

CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
Deputy City Attorney

THOMAS E. HAYES
PATRICK B. McDONNELL
LINDA ULISS BURKE
Special Deputy City Attorneys



OFFICE OF CITY ATTORNEY
800 CITY HALL
200 EAST WELLS STREET
MILWAUKEE, WISCONSIN 53202-3551
TELEPHONE (414) 286-2601
TDD 286-2025
FAX (414) 286-8550

BEVERLY A. TEMPLE
THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
HAZEL MOSLEY
HARRY A. STEIN
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
MICHAEL G. TOBIN
DAVID J. STANOSZ
SUSAN E. LAPPEN
DAVID R. HALBROOKS
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. EHRlich
LEONARD A. TOKUS
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY

Assistant City Attorneys

December 18, 2002

To the Honorable Common Council
Of the City of Milwaukee
Room 205 – City Hall

Re: Communication from Gamella Hines
C.I. File No. 02-L-157

Dear Council Members:

We return the enclosed document which has been filed with the City Clerk and ask that it be introduced and referred to the Committee on Judiciary & Legislation with the following recommendation.

Claimant, Gamella Hines, 3027 North 1st Street, Milwaukee, WI 53212, alleges that after her private contractor removed a porch from the dwelling at 2658 North 15th Street pursuant to a permit, she sustained rain and snow damages to her kitchen. She claims damages in the amount of \$7,500.00.

Our investigation reveals that the Department of Neighborhood Services issued a raze order on this building on May 22, 2002. The claimant appealed the raze order on July 12, 2002. On July 30, 2002, a repair permit was issued in error by the Plan Exam section of the Milwaukee Development Center. As part of this permit, a contractor removed the porch while the raze order was pending. When the error was discovered a stop work order was posted on the building on August 15, 2002 and the permit was cancelled. The contractor at the site and the owner were notified of this. Because the building is condemned, an owner is not permitted to do any repairs. In addition, the building is required to stay vacant and secured until a raze permit is issued or until an agreement is reached between DNS Condemnation section and the owner allowing them to repair the building. There was no agreement in this case.

To the Honorable Common Council

December 18, 2002

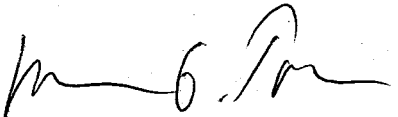
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On September 22, 2002 the claimant's appeal came before the Standards and Appeals Commission. The commission found the raze order to be reasonable. The property was included in a formal bid for demolition of various properties on November 27, 2002, and a contract was awarded. The rain and snow damages to the claimant's kitchen are unrelated to razing of the building or to the repair permit that was issued. The City is not responsible for any damages to the kitchen prior to the building being razed and as such, the City would not be liable. Accordingly, we recommend that this claim be denied.

Very truly yours,



GRANT F. LANGLEY
City Attorney



MICHAEL G. TOBIN
Assistant City Attorney

MGT:beg
Enclosure

1053-2002-3692:61635



CITY OF MILWAUKEE
RECEIVED

'02 DEC 17 PM 2:31

OFFICE OF
CITY ATTORNEY

Department of Neighborhood Services
Inspectional services for health, safety and neighborhood improvement

Martin G. Collins
Commissioner

December 16, 2002

Office of City Attorney
Attention: Claims Section

Re: C.I. File No. 02-L-157
Gamella Hines

An order to raze and remove the dwelling at was issued on 5/22/02 by DNS. Gamella Hines was served via sub-service to her daughter on 5/23/02. Ms. Gamella Hines appealed the raze order on 7/12/02. This appeal came before the Standards and Appeals Commission on 9/22/02. The commission found the raze order to be reasonable. The stay imposed by the appeal was dissolved effective the date of the decision which was 9/25/02. The owner did not exercise their right to appeal to circuit court within 30 days of this decision. This property was included in a formal bid opening for demolition of various properties on 11/27/02. A contract to demolish this dwelling was awarded to the contractor with the lowest bid.

On 7/30/02, a repair permit was issued in error by the Plan Exam section of the Milwaukee Development Center. This was discovered by the Condemnation section of DNS on 8/15/02. As part of this permit, the contractor removed the porch. A stop work order was posted on the building and the permit was cancelled. The contractor at the site and the owner were notified of this stop work order and the cancellation of the permit. Because the building is condemned, an owner is not permitted to do any repairs to the building without approval from DNS. The building is required to stay vacant and secured until a raze permit is issued to demolish the building or until an agreement is met between DNS Condemnation section and the owner allowing them to repair the building. An agreement allowing the owner to repair the dwelling never occurred between this owner and DNS.

The owner has no basis to file a claim against the city. We recommend this claim be denied. A copy of the raze order and a copy of the decision by the Standards and Appeals Commission are enclosed. If you have any questions, please call me at 286-2548.



Tracy Williams
Chief Operations Officer

10. Areas or sections of the interior ceiling coverings are missing or defective.
11. Areas or sections of the interior floor coverings are missing or defective.
12. The plumbing system, or components of this element of the building, is defective.

