons Hill Road, stated he understood completely what the Chair was saying but at the same time whether it was Joe Ruffino, the Tomainos or Avanzatos there has not been communication down there at Code Enforcement, they lost papers and can’t admit they lost papers. He said he was not pinpointing anybody at Code Enforcement and there were a lot of good people there who had been behind them and there were good people behind them also from before. He said but now sometimes he submits the fire detector report and it gets lost and he gets another letter when he just did it 3 months ago and has to do it again. He said he thought Joe Ruffino was right there there was no communication whether you had a big place in downtown Oneonta or whether you had one or two properties like his brother and he had. He said he was not saying for Code Enforcement Officer Chiappisi to be their watchdog but at the same time when he pays his taxes it should take care of all this stuff but all of sudden he was getting charged for the city to come and inspect. He said they write down about cigarettes on the ground and he said this has got to stop. He said they were citizens and have given their heart and soul into this town and he suggested taking the taxes and find someplace else because they worked too hard for their money.

Code Enforcement Officer Chiappisi stated he would like to address the issue of losing papers. He said when this law got implemented he had just been hired. He said he had heard that complaint that the office lost papers and one of the first things he did was to audit how papers were handled in his office. He said he heard the accusation before but nobody has yet to produce a piece of paper for him that his office had lost. He said when a paper is handed into his office that person could request a copy with the Code Enforcement Office stamp on it as received for .25¢ or the other alternative was for the person to send it to the office by certified mail which would give the sender a receipt from the Post Office for it. He said he could find every paper when asked for by the Mayor, when documentation is requested by the board. He said his office does not lose papers.

Mr. Ruffino, Jr. stated most recently in February 2011 there was a fire and sprinkler inspection done at 216, 218-224 Main Street by Gregory Plumbing and he got a call and a letter saying the sprinkler inspection was not done at 218-224. He said he questioned how that was possible and when he went to the Code Enforcement Office and met with Sue Herr there they found that inspection report in the file but it was mislabeled. He said he thought when someone says something might get lost they meant by it being put somewhere else.

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Mr. Avanzato stated that recently happened with them when one of their houses needed the yellow sheet. He said now he makes sure he has Code Enforcement stamp and date every piece of paper for him that he brings in. He said they were not saying lost per say but maybe misplaced or mislabeled. He said there was another time about getting another piece of paper saying they had to do their smoke detectors again.

Code Enforcement Officer Chiappisi stated sometimes his office does a bulk mailing and sends smoke detector papers.

Chair Merzig stated this was an interesting discussion and the board heard what the appellants were saying and she thanked Code Enforcement Officer Chiappisi for his statement as well.

Chair Merzig asked if any of the board members had questions regarding the appeal.

Commissioner Friedman stated one of the issues was the smoke detector form and he asked about what happened to that.

Mr. Tomaino responded that they had an inspection process in the building. He said they do one in October right after the students move in and check conditions and make sure smoke detectors were in place and they send out that smoke detector form. He said they did that same process again in January or February when the students return. He said that process covers the full 12 months. He said that was the process they do every single year.

Chair Merzig stated that the document Code Inspector Hester gave the board says under inspection or form cycle was 6 months and Code Enforcement received one on January 25, 2011 and received another one on November 4th.

Mr. Tomaino stated one of those might have been changed in November because that may have been when their process got messed up and they were trying to get in compliance with Code Enforcement. He said instead of it being received in October it was received later because they said they had not received it.

Commissioner Friedman stated it says on Code Inspector Hester's document for previous inspection or form's expiration date was January 25, 2011. He said that says that it looked like another one would have been due 6 months later on July 25, 2011 and according to this document Code Enforcement never received one. He questioned if the appellant was saying they did submit it.

Chair Merzig stated no and that Mr. Tomaino was saying their procedure was they do one in January and one in September after the students move in.

Mr. Tomaino stated that was something they always do because they were interconnected smoke detectors all the way through and they check the batteries as well as the operation. He said he was in fact saying he did take one of those to the office in September. He said it was hard for him to say because they were all different years but he knew they did the same process twice a year.

Commissioner Friedman questioned how many of the detectors in that building were hardwired.

Mr. Ruffino, Jr. responded all of the ones in the staircases and common areas. He said in the main kitchen area of each unit they were all hardwired and had a battery as well. He said the carbon monoxide ones as well and then all the ones inside the bedrooms. He said they had to wait until the students were there otherwise they could not get into the bedrooms because their things were there. He said they wait until the students were there so they were able to walk through. He said that was why they do it twice a year. He said it was not a calendar date they pick but the batteries last three years and they check it twice a year.

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Commissioner Friedman questioned if the appellants were saying that they submitted a form probably after the fall semester started.

Mr. Ruffino responded yes.

Chair Merzig stated the property use form was another question because they changed use, not a change of ownership, or they were negotiating when it was going to be changed and it was not submitted. She said regarding the change of ownership the appellants' main contention was that none of the letters went to the right address. She said that was one part of it and the other one was that they were in the course of renovations and negotiating as to what was actually happening there. She said the electrical inspection was the third item and that was really the big one.

