

RESOLUTION NUMBER 675

A RESOLUTION TO ADOPT A FINAL ORDER

WHEREAS, the City of Aurora issued a Notice to owners and interested parties of property at 21520 Main Street NE in Aurora, Oregon under the Dangerous Building Code; and

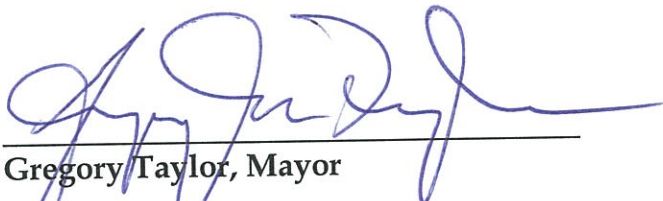
WHEREAS, the City Council heard the matter on appeal on June 11, 2013; and

WHEREAS, the Council has now fully considered the matter,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA THAT: the Final Order of the Council in this matter is adopted and by reference made a part of this Resolution.

ADOPTED by the Aurora City Council at a City Council meeting held on Tuesday, July 09, 2013. This resolution is effective August 9, 2013.

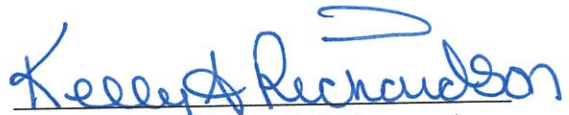
Dated this 9th day of July, 2013.



Gregory Taylor, Mayor

APPROVED AS TO FORM:

ATTEST



Kelly Richardson, City Recorder

City Attorney

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4 BEFORE THE CITY COUNCIL
5 OF THE CITY OF AURORA, OREGON
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8 In the Matter of:)
9 Edventures Ltd, Register Agent Janet) Case No.:
10 Eddy; and Interested Party Rodger Eddy,) FINAL ORDER
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15 PREMILINARY MATTERS
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17 This matter came before the City Council as a result of the City's Notice dated
18 January 31, 2013, which alleged Petitioner's property at 21520 Main Street NE in
19 Aurora, Oregon was a dangerous building as defined in the Aurora Dangerous
20 Building Code, AMC 8.10.010, *et seq.* Such structures may be required to be repaired or
21 demolished.

22 Petitioners filed a timely request for hearing and waived any Notice deficiencies
23 when they appeared for the hearing.

24 Each member of the City Council stated they had observed the building as it is
25 nearby City Hall and they advised Petitioners for the record how, if at all, such
26 observations affected their opinion of the soundness of the remaining building

1 - Final Order

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1 and how the state of repair of the property affected the safety and general
2 welfare of the public.

3 Petitioners had a full and adequate opportunity to present evidence and argument to
4 rebut the statements of the members of the Council.

5
6 **ALLEGATIONS**

7 The reasons alleged in the Notice fell into two general categories – 1) that the
8 building or its remnants are unsafe for reconstruction and must be demolished; and 2)
9 that the property creates a public nuisance and must be repaired or otherwise protected.
10 The allegations are grouped as such below and numbered for convenience of
11 discussion. The wording and order used below is identical to that of the Notice. It
12 should be noted that at the end of each allegation is a reference to the particular section
13 of AMC 8.10.050 involved.
14

15 **UNSAFE**

- 16
- 17 1. The subject property has been damaged by fire, earthquake, wind, flood,
18 or by any other cause, to such an extent that the structural strength or
19 stability thereof is materially less than it was before such catastrophe and
20 is less than the minimum requirements of the Building Code for new
21 buildings of similar structure, purpose, or location. §3.
 - 22 2. A portion or member or appurtenance thereof is likely to fail, or to
23 become detached or dislodged, or to collapse and thereby injure persons
24 or damage property. §4.
25