It has been determined that the cost to repair the above-referenced building(s) exceeds 50 percent of the assessed value of the improvements divided by the ratio of the assessed value to the recommended value as last published by the Wisconsin Department of Revenue for the City of Milwaukee, that such repairs are presumed unreasonable, and that this building is a public nuisance.

Therefore, I, Martin G. Collins, Commissioner of Neighborhood Services of the City of Milwaukee, pursuant to the authority of Sec. 218-4, Milw. Code, do hereby order you to secure from entry, raze, and remove the aforementioned 1.5-story, wood frame, 1-family dwelling together with all accessory structures and fixtures, and to restore the aforementioned premises to a dust-free and erosion-free condition within twenty (20) days after the service of this order upon you, pursuant to law, and should you fail or refuse to do so, the same will be razed, removed and restored to a dust-free and erosion-free condition by contract or arrangement with private persons or firms, and the costs thereof, plus additional contract administration charges, all of which constitute a lien on the real estate, may be assessed and collected as a special tax under Sec. 218-4, Milw. Code, or be collected personally.

The building(s) must be maintained vacant and secure from entry until you have complied with this order. In the event you do not maintain the building(s) secure from unauthorized entry, this department will maintain the building(s) secure and assess any cost against the real estate. Any use will be a violation of Sec. 200-11-5-b, Milw. Code, and any use will be subject to persecution. Section ATPC 134.09 prohibits the advertising for rental of condemned properties. No landlord may rent or advertise for rent any premises which have been placarded and condemned for human habitation. Before the building(s) may be razed and removed, appropriate permits must be obtained from the Condemnation Office, which is located in Room 1012, Municipal Building, 841 North Broadway, Milwaukee, Wisconsin.

For any additional information, phone **Chris Kraco** at [414]-286-3559 between the hours of 7:00-9:00am or 2:00-3:00pm Monday through Friday.

Per Martin G. Collins, Commissioner of Neighborhood Services, By-



Chris Kraco

NOTICE OF APPEAL RIGHTS: This order is appealable to the Standard and Appeals Commission, located on the 1st Floor, Milwaukee Municipal Building, 841 N. Broadway, Milwaukee. Appeals must be filed in person and within twenty (20) days of service of this order, if personally served, and within (30) days if served by publication, pursuant to Sec. 218-4-4, Milw. Code. Timely filing of a notice of appeal shall stay this order until the hearing date. Appeals shall be filed with a fee as prescribed in Sec. 200-33, Milw. Code. If possible, bring a copy of this order with you when filing for appeal.

Date Posted: May 22, 2002

CONDEMNATION



Department of Neighborhood Services
Inspectional services for health, safety and neighborhood improvement

Martin G. Collins
Commissioner

Schuyler F. Seager
Deputy Commissioner

MEMORANDUM OF DECISION

No. 6253

In the Matter of the Appeal of
Gamella Hines

Subject: Premises – 2658 North 15th Street

The above matter came on for hearing before the Standards and Appeals Commission on September 19, 2002, on an appeal of an order to raze and remove dated May 22, 2002, for the property at 2658 North 15th Street issued pursuant to Section 218-4 of the code.

The Commission having heard the evidence of the City of Milwaukee, and being fully advised in the matter, a motion was duly made, seconded and unanimously carried that the order of the Commissioner of Neighborhood Services (Serial No. 003682351) dated May 22, 2002, ordering the 1.5-story, wood frame –1 family dwelling on the subject premises to be razed and removed is reasonable as defined in Section 218-4-2-b of the Milwaukee Code of Ordinances. Therefore, the stay imposed pursuant to Section 200-17-3-b is dissolved effective the date of this decision.

The Commission, in arriving at this decision, concluded that the order of the Commissioner of Neighborhood Services was reasonable because evidence was provided by the City of Milwaukee that the actual cost to make the 1.5-story, wood frame, 1-family dwelling, on the subject premises code compliant exceeds 50 percent of the assessed value of the improvements divided by the ratio of the assessed value to the recommended value as last published by the Wisconsin Department of Revenue for the City of Milwaukee. Therefore, such request for restoration is hereby presumed unreasonable and the subject 1.5-story, wood frame, 1-family dwelling, on the subject premises in its present state constitutes a public nuisance. In conclusion, the order of the Commissioner of Neighborhood Services is reasonable as written and as explained by the City of Milwaukee therefore, the order is affirmed in whole and the appeal is hereby dismissed effective the date of this decision. This is a final order of the Commission pursuant to Section 218-4-5 of the Milwaukee Code of Ordinances. Any appeal of this order must be filed with the Milwaukee County Circuit Court within 30 days of the date of the decision, as required by Wis. Stats. Sections 66.05(3) and 893.76.

IT IS SO ORDERED
Dated and filed at Milwaukee, Wisconsin
September 25, 2002
RP

STANDARDS AND APPEALS COMMISSION

SANYOG RATHOD, ACTING-CHAIRMAN