



CITY COUNCIL AGENDA ITEM

Date: April 27, 2011

To: John Szerlag, City Manager

From: Mark F. Miller, Acting Assistant City Manager/Economic Development Services
R. Brent Savidant, Acting Planning Director
Mitchell Grusnick, Building Official
Paul Evans, Zoning and Compliance Specialist

Subject: 2651 Parasol, Demolition of Dangerous Building

Background

City Code Chapter 82, Section 108 Property Maintenance regulates the condition of existing buildings. The Code contains criteria classifying buildings as dangerous or unsafe. In the instance a building is identified as dangerous or unsafe, the Code provides for various legal remedies, including allowing the City to demolish it and charge the property owner costs.

On January 30, 2010, the house at 2651 Parasol suffered significant external fire damage. On February 1 2010, the City began enforcement against the property owner to repair the damage. On June 2, 2010 the City issued a Notice of Dangerous Building upon the property owner. Due to property owner noncompliance, the City initiated the Municipal Civil Infraction process. The owner failed to appear at any of the District Court Hearings. Ultimately, the Court ordered the owner to repair or remove the dangerous building. Because the owner failed to comply with the Court's order, the Court held additional hearings and issued an Arrest Order for Contempt. The owner remains at large.

On March 7, 14, & 21, 2011, the Somerset Gazette published the Building Official's notice that the building is dangerous. The City has not received an appeal. The Property Maintenance Code allows City Council to find that the building is dangerous or unsafe, and that it should be demolished or made habitable. Council can order either demolition within 21 days or require that all necessary repairs be completed within 60 days after the determination, unless the City Council determines that the conditions justify a longer time period to complete necessary repairs.

If the ordered demolition or repairs are not completed within the allocated time period, as set forth in the resolution, City Council can then authorize any and all necessary action to enforce their order. This includes, but is not limited to, causing the building or structure or any part of the building or structure to be razed and removed either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real property upon which the building or structure is located and shall be a lien upon such real property. Such lien shall be enforced against the real property as a special assessment.



CITY COUNCIL AGENDA ITEM

Recommendation

City Management recommends Council find the building dangerous and unsafe, and order the property owner to demolish the building within 21 days. Council should also authorize staff to take necessary action to remove the building and charge the property owner all costs, in the event the property owner fails to demolish the building.

City Attorney's Review as to Form and Legality

Date

Attachments:

City Code Chapter 82 Property Maintenance Section 108
Notice of Dangerous and Unsafe building 6-2-2010
District Court Order 7-8-2010
District Court Arrest Order 2-24-11
Copy of newspaper publication
Photos taken 4-20-2011

Chapter 82 - Property Maintenance Code

provided in Chapter 100, *Municipal Civil Infractions, of the City of Troy Code of Ordinances*.

106.3 Abatement of violation. The issuance of a Municipal Ordinance Violation Notice or a Municipal Ordinance citation or the imposition of penalties pursuant to *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances* shall not preclude the Troy City Attorney or his/her designee from instituting appropriate action to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct, business or utilization of the building, structure or premises; or to take any other legal action or remedy as provided by law.

SECTION 107 NOTICES AND CITATIONS

107.1 Notice or Citation to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, a Municipal Civil Infraction Notice or a Municipal Civil Infraction Citation may be given to the person responsible for the violation in the manner prescribed in *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*.

107.2 Form and Method of Service. A Municipal Civil Infraction Notice or Municipal Civil Infraction Citation shall be in a form as prescribed in *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances* and shall be served in a method prescribed in Chapter 100.

107.3 Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a notice of violation or an order from the court requiring compliance, to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another person until the code violations have been corrected or there is compliance with an applicable court order. In the alternative, an owner can furnish the grantee, transferee, mortgagee or lessee with a true copy of any notice of violation issued by the code official or his/ her designee or a copy of any order of the court requiring compliance. The owner shall then furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice of violation or order requiring compliance where such grantee, transferee, mortgagee or lessee fully accepts the responsibility, without condition, for making the corrections or repairs required by such notice of violation, or court order requiring compliance.