Commissioner Friedman stated his comment on that was that he finds and has always found that the electrical inspections were a major source of confusion for property owners especially if they had an old one that was not clear. He said and then because the city requires, and rightfully so, periodic electrical inspections the city will go back in and say another electrical inspection was needed.

Commissioner Friedman stated on the issue of property transfer he said the property transferred in 2009 but questioned if that was just a change of officers or the corporation.

Mr. Ruffino, Jr. stated the first year that they owned it completely was 2010. He said the transfer took place in January 2010. He said it was the same corporation with new officers.

Chair Merzig stated and not the same address.

Mr. Ruffino, Jr. stated their personal addresses were listed.

Chair Merzig stated that would have been a source of confusion on everybody's part.

Mr. Ruffino, Jr. stated they hired attorneys to do all of that and one would think they would take care of it.

Chair Merzig stated it was a miscommunication in City Hall too because it goes to the Assessor but it did not necessarily go to the Code Enforcement Office.

Mr. Ruffino, Jr. stated that in 2009 it would have shown his father as the sole stockholder of WHH Realty and when it changed in 2010 that was when Code Enforcement would have found out as well.

Commissioner Friedman questioned if both of these buildings were sprinklered.

Mr. Ruffino, Jr. responded yes.

Commissioner Friedman questioned the in lieu of statement, which there was a fee for and that was for failure to schedule a housing inspection..

Code Enforcement Officer Chiappisi stated an in lieu of statement had expired which meant the violations were noted and the owner was given an opportunity to fix them, sign the paper and send it back but the Code Enforcement Office did not receive it. He said when it is for outside work he would accept a written request for an extension from the owner.

Mr. Ruffino, Jr. stated in reference to that in lieu of statement that particular timeframe was when they redid all the apartments.

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Mr. Tomaino stated there was no in lieu of statement anymore because all of those situations had been remedied. He said the understanding between the Code Enforcement Office at the time was from Code Inspector Roodhof and then Code Enforcement Officer Chiappisi came in. He said they were under the understanding that did not matter because there had been substantial renovations of those units and the in lieu of was not applicable.

Commissioner Friedman stated he thought he had heard all he needed to hear but he had just one comment. He said this was probably one of the safest buildings in the city. He said the work that they did years ago was amazing and that they put that much money into. He said he did not think there was much that was combustible in it. He said there was a need for flexibility here based on that kind of issue in terms of charging fees to people who actually put a lot of money into their building.

Chair Merzig stated the board's decision cannot be based on that.

Commissioner Hayes questioned if Joseph Ruffino, Sr. was still an officer of the corporation.

Mr. Ruffino, Jr. responded no.

Commissioner Hayes questioned if Mr. Ruffino, Sr. lived at 28 River Street.

Mr. Ruffino, Jr. responded yes.

Commissioner Hayes stated he had a real problem that the notice was going to someone who was no longer an officer of the corporation. He said he could see how the current officers were not properly notified by the city.

Commissioner Friedman stated he thought the notice issue was a big issue. He said he thought from his perspective that the notice issue was the only real outstanding issue. He said he thought the owners had some responsibility here to make sure that the city was aware and informed when there was a change of ownership of a property.

MOTION, made by Chair Merzig and seconded by Commissioner Hayes, that in the review of the appeal of the administrative fees by WHH Realty Corp – Joseph Ruffino & Anna Tomaino for 216 Main Street, Tax Map #300.31-1-19 & 218-222 Main Street, Tax Map #300.31-1-18, that upon hearing testimony from the Code Enforcement Office, the property owner and petitioners, the Board of Public Service recommends reducing the magnitude of the fees based on the following findings: 1) that the property owner needed to notify the city of the change in ownership and therefore the property use form administrative fee will stand reduced by 50 percent, and 2) that based on the outstanding building permit and the work that was being done there, which the Code Enforcement Office agrees was being done that the other fees against the property be eliminated.

Voting Ayes: Chair Merzig
Commissioner Friedman
Commissioner Hayes
Noes: None
Abstain: Commissioner Temming
Absent: Commissioner Tisenchek

MOTION CARRIED

Chair Merzig stated she would appreciate the property owner re-filing the K1 form regarding the address with the Clerk and he would make sure that everyone gets a copy.

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REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 12

64 Church Street – Vincenzo Avanzato

The following Memorandum was received from the Code Enforcement Office with documentation including the request for the appeal attached:

“64 Church Street

Owner Vincenzo Avanzato

***PUT ON ADMINISTRATIVE FEES ON 7/12/2011 For
Electrical Violations, Electrical Inspection, and Property Use Certification Form.***

Antonio Avanzato received a letter to return a completed Smoke Detector Inspection form. Letter is dated January 14, 1999.

Antonio Avanzato received a letter to deliver a recent Heating System Inspection Report. Letter is dated January 19, 1999.

Antonio Avanzato received a letter to schedule an Electrical Inspection. Letter is dated February 8, 1999.

Antonio Avanzato received a housing inspection on March 3, 1999 with a requirement schedule stating that he was overdue on a Smoke Detector Inspection and Furnace Inspection. Letter is dated May 11, 1999.

Antonio Avanzato received a second letter to deliver a recent Heating System Inspection Report within thirty days. Letter is dated September 7, 1999.