- 1 3. Part of the building or structure is likely to partially or completely
2 collapse because of, but not limited to, dilapidation, deterioration, or
3 decay; the removal, movement, or instability of any portion of the ground
4 necessary for the purpose of supporting such building; the deterioration,
5 decay, or inadequacy of the foundation; or any other cause, that is likely to
6 cause partial or complete collapse of the building. §7.
7
- 8 4. The building or structure, or any portion thereof, is manifestly unsafe for
9 the purpose for which it is being used. §8.
10

11 **NUISANCE**

- 12 5. The building or structure, as a result of damage by fire, wind, earthquake,
13 or flood, dilapidation or deterioration, or for any other reason, has become
14 an attractive nuisance to children; a harbor for vagrants, criminals, or
15 immoral persons; or a place that will enable persons to resort thereto for
16 the purpose of committing unlawful or immoral acts. §11.
17
- 18 6. The building or structure is in such a condition as to constitute a public
19 nuisance known to the common law or in equity jurisprudence. §15.
20
- 21 7. A portion of a building or structure has remained on a site after the
22 demolition or destruction of the building or structure for a period in
23 excess of 30 days so as to constitute such building or portion thereof an
24 attractive nuisance or hazard to the public. §16.
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3 – Final Order

1 FINDINGS OF FACT

2 It is not established in the record at appeal that the building is unsafe to the
3 point that it cannot be rebuilt.

4 The building is easily accessible to any member of the public at all hours of
5 the day and night. It provides an opportunity for children and others to hide on
6 the property or to be unobserved after injuring themselves on the property.
7

8 Accordingly, the building or structure is in such a condition as to constitute a
9 public nuisance known to the common law or in equity jurisprudence.

10 The property and what remains of the building has remained on the site for
11 more than 30 days after its destruction in a manner that constitutes an attractive
12 nuisance or hazard to the public.

13 The building or structure, as a result of damage by fire, wind, earthquake,
14 or flood, dilapidation or deterioration, or for any other reason, has become an
15 attractive nuisance to children; a harbor for vagrants, criminals, or immoral
16 persons; or a place that will enable persons to resort thereto for the purpose of
17 committing unlawful or immoral acts.
18

19 CONCLUSIONS OF LAW

20
21 The allegations in the Notice categorized as "unsafe" or "unsafe for
22 reconstruction" (Allegations 1-4) are not sustained by the evidence in the record.

23 The allegations in the Notice categorized as "nuisance" (Allegations 5-7)
24 are sustained by the evidence in the record.
25

OPINION

1
2 Mr. Eddy provided evidence from his engineer that the remainder of the
3 building is safe for reconstruction. While some members of the Council doubted
4 this, his evidence was credible and not offset by statements by any other
5 professional engineers. Accordingly, the Council gives his evidence more weight
6 than other statements in the record insofar as safety and the ability of Petitioners
7 to rebuild on the property. However, Petitioners provided no such evidence that
8 the property constitutes a hazard and nuisance. In fact, the record indicates that
9 children, delinquents, and vagrants might well make use of the property for
10 illegal or immoral purposes. For this reason, the nuisance sections of the Notice
11 are upheld.
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5 – Final Order

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1
2 **ORDER**

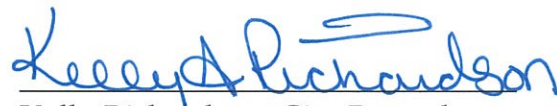
3 Allegations 1-4 are reversed. Allegations 5-7 are affirmed. Petitioners must
4 make the repairs required in the Dangerous Building Ordinance or the City may
5 make them and collect the costs from Petitioners.
6

7 In addition, the City is authorized by AMC 8.10.230(C)(1) to impose civil
8 penalties of \$500.00 per day on Petitioners until the property is in compliance
9 with the law. Civil penalties begin 30 days from the date of the adoption of this
10 Final Order.

11
12 DATED this 9th day of July, 2013.

13
14 **ATTEST**

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17 _____
18 Gregory Taylor, Mayor

19
20 
21 _____
22 Kelly Richardson, City Recorder

23
24 **APPROVED AS TO FORM:**

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26 _____
Dennis E. Koho, City Attorney

6 – Final Order

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