SECTION 108 DANGEROUS BUILDINGS, UNSAFE STRUCTURES, UNSAFE EQUIPMENT AND DEMOLITION

108.1 General. The procedures set forth in this Section are established to secure the health and safety of the occupants of dwellings and structures and the general public. The code official shall enforce the provisions of this Section, and shall have jurisdiction to establish the inspection and violation procedures to implement enforcement. This Section does not preclude enforcement by any other governmental agency with jurisdiction over dangerous buildings, unsafe structures or unsafe equipment. This Section may be enforced by joint agreement between the City of Troy and any other governmental agency, if practical.

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108.1a Unlawful to maintain dangerous building, unsafe structure or unsafe equipment.

It is unlawful for any owner to keep or maintain any building, structure or equipment or part thereof in a dangerous or unsafe manner, as set forth in Section 108.1.1 or 108.1.2.

108.1b Owners subject to ordinance. All owners shall be subject to the provisions of this ordinance and shall be parties to all proceedings, actions, or prosecutions for dangerous buildings, unsafe structures and/or unsafe equipment.

108.1.1 Dangerous or Unsafe Building or structure. A dangerous or unsafe building or structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure. It does not provide minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is possible. A dangerous building or unsafe structure is a building or structure which has one or more of the following defects or satisfies one or more of the following conditions:

a. A door, aisle, passageway, stairway or other means of exit is not in compliance with the approved *Troy Fire Code*.

b. A portion of the building or structure is damaged by fire, wind, flood, or other cause in such a manner that the structural strength or stability of the building is appreciably less than it was before such catastrophe and does not meet the minimum requirements of the City of Troy Ordinances.

c. A portion of the building or structure has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required for new construction under the City of Troy Ordinances.

d. The building or structure or part of the building or structure is likely to partially or completely collapse, or become detached, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for support or for other reason.

e. The building, structure, or part of the building or structure is manifestly unsafe for the purpose for which it is intended to be used

f. The building or structure is vacant, dilapidated and open at any door or window leaving the interior of the building exposed to the elements or accessible to entrance by trespassers; or otherwise becomes an attractive nuisance to children who might play in the building or structure to their danger; or becomes a harbor for vagrants, criminals or immoral persons or enables persons to use the building or structure in the commission of a nuisance or an unlawful or immoral act.

g. A residence or the adjoining grounds of a building or structure which is used or intended to be used for dwelling purposes is unsanitary or unfit for human habitation, due to dilapidation, decay, damage, or faulty construction or arrangement or otherwise

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is in a condition that the code official determines is likely to cause sickness or disease or is likely to injure the health, continued safety or general welfare of people living in or near the residence.

h. An owner has been previously notified of existing code violation(s), according to the provisions of the Troy Code of Ordinances and after said notice has left the structure unattended or unoccupied, whether boarded up or in an open condition, for a period exceeding thirty (30) days.

i. A building or structure is unfit for human occupancy such that the building or structure is unsafe, unlawful or because of the degree to which the structure is in disrepair or lacks maintenance, it is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

j. A building or structure found in whole or in part to be occupied by more persons than permitted under this code, or a building or structure that was erected, altered or occupied contrary to law.

108.1.1.1 Notice of dangerous and unsafe building, structure or condition. When the whole or part of any building or structure is found to be a dangerous or unsafe building or structure, the code official shall issue a notice declaring that the building or structure is a dangerous or unsafe building or structure. The notice shall itemize the current code violation(s) and dangerous condition(s) and specify a time to complete all necessary repairs or demolish of the building or structure.

108.1.1.2 Service of Notice. The notice shall be served on the owner of record or the registered agent in the following manner:

1. Delivered personally; and
2. Sent by certified or first-class mail addressed to the owner's or resident agent's last known address.