Antonio Avanzato received a letter to deliver a recent Heating System Inspection Report. Letter is dated April 7, 2000.

Antonio Avanzato received a letter to correct Electrical Violations within thirty days. Letter is dated May 5, 2000.

Antonio Avanzato received a letter via certified mail to complete a Smoke Detector Inspection within five days. Letter is dated June 19, 2000.

Antonio Avanzato received a letter to schedule a Housing Inspection. Letter is dated August 18, 2000.

Antonio Avanzato received a housing inspection on February 8, 2001 stating that Electrical Violations were still not corrected. Letter is dated February 12, 2001.

Antonio Avanzato received a letter mailed certified mail stating Final Notice Prior To Unsafe Building Declaration. Letter is dated August 2, 2001.

Antonio Avanzato received a letter mailed certified mail ordering him to schedule a Housing Inspection within five days. Letter is dated January 16, 2004.

Antonio Avanzato received a Housing Inspection on February 5, 2004 with a requirement schedule stating that he was overdue on an Electrical Violations, Furnace Inspection, and a Rental Registry Form. Letter is dated February 19, 2004.

Antonio Avanzato received a letter mailed certified mail stating that the following inspections and forms are outstanding, Heating System Inspection, Smoke Detectors, Rental Property Registry, and Electrical Violations. Letter is dated January 13, 2006.

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REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 13

(Administrative Fee Appeal – 64 Church Street) continued

Antonio Avanzato received a letter mailed certified mail to correct Electrical Violations within thirty days. Letter is dated March 10, 2006.

Vincenzo Avanzato received a letter mailed certified mail to correct Electrical Violations within thirty days. Letter is dated November 28, 2007.

Vincenzo Avanzato received a letter mailed certified mail with a Housing Inspection Report on October 22, 2007 stating that he was still overdue on Electrical Violations, Electrical Inspection, and Heating System Inspection. A note stating the maximum occupancy for this apartment is now 3 uri. Letter is dated December 13, 2007.

Vincenzo Avanzato received a letter mailed certified mail with a Housing Inspection Report on December 17, 2008 stating that he was still overdue on an Electrical Violations, Electrical Inspection, and Smoke Detector Inspection. A note stating the maximum occupancy for this apartment is now 3 uri. Letter is dated January 9, 2009.

Vincenzo Avanzato received a letter to schedule a Housing Inspection. Letter is dated August 16, 2010.

Vincenzo Avanzato received a Housing Inspection on February 5, 2004 with a requirement schedule stating that he was still overdue on an Electrical Violations, and Electrical Inspection. A note stating the occupancy for this apartment is now 3 uri. Letter is dated September 17, 2010.

Vincenzo Avanzato received a letter to deliver an Electrical Inspection Report within thirty days. Letter is dated April 7, 2011.

Vincenzo Avanzato received a second letter to deliver an Electrical Inspection Report within fifteen days. Letter is dated June 15, 2011.

Vincenzo Avanzato received a letter of an Electrical Inspection Report dated March 9, 1999. Letter is dated June 17, 2011.

On July 12, 2011 a final notification was mailed certified mail and the property was put on Administrative Fees. The owner had 60 days from the date of the letter before the penalties started.

An Electrical Inspection Violations Report was received July 13, 2011.

Vincenzo Avanzato received a letter to correct outstanding Electrical Violations. Letter is dated August 17, 2011.

Vincenzo Avanzato received a letter stating he was still accruing fees for failure to supply an inspection of Corrected Electrical Violations and Property Use Certification for Rental Property. Letter is dated October 13, 2011.

Vincenzo Avanzato received a letter to schedule a Housing Inspection. Letter is dated October 26, 2011.

*Vincenzo Avanzato received bills for Electrical Violations- \$607.00 and Property Use Certification Form- \$278.50. The bills were done on October 31, 2011.
(2 pages)*

An e-mail conversation between Antonio(Tony)Avanzato and Robert Chiappisi on October 26 and November 1, 2011.

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REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 14

(Administrative Fee Appeal – 64 Church Street) continued

Antonio and Vincenzo Avanzato's appeal was received on November 9, 2011.

A requirement schedule printed December 28, 2011."

Mr. Vincenzo Avanzato stated he wanted to clear the record with Code Enforcement Officer Chiappisi and clear the air that he just wanted it known that neither his brother or he had anything personal against Code Enforcement Officer Chiappisi or his office. He said they had lived in this town a lot of years and had gone through a lot of code enforcement officers and mayors and their biggest belief in this town had always been to try to work together with the city. He said over the years they have had some really good mayors who really worked with people unfortunately the last one was more out to hinder businesses then to try to help and that was his opinion. He said now the city has a mayor who has his hands wide open with local businesses with everyone's best interest and trying to help. He said keeping that in mind and whether it was the Code Enforcement Office, the board and citizens that were important or else they will see this town go down the drain.

Chair Merzig stated that did not have a basis for the board's decision.

Mr. Avanzato stated absolutely not but he just wanted to clear the air.

Chair Merzig stated there were two issues before the board. She said one issue was the property use form and she asked Code Inspector Hester to speak on that.

