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AGENDA COVER MEMO

AGENDA DATE: October 26, 2005
TO: Board of County Commissioners
DEPARTMENT: Public Works – Land Management Division
PRESENTED BY: Jeff Towery, Manager
AGENDA TITLE: DISCUSSION/CA04-0410 EXPIRED PERMITS FOR PATIO RV PARK
PATRICIA C. SHEPARD TRUST, UMBRELLA PROPERTIES – LEON
PEARSON (16-55-15-30-00300)



I. Introduction

On March 9, 2005, the Board reviewed the Compliance Program's approach for dealing with expired building permits. With one addition, the Board supported the program as implemented the prior year. The Board did support a re-inspection fee only in circumstances when final inspection(s) can be conducted by a single field visit by an inspector. The Board also confirmed that this option should be implemented from that day forward as opposed to revisiting any previous actions. This report results from a request from C. Robert Suess, prior owner of the property, to refund the fees paid by the owners on February 7, 2005.

II. Overview

A compliance action for expired building permits was initiated in November, 2004. This case is like many others that the Compliance Program has addressed in the past 18 months or so. County records showed a history of some inspections, but not all. The property did change ownership prior to the matter coming to our attention. Staff spent a good deal of time dealing with both the current and prior owner and ultimately, the current owner paid the reinstatement fees and called for inspections. We can presume that the current owner sought compensation from the prior owner which may have lead to the matter being before the Board at this time. The issue has been reviewed with both the County Administrator and County Counsel. Since the remedy sought (a refund) seems inconsistent with the position supported by the Board in March, the staff consensus was to carry this matter to the Board in order to allow the opportunity for the Board to consider the information submitted by Mr. Suess. A detailed timeline (Attachment A) shows a summary of actions and key contacts with the various interested parties. The text of an e-mail message that summarizes the staff's approach taken on this action is included as Attachment B. Mr. Suess has submitted several documents for your review as well (Attachment C).

Mr. Suess presented a large amount of information to LMD staff in an attempt to document that all inspections had occurred, including inspection records from the project engineer, who kept detailed files. All of the inspections documented by the engineer matched the County's records and no information was submitted to indicate that any of the missing

inspections were done prior to the expiration of the permit. The result of the case would have been the same had it arisen after the Board's March discussion because more than final inspections were required, specifically floodplain elevation and utility layout.

III. Options for Consideration

- A. Allow the request to refund the reinstatement fees (cost \$2,421.54)
- B. Do not allow the request to refund the reinstatement fees
- C. Reduce the fees by an amount to be determined by the Board.

IV. Possible Board Actions

- To receive and file the report.
- To request additional information.
- To give direction, regarding any or all of the options presented.

V. Attachments

Attachment A – Case Timeline

Attachment B – E-mail Message to Commissioner Green

Attachment C – Information Submitted by Mr. Sues

**Compliance Timeline for Patio RV Park
Patricia C Shepard Trust
Umbrella Properties – Leon Pearson
TRS# 16-55-15-30 #300 CA# 04-0410**

- 11/29/04** RVC sent for expired permit BP 92-2130
- 12/11/04** Deadline for RVC
- 12/20/04** Call from Robert Suess (previous property owner) to express his belief that BP had received final inspection and request waiver of fees. No documentation provided to prove final was recieved. Also spoke with Jane Burgess and Jeff Towery.
- 12/20/04** Request made by Mr. Suess to Commissioner Green for waiver of fees.
- 01/18/05** Formal letter from Mr. Suess to Commissioners Green and Morrison, stating situation and requesting waiver of fees.
- 01/19/05** Decision made to deny request and continue with enforcement.
- 01/20/05** OTC sent with Feb 1 deadline sent to Patricia C Shepard Trust, Umbrella Properties, Leon Pearson (current property owner)
- 01/25/05** Letter from Leon Pearson requesting 120 day extension to pursue legal matter with Mr Suess. Requested meeting with Jeff Towery and copy of inspection records.
- 01/26/05** Leon Pearson in office to meet with Tony West. Discussed changes in plans and need to reflect what exists on property. Also discussed 120 day extension, which was denied on the grounds that the issues between Umbrella Properties and Mr Suess were not issues that involved the county. Gave one week extension at request of Mr. Pearson (Feb 8th). Explained appeals process to Mr. Pearson. Also provided copies of plan and inspection records.
- 01/26/05** Call from Mr. Suess to discuss appeals process.
- 01/28/05** Sent Leon Pearson appeal forms. Received e-mail from Leon requesting info about extension.
- 01/31/05** Sent reply email outlining deadline and appeals process.
- 02/07/05** Reinstatement fee paid by Umbrella Properties/Leon Pearson. Letter attached from Charles Shepard expressing concerns with the situation.
- 02/08/05** County letter to Patrica C. Shepard Trust/Umbrella Properties stating receipt of payment and issuance of new permit BP 05-0220 and request to complete remaining inspections (1710 Misc. Inspection for Utility Layouts, 1090 Bldg-Floodplain, 2840 Plmg Final, 2050 Elec. Final, 1240 Bldg Final.)