If the owner cannot be found, the notice may alternatively be served by posting it prominently and securely on the property and publishing it once a week for three (3) consecutive weeks in a newspaper authorized to provide service by publication. Service of notice under this provision shall supersede *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances.*

108.1.1.3 Contents of Notice. The notice shall state that the owner or his/her authorized representative has the right to appeal the determination of the code official that the building or structure is dangerous or unsafe to the Troy City Council. The notice shall further state that any appeal under this Section shall be filed in writing to the code official within ten (10) days of service of the notice.

108.1.1.4 Waiver of Hearing. If a written appeal of the dangerous or unsafe building or structure determination is not received by the code official within ten (10) days of the date of

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service of the notice, then a hearing will not be necessary. The matter shall be referred to the City Council for resolution.

108.1.1.5 Hearing. If the code official receives a written appeal of the dangerous or unsafe building or structure determination within the allocated ten (10) day period, then a hearing will be scheduled before the City Council as soon as administratively possible. At the hearing, the City Council shall take the testimony from the code official and/or his/her authorized representatives and employees; testimony from the owner of the property and any other interested party to determine whether the building or structure constitutes a dangerous or unsafe building or structure, as defined by this section.

108.1.1.6 City Council action. If the City Council determines that the building or structure is a dangerous or unsafe building or structure, and that the building or structure should be demolished or made habitable, Council shall order either demolition within twenty-one (21) days or require that all necessary repairs be completed within sixty (60) days after the hearing and/or resolution, unless the City Council determines that the conditions justify a longer time period to complete the necessary repairs.

108.1.1.7 Failure to demolish or repair. If the ordered demolition or repairs are not completed within the allocated time period, as set forth in the resolution, City Council can then authorize any and all necessary action to enforce their order. This includes, but is not limited to, causing the building or structure or any part of the building or structure to be razed and removed either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real property upon which the building or structure is located and shall be a lien upon such real property. Such lien shall be enforced against the real property as a special assessment.

108.1.1.8 Recovery of City's cost. The owner or party in interest according to the last local tax assessment records, shall be notified of the cost of the necessary repairs or demolition by first class mail at the address shown on the local tax assessment records. If the owner or party in interest fails to pay the same within thirty (30) days after mailing by the Assessor of the notice of the amount due, the Assessor shall add the same to the next tax roll of the City of Troy, and the same shall be collected in the same manner and in all respects as provided by law for the collection of taxes by the City of Troy. The City Council shall also have the option of initiating a lawsuit to recover the City's full cost of necessary repairs or demolition. If the City receives a favorable judgment, then the City shall have all rights and remedies under law to collect the amount of the judgment from the property owner(s) and/or parties in interest.

108.1.1.9 Salvage materials. When any building or structure has been ordered demolished and removed, the City of Troy shall have the right, but not the obligation, to sell the salvage and valuable materials at the highest price obtainable either through the City or through a contractor hired by the City. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted to the property owner with a report of such sale or transaction, including the items of expense and the amounts deducted. If there is no surplus, the report shall so state.

108.1.1.10 Appeal to Circuit Court. An owner aggrieved by any dangerous building final decision or order of the City Council may appeal the decision or order to the Circuit Court

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within twenty (20) days from the date of the decision.

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

108.2 Closing of vacant buildings and structures. If a building or structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real property upon which the structure is located and shall be a lien upon such real property and may be collected by any other legal resource.

108.3 Posting Notice. Whenever the code official has declared a building, structure or equipment dangerous or unsafe under the provisions of this section, notice shall be posted in a conspicuous place in or about the building or structure affected by such notice or placed on the unsafe equipment.

108.4 Placarding. The code official shall post on the premises or on defective equipment a placard bearing the words "Dangerous Building" or "Unsafe Building" or "Dangerous Structure" or "Unsafe Structure" or "Dangerous Equipment" or "Unsafe Equipment" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

108.4.1 Placard removal. The code official shall remove the placard whenever the defect or defects upon which the determination of dangerous or unsafe building, structure or equipment and placarding action were based have been eliminated. Any person who defaces or removes a placard without the approval of the code official shall be subject to the penalties provided by this code.