Mr. Avanzato stated that he knew Code Enforcement Officer Chiappisi said he did not lose papers but he did all that stuff, brought it in and he sat in the other room with the lady and she took all his papers. He said if those papers got lost it was he had not gotten the proper stamp to go back to his brother and say they did these things and now they were being punished for it because in the shuffle it got lost someplace.

Code Inspector Hester stated the property use form was due April 4, 2011 and Code Enforcement's documentation shows that it was received November 3, 2011. He said there was a period of 215 days in between.

Mr. Avanzato stated the mail used to go 5 Gifford Hill then it started going to 313 Emmons Hill so there might have some lose of mail there also but he said he was not even going to touch on that subject.

Commissioner Friedman stated he did not see anything prior to the final notification.

Code Inspector Hester stated when Code Enforcement gets ready to issue fees on properties and the final notification if there was anything else outstanding it gets added.

Chair Merzig stated the other item was the electrical inspection. She said in Mr. Avanzato's letter he stated that he received it August 2nd but she did not get a copy of that in her packet.

Mr. Avanzato stated the gentleman, Mr. Ed Hoag, who did the inspection ended up at the hospital and the wife too and they never sent the information. He said Steve McKlintock said this work was done back 3 or 4 months ago. He said he we go again with communication and he was getting killed here with \$700 worth of fines and did not think he should be penalized for this.

Mr. Antonio Avanzato stated this work had been done and finally the report had been faxed to Codes the day his brother and he were there after Sue Herr got on the phone with Mrs. Hoag and she said she would fax it.

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(Administrative Fee Appeal – 64 Church Street) continued

Commissioner Friedman stated the electrical inspection report Codes received was indicated as document #25 and he questioned who wrote “covers NYB Report dated 03/09/1999” on the bottom of the page.

Code Inspector Hester responded he did not know.

Commissioner Friedman stated it seemed to him that if that was written by electrical inspector Ed Hoag and the Code Enforcement Office received it on July 13, 2011 that it cleared the 1999 electrical violations and he questioned the charging of fees.

Chair Merzig stated that report did not say that everything passed.

Mr. Avanzato stated Ed Hoag cleared them.

Chair Merzig stated okay, yes.

Commissioner Friedman stated that the letter of appeal by the Avanzatos speaks about confusion over notification, which he thought was an important issue here but not one that should be the top subject in the board’s decision.

Commissioner Hayes stated he was satisfied with the electrical certificate that was cleared on August 8th before the final notice went out on August 17th.

Commissioner Friedman stated getting back to the issue of the ownership statement and the certificate of use he said the fact that there was no prior notification to the certified final notification he did not think that a final notification could be sent without sending the first notification. He said he though the fees should be reduced to zero.

MOTION, made by Chair Merzig and seconded by Commissioner Hayes, that in the review of the appeal of the administrative fees by Vincenzo Avanzato for 64 Church Street, Tax Map #: 288.17-5-16, that upon hearing the testimony from the Code Enforcement Office, the property owner and petitioner, the Board of Public Service agrees that the documentation submitted by the property owner successfully defends the appeal and based on the following findings: 1) the electrical inspection was completed by the time of the deadline, 2) the property owner was not notified within the requisite period of time that the property use form was due, and based on the testimony of the petitioner it was filed successfully in the Code Enforcement Office before the date of the fines therefore the board recommends that the administrative fees be waived in this case.

Voting Ayes: Chair Merzig
Commissioner Temming
Commissioner Friedman
Commissioner Hayes
Noes: None
Absent: Commissioner Tisenchek

MOTION CARRIED

Voting followed this discussion.

Code Enforcement Officer Chiappisi stated that these electrical violations were outstanding since 1999. He said the property owner actually went through another 9 year cycle without having the violations corrected, which was why he needed a new inspection. He said as of 2008 a new inspection was required. He said that was 13 years.

Mr. Avanzato stated they were fixed with the company that went out of business. He said he was

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(Administrative Fee Appeal – 53 Gilbert Street) continued

An Electrical Inspection Violations Report was received April 20, 2011.

Heath Stein received a letter ordering to correct Electrical Violations with-in thirty days. Letter is dated May 19, 2011.

Heath Stein received a letter stating he was still accruing fees for failure to supply an inspection of Corrected Electrical Violations, and Heating Systems. Letter is dated June 1, 2011.

Heath Stein received a letter to schedule a housing inspection. Letter is dated June 10, 2011.

Heath Stein received a bill for Heating Systems- \$943.00. The bill was done on July 13, 2011.

Heath Stein received a second letter to schedule a housing inspection within ten days. Letter is dated July 14, 2011.

A letter was received August 1, 2011 from Heath Stein asking for a solution for the issue of the circuit breaker and the gas meter.

Heath Stein received a letter to contact NYSEG and submit a request for a gas meter relocation. Letter is dated August 4, 2011.

On August 10, 2011 a final notification was mailed certified mail and the property was put on Administrative Fees. The owner had 60 days and 30 days respectfully from the date of the letter before the penalties started.

Heath Stein received a letter stating he was still accruing fees for failure to supply an inspection of Corrected Electrical Violations. Letter is dated August 17, 2011.

