

RESOLUTION NO. -2014

Date Adopted: - - 2014

Dates Published: - - 2014

A RESOLUTION FINDING THAT THE RESIDENCE ON PROPERTY LOCATED AT 5006 S. ELMHURST ST., WICHITA, SEDGWICK COUNTY, KANSAS, IS UNSAFE, DANGEROUS, AND ABANDONED, AND ORDERING THAT SAID STRUCTURE BE REPAIRED SUCH THAT SUCH PROPERTY IS MADE SAFE AND SECURE OR DEMOLISHED.

WHEREAS, property located at 5006 S. Elmhurst St., Wichita, Kansas, a property in the unincorporated area of Sedgwick County, Kansas ("the Property") suffered fire damage on or about the 1st of November, 2013; and

WHEREAS, on or about the 21st of January, 2014, the local Health Officer for Sedgwick County determined that the Property is an imminent threat to the health or safety of any person such that it is a public nuisance as defined within the County's Nuisance Abatement Code; and

WHEREAS, the Director of the Metropolitan Area Building and Construction Department ("MABCD") recommends that the nuisance at the Property be abated and on the 23rd day of January, 2014, the Director of the MABCD filed a statement in writing with the Board of County Commissioners indicating that said structure was unsafe and dangerous; and

WHEREAS, on or about the 29th of January, 2014, the Director of the MABCD provided a Notice and Order to all required parties regarding the existence of a public nuisance at the Property, pursuant to Sec. 19-47 et seq. of the County Code, the regular abatement procedure within Sedgwick County; and

WHEREAS, no appeal was filed with regard to the Notice and Order regarding the existence of a public nuisance at the Property and the appeal deadline has passed; and

WHEREAS, Midfirst Bank, lienholder for the Property, has filed a foreclosure action and obtained judgment against the owners in Case No. 2013 CV 991 in the District Court of the Eighteenth Judicial District of Kansas; and

WHEREAS, the Property is scheduled to be subject to a sheriff's sale on May 7, 2014, and the owners of the Property waived their redemption rights to the Property pursuant to an Agreed Order filed with the District Court on the 7th day of February, 2014; and

WHEREAS, the County has received insurance proceeds and, pursuant to K.S.A. 40-3901 et seq. and Sec. 2.6.010 et seq. of the Wichita-Sedgwick County Unified Building and Trade Code, the County may utilize insurance proceeds to abate a nuisance caused by fire damage, by instituting legal proceedings pursuant to K.S.A. 12-1752 et seq.; and

WHEREAS, pursuant to K.S.A. 12-1752, within Resolution No. 22-2014, on the 5th day of February, 2014, the Board of County Commissioners fixed a time and a place at which the owner, the owner's agent, any lienholders of record and any occupants of the Property were permitted to appear and show cause as to why the structure shall not be condemned and ordered demolished and/or repaired; and

WHEREAS, Resolution No. 22-2014 was published in the official County newspaper on the 15th and 22nd days of February, 2014; and

WHEREAS, the hearing indicated within Resolution No. 22-2014 occurred before the Board of County Commissioners on April 2, 2014.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, AS FOLLOWS:

1. The Board of County Commissioners, after hearing testimony submitted by the Director of the MABCD and by other interested parties and persons, reviewing the file, and after being otherwise duly and fully informed, finds as follows:
 - (a) Proper notice was served upon all interested parties entitled thereto in all respects as provided for at K.S.A. 12-1752.
 - (b) The primary structure at issue is: A one-story dwelling located at 5006 S. Elmhurst that was severely damaged by a fire on or about November 1, 2013. The damage includes, but is not limited to the following: burnt floor and floor boards with large portions of the floor missing over the basement, burnt structural supports, open and uncovered basement windows, and easy access to the back of the structure. The Property has been vacant since the fire.
 - (c) The owners of record of the property are:

Crystal Dawn Chapman
William Weatherly
 - (d) The lienholder of record is:

Midfirst Bank
 - (e) Other interested persons include:

Blair Gisi, Attorney for Midfirst Bank
William A. Vickery, Attorney for William Weatherly

2. The structure on the Property is found to be dangerous and unsafe and the Property is found to constitute a public nuisance based on the findings set out above and due to the reasons indicated within the Public Health Nuisance Assessment completed by the health officer and dated the 21st day of January, 2014.
3. The Board of County Commissioners, based on the findings set forth herein, orders that the structure on the Property is condemned, and:
 - (a) The Board of County Commissioners hereby directs that the structure be repaired or removed and the premises made safe and secure by the owners, the lienholder, and/or agent(s) of the owners or lienholder.
 - (b) The owners of the Property (whether current or future), the lienholder, and/or the agent(s) of the owners or lienholder is/are hereby given five (5) days from the date of publication of this Resolution to commence the demolition/repair of the structure of the Property and sixty (60) additional days from the date of said publication to complete the repair/demolition and any other necessary work such that the Property is made safe and secure. The Director of the MABCD is tasked with making a determination as to whether the work has been commenced and completed.
 - (c) Extensions of time may be granted by the Director of the MABCD for repairs or demolition, provided that any taxes due are paid, the structure is kept secured and the premises remain free of debris and are maintained in a safe and secure manner. If any of those conditions are not met, County staff is directed to proceed with demolition of the structure.
 - (d) The Board of County Commissioners further directs that if such owners, lienholder, and agent(s) of owners and lienholder fail to commence the demolition/repair of such structure within the time stated or fail to diligently prosecute the same until the work is completed in the opinion of the Director of the MABCD, the Director will cause the structure to be razed and removed and the Property made safe and secure, subject to any extensions that the Director may grant.
 - (e) The Board of County Commissioners directs that if the structure is required to be razed and removed by County, as indicated within the previous subparagraph, the insurance proceeds the County has received shall be utilized to pay for said razing and removal.
 - (f) If the owners, lienholder, or agent(s) for the owners or lienholder has/have repaired or demolished the structure on the Property and completed all other necessary work so as to remove the public health nuisance and cause the Property to be safe and secure, as determined by the Director of the

MABCD, the County shall release the insurance proceeds it has received pursuant to the applicable Kansas Statutes and Unified Building and Trade Code provisions.

4. The Sedgwick County Clerk shall cause this Resolution to be published once in the official County newspaper and a copy shall be mailed by certified mail to the owners, agents, lienholders, occupants, and other interested parties within three (3) days after the first publication of the Resolution.

Commissioners present and voting were:

DAVID M. UNRUH	_____
TIM R. NORTON	_____
KARL PETERJOHN	_____
RICHARD RANZAU	_____
JAMES B. SKELTON	_____

Dated this _____ day of _____, 2014.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

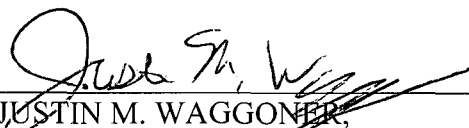
ATTEST:

KELLY B. ARNOLD, County Clerk

DAVID M. UNRUH, Chairman
Commissioner, First District

TIM R. NORTON, Chair Pro Tem
Commissioner, Second District

APPROVED AS TO FORM:



JUSTIN M. WAGGONER,
Assistant County Counselor

KARL PETERJOHN
Commissioner, Third District

RICHARD RANZAU
Commissioner, Fourth District

JAMES B. SKELTON
Commissioner, Fifth District