108.5 Prohibited occupancy. Any occupied building or structure determined to be dangerous or unsafe and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premise or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premise or operate placarded equipment shall be liable for the penalties provided by this code.

SECTION 109 EMERGENCY MEASURES

109.1 Imminent danger. When, in the opinion of the code official or fire official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the

City of Troy
Building Department
500 West Big Beaver, Troy, MI 48084

June 2, 2010

Magjit & Manpreet Sandhu
3845 Overlake Drive
Cumming, GA 30028

Subject: NOTICE OF DANGEROUS BUILDING
2651 PARASOL, TROY MICHIGAN

Dear Sandhu:

This letter is to inform you of the dangerous condition of the building at the above location in accordance with Chapter 82 of the City of Troy Code of Ordinances. The City of Troy conducted an inspection of the site on May 28, 2010. The inspection indicated substantial portions of the structure are severely fire-damaged. Portions of the structure, are missing and there are substantial holes and breaks throughout the exterior structure. The number and/or nature of those code violations constitute an unsafe condition. As a result of those code violations, the building is considered dangerous as defined in Chapter 82 – Property Maintenance Code Section 108.1.1 (b) (c) (d) (e) & (i). A copy of the Code is enclosed.

As the owner and/or holder of interest in the property, you are required to correct the code violations and make all necessary repairs to bring the building into compliance and make it a safe and sanitary building.

You have until June 12, 2010 to correct the violations or demolish the building.

You must obtain the required permits from the City of Troy Building Department prior to any work being performed for some or all the repairs. Further, a demolition permit is required if you decide to demolish the building and must be obtained from the Building Department prior to taking any steps toward demolition. You must also contact all utility companies to arrange for the disconnection for all utilities. Failure to comply will result in legal action. This may include the City obtaining an order from Oakland County Circuit Court for demolition.

You have the right to appeal this designation of the building as a dangerous building to the Troy City Council. Your appeal must be filed in writing with the Code Official within 10 days of receipt of this notice.

If you have any questions concerning this letter or procedures, you may call me at 248-524-3359.

Sincerely,

Paul Evans
Inspector Supervisor
evanspm@troymi.gov

Posted 7/28/2010

A copy sent first class mail
PROOF OF SERVICE filed 8/26/10

STATE OF MICHIGAN
52-4 JUDICIAL DISTRICT COURT

CITY OF TROY,

Plaintiff,

v

Zagjit Sandhu

Defendant.

Case No. 10 002671
Magistrate Donald Chisholm

proposed

**MUNICIPAL CIVIL INFRACTION
DEFAULT JUDGMENT**

Municipal Civil Infraction: Chapter 82 Section 108.1 Property Maintenance Code
"Failure to make NECESSARY repairs to make it a safe and sanitary building"

Infraction Date: JUNE 24, 2010

DEFAULT ENTRY

A Default was entered on July 8, 2010. Defendant is not in the military service. Defendant is in default.

DEFAULT JUDGMENT

At a session of said Court held in the
52-4 District Court, in the City of Troy,
County of Oakland, State of Michigan
on July 8, 2010.

PRESENT: The Honorable: Magistrate Donald R. Chisholm
District Court Magistrate Donald Chisholm

THIS MATTER having come before the court and the Court having found that
Defendant is in default of a City of Troy Municipal Civil Infraction;

IT IS ORDERED that Defendant shall immediately pay a fine of \$500.00. This
fine shall be paid by returning a copy of this Judgment with a certified check or money

RECEIVED FOR FILING
JUL 22 2010

order to the clerk of the 52-4 District Court, 520 West Big Beaver Rd., Troy, MI 48084.