Heath Stein received a letter stating he was still accruing fees for failure to supply an inspection of Corrected Electrical Violations, Smoke Detectors, Housing Inspection, and Local Agent Designation. Letter is dated October 13, 2011.

Heath Stein received bills for Housing Inspection- \$404.00, Smoke Detectors- \$614.00, Electrical Violations- \$1713.00, and Local Agent Designation- \$177.00. The bills were done on October 31, 2011.

Heath Stein's appeal was received November 7, 2011.

A requirement schedule printed November 29, 2011."

Chair Merzig recognized Mr. Stein and asked him what the basis of his appeal was.

Mr. Stein stated he had a couple. He said there were a lot of fines built up here and he would start of with the electrical inspection that was past due. He said he purchased this house in 2005 and he never received notification that there was an electrical inspection and that it had failed. He said then he lived there for four years and was not receiving any notifications, no fire reports or that he needed smoke detectors or anything.

Chair Merzig stated the board had documents showing that Mr. Stein received notification in 2007.

Mr. Stein stated okay that an electrical inspection was due. He said this year he had been working with having the electrical inspection done. He said one of the major issues was that New York State Electric and Gas (NYSEG) had put in the gas meter to close to the box. He said NYSEG has not

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(Administrative Fee Appeal – 53 Gilbert Street) continued

moved it. He said he had talked to Code Enforcement Officer Chiappisi on the phone and he said he was actually going to stop putting the fines on him until NYSEG took care of that. He said that was in the springtime. He said now for the other two he had in lieu of statement, local agent and smoke detectors. He said he had done those every year, the smoke detector and that was the first time he got the local agent form because that was the first year he moved to Albany. He said he never received noticed that he was being charged for those things until he called up and wrote his first appeal. He said why would he let that go on for an entire year if he was being charged \$7 a day for not sending in a piece of paper.

Chair Merzig stated Mr. Stein had not actually been charged for a whole year. She said he had only been charged since August 10, 2011.

Mr. Stein stated he was just saying that if he knew that was happening he would have resent that piece of paper because he sent it in and actually came here and did it himself.

Code Enforcement Officer Chiappisi stated the certificate the Code Enforcement Office received from Mr. Lawlor indicated all of the violations and it took a couple days to figure it all out. He said Mr. Lawlor then mailed an amended certificate saying all the violations had been clear. He said he did not state that on the report.

Mr. Stein stated he spoke to Code Enforcement Officer Chiappisi on the phone and he said he was not going to charge him anymore because that was not an issue that was his fault because NYSEG had put that meter in the wrong spot. He said it took a couple months but NYSEG came and took care of it.

Code Enforcement Officer Chiappisi stated in those violations it was not just the meter. He said there were violations outstanding since 2004.

Mr. Stein stated he had someone come in and do all the electrician work and the only thing left to do was have that meter moved.

Code Enforcement Officer Chiappisi stated that meter was not actually on the initial inspection report. He said what happened was Mr. Stein received notice he had to correct the violations and Mr. Stein went ahead and got a second electrical inspection and that was when that meter appeared. He said he did his best to help Mr. Stein with that because he did not like NYSEG's answer and he felt it was NYSEG's responsibility. He said these violations were on this property for eight years.

Mr. Stein stated that was done by the original owner and he thought he should have been made aware of that when he bought the property.

Code Enforcement Officer Chiappisi stated Mr. Stein needed to speak to the seller about that.

Code Enforcement Officer Chiappisi stated in 2005 Mr. Stein owned the property and every year Code Enforcement sent him a notification at least once if not more than once that there were outstanding electrical violations.

Mr. Stein stated they were already taken care of.

Code Enforcement Officer Chiappisi stated once in the last seven years Mr. Stein should have contacted the office and said these had been corrected and asked what he had to do to get them off the report.

Mr. Stein stated going back to the in lieu of statement and local agent he said that was all stuff that

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(Administrative Fee Appeal – 53 Gilbert Street) continued

was so easy to do if he knew he needed to do it. He said as far as the electrical inspection he did not have the money to have the electrical boxes moved 3’.

Commissioner Friedman stated aside from the electrical things he asked Mr. Stein which were the things he claims he did not have notice of.

Mr. Stein responded three things, the in lieu of statement, the smoke detectors and the local agent.

Chair Merzig asked about what the second bill was for.

Code Enforcement Officer Chiappisi replied that the first bill was in the amount that was going to be levied on the taxes but did not happen. He said because the inspection was never done, it continued to accrue until he received a call from the electrical contractor Ray Lawlor about 1½ weeks ago at which point it still had not cleared all the violations and he contacted Mr. Lawlor who had to rewrite it because he wrote it wrong.

Mr. Stein stated he got a notice in the mail saying everything was clear. He said Code Enforcement Officer Chiappisi told him he was not going to be charged anymore because it was NYSEG’s issue.

Commissioner Friedman questioned if Mr. Stein was also saying he did not receive any prior notification about the furnace.

Mr. Stein responded he was saying that might have been on the electrical inspection. He said he got the electrical inspection and if that was included with it, then yes maybe he missed that but he did not receive a second one that said the furnace. He said he had no idea when things got turned in because he did not get any other paper.