- 02/22/05** Fax from Mr. Suess received providing copy of letter dated 01/25/95 from Pouge Engineers addressing certification of on-site sewage disposal system.
- 02/25/05** Inspection approved for 1710 Misc- other Inspection for utility layouts.
- 03/03/05** Inspection approved for 1090 Bldg Floodplain, 2050 Elec. Final, and 1240 Bldg Final
- 03/07/05** Inspection approved for 2840 Plumbing Final.
- 03/08/05** Cert. of Occupancy issued.
- 03/09/05** Consistent Standards adopted by Board of Commissioners.
- 03/16/05** Inspections entered into system, finalizing permit BP 05-0220
- ***** Once the Building permit had received a final, the compliance action was no longer in effect and therefore, no additional records were kept. The date that Mr Suess met with Jeff Towery at the front counter was not recorded and the only additional information received from Mr Suess was a fax on 04/28/05
- 04/28/05** Received Fax from Mr. Suess providing copy of letter dated April 4, 1995 from Pouge Engineering addressing information for Sanitary System.

-----Original Message-----

From: TOWERY Jeffrey R
Sent: Thursday, December 23, 2004 11:57 AM
To: GREEN Bobby
Cc: BURGESS Jane; DWYER Bill J; MORRISON Anna M; DORAN Jebediah A
Subject: RE: Compliance

Bobby,

Before I get to the specifics of this case, I want to briefly recap how we come to deal with expired permits of the older variety. Any permits that are issued prior to 1998 are referred to as "history permits". All that really means is that they were issued before the current tracking software was installed. A significant majority of the expired permits that we have pursued are those identified during our ongoing notification and tracking process (current permits near the 180 day expiration limit although they may have been issued years ago). We have dealt with permits as old and in some cases much older than the 1995 permits referred to here. We don't seek out these older permits for action; we deal with them as we become aware of them. Most typically, as in this case, we learn about them when new improvements or updates to older projects are planned. In addition, we work hard to treat all of these cases in a consistent manner while respecting the individual circumstances involved.

A strict application of the building code would result in the issuance of a new permit (at full cost) for all expired permits that were more than one year old. Our interpretation allows the customer to reinstate the permit for 50% of the cost. In addition, we credit the expired permit for work done (planning sign-off, plan checking, inspections completed). In this case, Mr. Seuss has been credited more than \$2,100 for that work, including several inspections that we have recorded, the most recent in 1998. It's also important to note that this project is not simply an ag building with limited impact if there are code deficiencies, it is an occupied, 59 space mobile home park. The Board has appropriately adopted policies that set out our responsibility to ensure that those residents are living in a situation that is within the code. Our ability to do that through inspection is contingent on having active permits in place.

While I believe that our approach with expired permits is consistent with the policies the Board has adopted for Code Enforcement, we are certainly willing to revisit the matter. Let me know if you have any questions and how you want us to proceed. Thanks.

Jeff

June 1-05

JUN - 1 2005

Lanc County Legal Division

Att: Teresa Wilson

Dear Ms Wilson

I enclose the views I have previously discussed with my attorney Larry Thorpe, Commissioners Bobby Green, Runa Morrison and briefly by phone conversation with you.

Copies of documents which were primarily directed to the sanitation dept. needed by Stan Petrusak were undoubtedly not included in County Permit records.

We actually did not increase number of spaces we reduced the number. Primary work was installing additional Septic Tanks (3) installing sewer lines to spaces. Installation of 2 dosing tanks and pumping effluent in 2" lines 1200' North under county road to final distribution in DE approved Bottomless Sand Filter Area. Size 72' x 88' Average Depth 5'

Though not called under code we installed 5 Added filters and Air Induction System for cleanest possible solution. We monitor Area constantly with shallow irrigation wells. Always potable water.

Lane County Patio Park Permit Claim

Permit Applied for 1992
County Threats to 1993
Close site

Work Commences on Water System Fall 1993

At Stan Petrasek, Sanitation Head's suggestion to get permit issued.

History supplied

Meeting with White, April 1994

Head Plan checker

Larry Thorpe *Suess Attorney*

Stan Petrasek *County*

Bob Suess

Agreed to Inspect -

New plumbing and Septic Tanks prior to Permit Issuance

Done *Approved*

Permit Issued May 3, 1994

June, July and August

All Inspections made and approved finalized

Flood Plain established

Tom Poage sent progress report to Petrasek and Building Dept.

DEQ approves sand-filter construction

Test period begins - June 1994

Reports sent to Petrasek

DEQ approves Test Period January 12, 1995

Success County Notified

Operation Fees Paid

Annually

April 14, 1995 Poage to John Petch, Lane County Flood Plain.

