



TOWN OF SALISBURY

BOARD OF HEALTH

JOHN W. MORRIS, DIRECTOR

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DANIEL RICHARD
RON LAFFELY
SUE RING
DENISE PETERSON
JILL TAPPER

BOARD OF HEALTH MEETING MINUTES

June 6, 2023

7:00 PM Salisbury Town Hall

Board Members Present:

Ron Laffely, Jill Tapper, Sue Ring, Denise Petersen, Dan Richard

Board Members Absent:

None

Staff:

John Morris-Health Director

Meeting called to order at 7:00 PM.

Minutes -Approval of meeting minutes from May 2, 2023.

(Mr. Laffely) makes a motion to accept the ***May 2, 2023*** minutes as written. (Ms. Ring) seconds that motion. 4 in favor, 0 opposed. Motion carries and is passed. Mr. Richard abstains from the vote as he was not present for the May 2nd meeting.

Old Business - NONE

New Business

- **(Continued from May 2, 2023 meeting)** 61 Elm Street-Order for Correction and Notice of Fine Order dated April 6, 2023

(Mr. Morris) gives some background explaining that 61 Elm Street is owned by Jolene and Paul Hogg and that the tenant, Jennifer Doane, is in attendance. The Health Department received both phone complaints and written complaints. On February 2nd, in response to the complaints, the Department initiated the process to send out the Notice of Inspection for Rental Properties by first class mail which is the norm. There was no response. Then on March 1st a letter was sent certified mail with the same information. On March 13th, an affidavit was received stating that Hogg relatives lived there so they were claiming the exemption.

After this paperwork was received Mr. Morris then made an appointment with the tenant from the second floor. He went out on March 15th for the inspection. He issued an order that day, and then did a re-inspection on April 27th. There is currently an active criminal case. Mr. Morris states there was a probable cause hearing today on the violations and it was continued. He states the tenant, Jennifer Doane, is present; he states her lease went back to November, 2019 and he used the standard formula that has been used for numerous other cases. The calculation includes December 2019, whole Year 2020, Year 2021, Year 2022 and January-February 2023. That is a total of 168 weeks at \$100/week so grand total is \$16,800.

(Mr. Morris) states that Mr. Hogg came in to talk to him. He told Mr. Hogg that at the administrative level he could make a proposal and that he (Mr. Morris) would bring it to the Town Manager to try to resolve it. Mr. Hogg then sent an email and wanted the fine reduced to a warning; Mr. Morris states that is the reason for the meeting tonight. The fine of \$16,800 is for not getting the Certificate of Habitability. He states the violations will be resolved. The criminal hearing is continued or it may be dismissed. Mr. Hogg has hired an attorney.

(Attorney Rob Ciampitti), co-founder of Liberty Law and Title in Newburyport approaches the podium and states he is representing the Hogg's.

(Attorney Ciampitti) points out that the application for a probable cause hearing remains civil until it isn't. That has been continued and there is not a pending criminal matter unless the court elevates it to that status. He wants the appropriate language used.

(Attorney Ciampitti) states the Hoggs are clients and friends of his firm. The Hoggs regret the circumstances. He states the tenant is also in the room.

(Attorney Ciampitti) continues to give background on the situation at 61 Elm Street. He states that on 02/02/23 the tenant filed a complaint telephonically and otherwise with respect to habitability issues. There was a missing Certificate of Habitability. He states the Hoggs' parents are snowbirds and they occupy the premises. The Hoggs filed the affidavit to document that. It was a mistake in definition in respect to whether that blood relative exemption is in respect to the tenant or the premises under the rules. He explained to the Hoggs that it exempts the parents not the premises.

(Attorney Ciampitti) states they cannot change what has transpired. He asks the Board to exercise its discretion under 1.2.004 of the Rules and Regulations regarding an appeal and the computation of the fine. The fine amount is a lot of money; a large sum. It has the attention of the Hoggs.

(Attorney Ciampitti) states that since the initial tenant filing of the complaint on February 2 and then the letter on March 1st from Director Morris, the Hogg's have taken incremental steps to cure and remediate the violations. The owners now recognize that the premises required a certificate. He states the Building Department is also involved in inspecting the property and the Hogg's have taken the steps to fix all deficiencies.

(Attorney Ciampitti) explains that not everything ran smoothly; some contractors were delayed but not due to the will of the Hogg's.

He continues that Mr. Hogg was before the NE Housing Court this morning and all but the very last deficiencies have been done. The last (project/correction) is the second means of egress; which has been cut into the premises.

(Mr. Morris) states that this hearing is for the fine; not for whether or not the violations have been corrected; that is in court now.

(Attorney Ciampitti) continues that if it is in the Board's discretion to soften this fine, would they do so. He then passes out photos of the second egress work that is in process.

(Attorney Ciampitti) continues that the Hogg's have undertaken over \$10k of immediate expense; having taken out funds from savings to get it done. He explains that he is before the Board this evening on their behalf with deference and respect to their tenant. He states she is vacating the premises shortly but the Hogg's missed the mark on compliance.

(Attorney Ciampitti) states they have worked to take the property into compliance. They have asked NE Housing Court to extend the matter so that when they return these deficiencies have been cured; to both the court and Mr. Morris and also the Board. He asks respectfully that this Board consider its' discretion under the appeal provision of 1.3.004 as the fine is a debilitating amount of money; the Hogg's are not versed in the procedural process. They want a reduction and would rather spend those funds on the work they have started and are hoping to never be before this Board ever again. He announces the Hoggs are present.