Chair Merzig stated that in the packet there was duplication of the 4/21/11 electrical inspection from Mr. Lawlor.

Code Enforcement Officer Chiappisi stated he thought that was corrected

Mr. Stein stated regarding the certified letters he said he has had 3 addresses since he moved to Albany. He said the certified letter he was aware of was the electrical inspection but these other things were different than when you just send in a form for smoke detectors. He said he drove from Albany to attend the meeting. He said he did not want to be a landlord but had to move away from here and he was doing his best and still paying money out for this building and trying to keep it up. He said when Code Enforcement Officer Chiappisi called him the other day about there being trash he drove down from Albany and got the trash out of there. He said it was ridiculous but he was just dealing with this.

Chair Merzig asked who the local agent was.

Mr. Stein stated his local agent was his father.

Chair Merzig questioned if his father was not responsible for picking up the trash.

Mr. Stein stated he was only 1½ hours away.

Chair Merzig stated Mr. Stein needed to keep better track of what was going on with his property through his father.

Code Enforcement Officer Chiappisi stated local agent forms expire every year. He said he did not

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(Administrative Fee Appeal – 53 Gilbert Street) continued

believe Code Enforcement had ever received a form for a local agent and that it has always been Mr. Stein.

Mr. Stein stated he sent in the local agent form last year with the smoke detectors after he moved two years ago. He said that was when he got the notification that he had to do that.

Chair Merzig questioned if Code Enforcement still did not have a local agent form.

Code Enforcement Officer Chiappisi responded Code Enforcement still did not have a local agent form.

Chair Merzig asked Mr. Stein if he had a copy of the local agent form he said he sent in.

Mr. Stein replied no, he did not make a copy of it. He said he had not made a copy of anything he sent in.

Commissioner Friedman stated the final notice dated February 4, 2011 said a heat inspection was due and that was sent by certified mail to Mr. Stein and according to the receipt for certified mail it was received 2/8. He said that was also the one for electrical.

Mr. Stein stated regarding the heating system he said he called up Gregory Plumbing and they came and did an inspection. He said he never received anything from them besides a bill. He said he never received a letter from the city saying that had cleared. He said he had no idea how long those fines were going for.

Commissioner Friedman stated when Mr. Stein received that letter of final notification that said that fees would accrue and there was a chart attached indicating the initial administrative fee of \$250 and a fee of \$7 per calendar day he questioned why Mr. Stein why not think of calling Gregory Plumbing and ask if he had sent in the report.

Mr. Stein responded he had received the bill from Gregory's and he assumed that he had sent it in. He said this was not his number one concern in life right now but he was trying to do his best. He said he was trying to make this house a safe place to live and trying to take care of everything but he had a lot of other stuff on his plate. He said he travels most of the time for work and he did not want to be a landlord but the city was making it absolutely impossible for him. He said to have \$6000+ fines that he had there was no way he could take care of that.

Chair Merzig questioned the date as to when NYSEG moved the meter and she asked Code Enforcement had access to the property to do an inspection.

Code Inspector Hester stated that was still pending.

Commissioner Friedman questioned if Code Enforcement did not issue a Certificate of Compliance if there were outstanding inspections.

Code Inspector Hester stated that was correct.

Commissioner Friedman stated that a property owner had 30 days to submit a local agent form and he questioned when he intended to do that.

Mr. Stein stated he actually did that when he was at the property and put them in the mailbox here, the smoke detectors form and that form. He said he thought that was taken care of until he received the letter two months ago saying he owed thousands of dollars for not sending in the smoke detectors papers.

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(Administrative Fee Appeal – 53 Gilbert Street) continued

Commissioner Friedman questioned if Code Enforcement Office ever received those forms.

Code Enforcement Officer Chiappisi responded no.

Commissioner Friedman questioned if Code Enforcement Office received the furnace report from Gregory's.

Code Enforcement Officer Chiappisi responded that appeared to have been received on July 7, 2011.

Commissioner Friedman questioned if the fees were accrued this past fall.

Chair Merzig stated yes because everything was April 3rd.

Commissioner Friedman stated he thought the issue of the furnace inspection has always been a classic problem in the Code Enforcement Office because inspectors often did not send the forms in and he would not be surprised if that was what happened.

Chair Merzig stated she would like to see when the inspection took place that Gregory Plumbing has now supposedly sent in.

Commissioner Friedman questioned if the board could table the matter to the March meeting.

Chair Merzig stated that was one issue and the board did not have any evidence on what Mr. Stein said he did and that he had been responsible related to this property since he left.

Mr. Stein stated that everything was done. He said the lawns were mowed and the sidewalks were shoveled but the whole point was that Code Enforcement cannot send him a letter six months later saying they did not get this information and were charging him for it. He said he never received a letter saying that he was being charged for it.

Chair Merzig stated that the letter Mr. Stein did receive and signed for explained that and what Mr. Stein needed to do within 60 days and he did not do it.

Mr. Stein asked if he could see copies of these letters.

Chair Merzig stated that the board needed evidence of what Mr. Stein says he did and sent it.

Mr. Stein stated it was his ignorance he did not copy the forms. He said he had no idea what an in lieu of statement was.