Fees paid annually to:

DEQ Permit

County Permit

Monthly:

Transient County Tax paid to City of Eugene

June 23, 2004

Application for Director Approval to Expand Patio Park made through Jerry Kendall, County Planner.

September

Director approved and modified to accommodate prospective new owner Chuck Shepard.

October 4, 2004

Chuck Shepard purchases property.

56 days later, November 29, 1994, Shepard notified 1992 permit issued in 1994 not finalized according to County records.

Seek re-inspection, Permit Fee of \$2,421.54, old permit 92-2130

Suess denied right of Appeal by Jane Burgess, Jeb Doran County Compliance

February 8, 2005

Chuck Shepard by agreement with Suess submits under letter of protect \$2,421.54. Permit #92-2130 reinstated as BP05-0220

Lane County inspected and found all installation according to 92 plan and no code violations.

Certificate of Occupancy issued March 3, 2005 under Suess name.

All plumbing inspections made and approved by Stan Petraseks, Sanitation Dept. prior to Permit being issued. Agreed to meeting with White, Head Plan Checker, Stan Petrasek Sanitation Dept. Head, Larry Thorp Suess Attorney and Suess, April 1994. Permit issued May 3, 1994. Those inspection records should be in Sanitation per Stan Petrasek.

Final SDS DEQ Poage Letter January 12, 1995 to Jim Van Domelen, DEQ. Copy to Petrasek, April 4, 1995 - Poage to John Petch, Lane County established Flood Plain August 5, 1995, Oregon Field Services Dan Bush to Suess to Petrasek. Not in County Records

Electrical Inspector upon re-inspection found his signed faded approval made in 1994. He re-signed.

Plumbing inspector remembered prior approval.

Jim Lamb recalls approval

Re-inspection approves all according to plan, No code violations.

Where County Claim is flawed -

1. Many records of approval were in Sanitation Dept. (Prior to Permit Issuance White.)
2. Re-inspection proved built according to plan.
3. No Code violations.
4. Inspectors recall prior approval.
5. Letters to Land Manager, John Petch, not in County records.
6. DEQ approval not in County records.
7. Sues applied June 23, 2004 for expansion never notified of any prior permit problems.
8. Violation sent to new owner 56 days after sale closed.
9. Sues denied right of Appeal. Yet Certificate of Occupancy in Sues Name
10. County waited over 10 years to notify.
11. County, when questioned why on #10, stated, "In 1993, 1994, 1995 we never notified if permit expired. Since then new policy, we notify permit will expire "(date)". People bring in yellowed records that proves wrong."
12. New Fee paid under protest, per legal advise.

per

C. Robert Suess

260 East 38th Street
Eugene, Oregon 97405

Phone: (541) 342-3060

Fax: (541) 683-1164

June 23, 2005

JUN 24 2005

Lane County Administration
William Van Vactor
125 East 8th Avenue
Eugene, Oregon 97401

RE: Proposed Reconsideration Outstanding
Delinquent Land Management Permits Processing

Dear Mr. Van Vactor:

Recent investigation of Lane County Permit Policies revealed the following.

1. Permit holder has 180 days to call for 1st inspection.
2. Thereafter, additional 180 days are given for 2nd inspection, another 180 days for 3rd and 180 days after each inspection for an infinite period of time.
3. As of June 13, 2005, there are 256 permits in such a category, dating back to 1997 in some cases.

With the foregoing knowledge one can readily understand your prior directive to the compliance division of Land County Land Management. Many reasons exist for all permits to be completed in an allotted time. Permits when issued should specify expiration date.

Many cities and counties allow 1 to 2 years depending on quantity of improvements. If not completed, a new permit is required to complete the balance of work. Record keeping costs are simplified and procrastinators pay for their failure to complete in a reasonable period of time.

Mr. William Van Vactor

June 23, 2005

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Permit fees however should include timely notices by the proper authorities to the permit holders, 45 days prior to expiration of permit. If extenuating circumstances are presented, possibly a grace period for a specified completion date could be granted.

If 45 day notice is ignored and permit expires, new permit fee rule should apply. If new permit fee not paid possibly situation would go into monetary penalty phase. Notice of placing intended lien on property for collection should serve to have the errant party respond.

Permit data, inspections, completions, expiration date, etc. could easily be tracked with the Lane County computer system now in place. If challenged, responsibility would fall upon the permit holder to produce field inspection documents within the 45 day notice period. Alternate, complete work or have proper inspection prior to permit expiration date. Failure to comply timely, pay a new permit or reinspection fee. Costly, lengthy storage of county paper records would be eliminated.

Sincerely,

C. Robert Suess



Cc: Teresa Wilson, Lane County Legal Division
Commissioner Green
Commissioner Morrison