IT IS FURTHER ORDERED that Defendant shall comply with the City of Troy Municipal Ordinances by doing the following by the specified dates:

- a. ~~making necessary repairs to the building to make it safe and sanitary or remove the building from the premises by August 2, 2010.~~

This shall be completed within 7 days of service of this order by personal service, mail or posting.

- b. _____

This shall be completed within 7 days of service of this order by personal service, mail or posting.

- c. _____

This shall be completed within 7 days of service of this order by personal service, mail or posting.

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AUG 2 2010

IT IS FURTHER ORDERED that if Defendant has not fully implemented this Order by the specified dates, the City of Troy or its agents may, without further Court Order, enter upon Defendant's property at 2651 Perso, Troy, MI for the purpose of implementing this Court's Order. The City of Troy shall bill Defendant for the costs involved in implementing this Order and, if not paid within 10 days, the City may use all legal means of collection, including placing a lien on Defendant's property.


Magistrate Donald Chisholm

Date: 12 July 2011

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11 JUL 2011 P 3 23

STATE OF MICHIGAN
IN THE 52-4 DISTRICT COURT

THE PEOPLE OF THE CITY OF TROY,

Plaintiff,

vs.

Case No. 10-002671
Magistrate Donald Chisholm

JAGJIT SANDHU

Defendant.

GARY L. BOWERS
Housing and Zoning Inspector
City of Troy
Plaintiff

500 W. Big Beaver Road
Troy, MI 48084
248-524-3355

TRUE COPY

**ORDER HOLDING DEFENDANT IN CIVIL CONTEMPT OF COURT
AND ISSUING WARRANT FOR DEFENDANT'S ARREST**

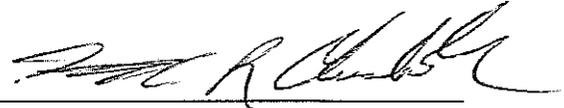
At a session of said Court held
In the 52-4TH Courthouse in the
City of Troy, Oakland County, MI
on: 2-24-11

**PRESENT: HONORABLE DONALD CHISHOLM
DISTRICT MAGISTRATE**

THIS MATTER having come up for hearing on the Motion of the People of the
City of Troy, for an Order Holding Defendant, Jagjit Sandhu in civil contempt of court

for violation of this Court's order and the Court being fully advised in the premises:

IT IS HEREBY ORDERED THAT this court finds Defendant Jagjit Sandhu in
civil contempt of court and issues a warrant for his arrest.



Donald Chisholm
District Court Magistrate



DISTRICT JUDGE

Judge William E. Bolt

TRUE COPY

**NOTICE OF HEARING
REGARDING THE DEMOLITION OF BUILDING
KNOWN AS
2651 PARASOL, TROY, MICHIGAN**

The Troy Director of Building and Zoning has determined that the building known as 2651 Parasol, Troy, Michigan is a dangerous building under Chapter 82 of the Troy Code of Ordinances for the reason that numerous building code violations exist and the structure constitutes a health, safety and welfare threat to the citizens of the City of Troy.

The owner of or any party holding an interest in the building known as 2651 Parasol, Troy, Michigan has the right to appeal the dangerous building determination of the Director of Building and Zoning to City Council. To appeal, the property owner or party in interest shall file a written request for an appeal with the Director of Building and Zoning, City of Troy, 500 W. Big Beaver Road, Troy, Michigan 48084. That written request for appeal must be filed within ten (10) days of the last date of publication of this notice or no later than March 31, 2011. If an appeal is timely filed, a public hearing before the Troy City Council will be set to take testimony from the Troy Building and Zoning Director, the property owner(s) and any parties in interest as to whether the building known as 2651 Parasol, Troy, Michigan is a dangerous building. Failure to appeal by March 31, 2011, may result in the dwelling and all accessory structures to be demolished and the cost of which will be billed to you.

Tonni Bartholomew, MMC
City Clerk

PUBLISHED: March 7, 2011
 March 14, 2011
 March 21, 2011



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