Commissioner Friedman stated with these items outstanding for so long he would think Mr. Stein would go to the Code Enforcement Office and find out what it was all about. He said his feeling was that at the end of all of this discussion that the board eliminates the electrical fees and bill for all the others subject to what the board sees at the March meeting.

Chair Merzig stated that was what she thought too. She said the board understands Mr. Stein's situation and that the Code Enforcement Office feels that part of his electrical violation was a result of NYSEG not acting in expeditious fashion but the board needs more evidence to continue them that was the case.

Commissioner Hayes stated that there were reasons for these fines. He said the city takes safety very seriously and the fines get attention from property owners in the city and the city did not treat these kinds of things casually.

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(Administrative Fee Appeal – 53 Gilbert Street) continued

Code Enforcement Officer Chiappisi stated all the violations in the electrical had been cleared.

Chair Merzig stated she did not see that in the documents and asked Code Enforcement Officer Chiappisi to send that to the board.

Code Enforcement Officer Chiappisi stated he had the inspection certificate dated January. He said he wanted the original report and the original report to be explicitly clear from the electrical contractor Ray Lawlor.

Chair Merzig stated the board would also like an inspection of this property before making a decision on what stands.

Commissioner Friedman asked Mr. Stein if he could briefly explain the financial predicament he was in that forces him to keep this house. He said that would nothing to do with this case but he thought it was very important to the city's recognition of this issue relative to administrative fees, rental properties and vacancies.

Mr. Stein stated his issue with the place was that he lived upstairs and rented out the downstairs. He said that was a very comfortable thing for him to do. He said in 2007-2008 the company he was working for slowed down and he had to move and in that process he moved to a company in Massachusetts and that went belly up and moved again. He said he had been very focused on his career. He said he has had tenants moving in and moving out and half the time he was paying the mortgage on this house. He said he talked to many people about selling the house and was told that basically it was almost upside down right now and he needed to hold on to it for as long as he could. He said if he sold the house right now he would lose \$30,000-40,000.

Mr. Tomaino stated a recommendation for this board or Common Council might be that before these fines are levied that the property owners come to a meeting like this and if they did not show up than those fines be levied. He said these were groups of people who were citizens in the City of Oneonta versus a government agency and he could see how that would be better suited so that way they could get the things done that were needed at the Code Enforcement Office.

MOTION, made by Commissioner Friedman and seconded by Commissioner Hayes, that the board tables the administrative fee appeal by Heath Stein for 53 Gilbert Street to the March meeting.

Voting Ayes: Chair Merzig
Commissioner Temming
Commissioner Friedman
Commissioner Hayes
Noes: None
Absent: Commissioner Tisenchek

MOTION CARRIED

62 Elm Street – Alpha Delta Omega (ADO)

Chair Merzig recognized members from Alpha Delta Omega. She said the board would hear an update from the Code Enforcement Office on the property at 62 Elm Street that was declared unsafe on January 12th and ordered the following:

- *The property to be repaired and the owners to file a plan with the Code Enforcement Office that includes contracts.*
- *Repairs are to be made by licensed professionals.*
- *The organization hires a professional safety expert to inspect the property for living conditions and*

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(Code Enforcement Office Update – 62 Elm Street)

- *for maintenance, smoke detectors, etc and files a report with the Code Enforcement Office on a weekly basis.*
- *That a local agent designee for the property files with the Code Enforcement Office on a weekly basis what activities were or were not going on in the house.*

Code Inspector Hester presented the Chair with a report from when he had been back into 62 Elm Street and found outstanding violations and the ceiling had been cut out. He said a couple days before he went on the inspection he was called by Primo Construction and they asked if a building permit was needed. He said he told them they he did and could turn it in after they cut out the ceiling and determine how much work was involved. He said he went back on January 23rd and there was substantial water damage there and that was in the process of being repaired but he did not have the building permit yet. He said he did not know what was going on at this point. He said he believed the electrician John LeoGrande was involved because he was turning in the safety inspection reports, which he had copies of. He said he knew the group was working on plans but he had not had any filed with the Code Enforcement Office for the contracts for anybody yet. He said the same goes for the motion made by the board to insure that there were licensed professionals doing the work and has not had reports from the local agent on activities. He said however the group was making process and have cleaned the exterior of the property.

A member of ADO presented pictures and said outstanding violations were repaired since the inspection.

Chair Merzig questioned if the items in red in the report were those that were outstanding.

Code Inspector Hester responded yes and everything that was in green had been corrected.

Commissioner Friedman stated with the construction that was going on there and other work that had been done so far he questioned if it was more or less safe than it was on January 12th.

Code Inspector Hester responded it was probably a little safer.

Chair Merzig asked the group why there was no building permit yet.

A member of the group responded that as of today the contractor was still pulling stuff out and the plumber came today again for the first time in a few days. He said the contractors had indicated that they would probably have a quote on the repairs in a couple days.

Code Inspector Hester stated that the cost of the repairs did not need to be supplied when applying for a building permit. He said only the names of the contractors needed to be supplied.

Chair Merzig questioned there were not weekly filings with the Code Enforcement Office.

A member of the group stated he guessed because they were confused by that. He questioned who the local agent could be.

Chair Merzig stated one of the members could be designated the local agent.

Chair Merzig asked the group to tell the board about the safety inspections.

A member of the group stated that John LeoGrande, an electrician, was doing the safety inspections because he was the electrician they were using to do work in the house. He said Mr. LeoGrande was also doing inspections monthly for the fraternity across the street and they figured he would be a good person to get.

ONEONTA, NEW YORK - FEBRUARY 2, 2012 - 4:00 P.M.

REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 24

(Code Enforcement Office – 62 Elm Street) continued

Code Enforcement Officer Chiappisi stated that Code Enforcement had the monthly reports.

Chair Merzig stated that the board's concern was that the house was not yet safe. She said there were some outstanding items that could create an unsafe condition at the house. She said the board was concerned about there being a fire or a collapse of a floor and one of options the board had to remedy that was to order the house vacated and not return until the corrections were made. She said one of the reasons the board gave the members a month was to be sure that they were not being unsafe and that the work was being done but they were not overtaxing the house during that time. She said once the board declared it unsafe it assumed some of the responsibility for that property and the board wanted from the members was to let the Code Enforcement Office know what was going on at the house so that the board was sure nothing was happening that would make the house more unsafe than it was. She said that did not happen and the board was disappointed about that.

Mr. Tillapaugh, Attorney and member of Alpha Delta Omega, stated he was not sure that was correct. He said he believed what the board had in front of them was a January 23rd inspection that may have some violations but he believed if the board heard the testimony of these individuals that most of those if not all of them had been corrected or addressed. He said some of the violations talked about before concerned mold and leaks. He said all of those which may still show up on the January 23rd report because they had not been addressed had been corrected. He said there were no leaks, all of the mold had been removed and as seen in the pictures presented the water damaged area had some new beams scathed and the lighting was done. He said he thought if the board went through those Type A violations all of them had been corrected.

Chair Merzig stated that the board had no evidence that those violations had been corrected because there was no building permit and no certification they were taken care of.

Mr. Tillapaugh stated if the inspector came over he would have seen it was all done and they have been providing that weekly inspection by John LeoGrande, which was not just electrical.

Code Inspector Hester stated included in those safety reports John LeoGrande said there was a phone line problem of the automatic dialing system that was connected and that needed to be worked out with the telephone company and possibly get a second line installed dedicated to that panel.

A member of ADO stated they were currently working on that and it would probably be in the report by John LeoGrande.

Commissioner Friedman questioned if Mr. Tillapaugh knew for a fact himself that those violations had been corrected or was it because somebody told him that.

Mr. Tillapaugh responded they had told him that. He said he was not saying the reconstruction was done. He said they were raising funds through the brotherhood to pay for the reconstruction which they estimate would be fairly expensive but the unsafe aspect they were cited for of the mold, the leak, structural and electrical they had that all taken care of. He said a lot of what was left there was cosmetic. He said they were actually putting in new floors at this point as part of the structural. He said he was a little surprised that the Code Enforcement Office did not think it was a lot more safer than it was because it was.

Chair Merzig stated that may be because the activity date of Code's report was January 23rd.

A member of ADO stated they had fixed a lot since the 23rd. He said for violation 2 they installed a locking device.

Commissioner Friedman questioned what was going with the house in terms of how it was being used and how many were living there.

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REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 25

(Code Enforcement Office Update – 62 Elm Street) continued

A member of ADO responded right now there was only three of them, his brother, him and Justin. He said they were just working on the house because there was nothing else to do besides this non-stop work.

Commissioner Friedman questioned if there were no gathering of fraternity brothers, etc.

A member of ADO responded no.

A member of ADO stated he would continue with the list of violations and said for #5 the plumber, Ed Miller of ABC Plumbing was working on that.

Commissioner Friedman and Chair Merzig said that he did not have to go through the list.

Commissioner Friedman suggested that the conditions continue and the board hear from ADO at the March meeting.

Chair Merzig suggested to ADO that a building permit be filed and that they continue with what they were doing and come back before the board in 30 days at the March meeting.

A member of ADO asked where they apply for the building permit forms.

Code Inspector Hester replied they could apply for that at the Code Enforcement Office.

NEW BUSINESS

Code Inspector Hester stated that the owner Robert Duckett of 42 Cedar Street had shut the heat and the person who was living there moved. He said Code Enforcement Office had the water shut off when they learned there was no heat. He said the property was unsafe and Code Enforcement was asking the board to schedule an Unsafe Building Hearing for the March meeting.

Commissioner Friedman questioned why the heat was turned off.

Code Inspector Hester responded it may have been because of no rent because the tenant had said she was 3 or 4 months behind on rent. He said the landlord was paying for the heat. He said there were other things about the house that were suspect for unsafe, i.e. electrically and the front door which was probably going to collapse within the next year. He said the house has been posted.

Chair Merzig suggested that the board members go by and view the house. She said the board would schedule the Unsafe Hearing for the March meeting.

There being no further business to come before the board, Chair Merzig adjourned the regular meeting at approximately 6:00 p.m.

JAMES R. KOURY, City Clerk

JRK/pab