(Mr. Morris) explains that the fine could be up to \$300 per day but he has used the \$100 per week as he has done in the past. When he found out Ms. Doane had been there for 3 years, that's when the fine kicked in. Mr. Morris confirms with tenant, sitting in the audience, that she is not related to the owner.

(Mr. Richard) agrees that the \$100/week has been the standard. He asks if the current tenant wants to speak; and she declines to offer anything else tonight.

(Mr. Richard) states the Board will now have a discussion since there were some significant infractions. The Board needs to decide if this warrants abating or lowering the fine.

(Mr. Morris) states that the Hoggs own other properties in Salisbury; 20 Pleasant Street which has a completed Certificate of Habitability that was currently completed after a conversation with Mr. Morris. They also own 3 Lincoln Ave. where a relative resides.

(Attorney Ciampitti) states the Hogs are not professional landlords and if they were, this would not have happened. They have helped out family members and realize these were serious infractions at 61 Elm Street.

They have spared no expense and have gone into savings to mediate (mitigate?) the issues ASAP. They are asking the Board to 'do right' and to use balance and fairness to move forward.

(Mr. Richard) inquires if there are issues with the other Hogg properties, besides 61 Elm Street, that may have problems that will come before the Board of Health. **(Mr. Morris)** replies that the other (2) properties have been inspected and the correct paperwork has been issued recently. The habitability form for 61 Elm has been submitted and paid for; however, an inspection is pending.

(Mr. Richard) asks the Board for comments.

(D. Petersen) inquires if the other properties had Certificates of Habitability? Mr. Morris responds that Lincoln Ave. did not have a certificate; after 3 years of ownership. Pleasant Street had an affidavit filed saying that a first cousin lived there.

(Ms. Tapper) states that, in the past, we have modified the amount of the fine for other people. I am willing to do that but there should still be a fine.

(Mr. Richard) states that the amount is steep although it is essentially the lowest that could have administratively been assessed. The Board is not lost (on the fact) that it is \$16K; the ultimate goal is to make the property safe and livable for anyone and especially for the next tenant. He agrees that this is not like the owners missed the deadline by 2 weeks for paperwork. In his opinion, simply going to a warning is not appropriate but \$16K is on the high side. The Board has done this before and has lowered fines before. Mr. Richard states that to reach \$16K, it has been out of compliance for a long time. He continues that sometimes it is a simple fix such as a smoke alarm, etc. but in this case, there is a list of things. He states he wants the owner to be able to use the funds to address the problems. Mr. Richard then states in most cases the Board goes to 50% of the amount assessed. **(Mr. Morris)** states the Board has consistently and historically done 50% and held the other 50% in abeyance to keep properties in compliance. **(Mr. Richard)** feels it is appropriate and also states to keep the other 50% for a period of (1) year. He states the Board would not pay it, however, if the matter is not resolved or if another property has a problem then it is the option of the Board to either reinstate the 100% fine or not; there would be another meeting at that point.

(Attorney Ciampitti) summarizes that the inclination of the Chair is to have 50% of the fine continued for a year and then it remains 50%. **(Mr. Richard)** confirms what he said: 50% assessed and 50% held in abeyance to assure that the rest of the work was done.

(Attorney Ciampitti) states respectfully that even 50% of \$16K fine is quite a financial hardship and burden on this family; one of them is a civil servant. He inquires if the Board would consider 50% of 50% with a one year (inaudible) provided nothing happens in that one-year period. They would still pay the fine, and it is not a small amount of money. This amount won't create a shock hardship for them; they have children in school and other expenses. They would rather spend the money on remediation. Attorney continues that this is still a large amount of money but it is an alternative. If they fail to do what they are supposed to do, then the 50% held in abeyance would be due along with the original 50%. He continues that the full \$16K would be fully due in one year if they do not comply.

(Mr. Morris) inquires/confirms that the Attorney is suggesting a \$4200 fine? **Mr. Richard** confirms that the Attorney is stating 50% of 50%; which is 25% of the total.

(Attorney Ciampitti) states he's trying to strike a balance as there is a punitive piece to this but not solely. They do what is right, everyone makes mistakes and they are not hiding from it.

(Mr. Richard) confirms there was no attempt to hide the fact that there were numerous issues and errors.

(Attorney Ciampitti) thanks the Board and Mr. Morris for hearing him out.

(Mr. Richard) addresses the Board for discussion; he states it is completely in the Board's discretion to choose to go with the 25 or 50% reduction or whatever the Board recommends. He continues that he understands that \$8400/50% is not a light amount; nor is \$4200 easy. He states the proposal is reasonable and the Board needs to take into consideration setting a precedent.

(Mr. Richard) inquires if any Board members have a hardcore "NO" to the 25% and the rest of the fine in abeyance for the rest of the year.

(J. Tapper) responds that yes, the Board would be setting a precedent. She feels the situation has been going on long enough. Ms. Tapper states that they own other rental property and should know the rules and regulations. It is not the only rental property they have. Mr. Richard states that ignorance of the law is not an excuse.

(Mr. Morris) states that you (the Board) have in the past upheld and allowed a payment plan. **(Ms. Tapper)** states it still should be the \$8400 (or half). **(Ms. Petersen)** states she can go along with the 25% and the rest in abeyance. **(Ms. Ring)** states she agrees with Ms. Petersen.

(Mr. Richard) states the Board is in a tough position as the members are volunteers and try to do right thing. He continues that tenants have rights also and that part is being dealt with in Housing Court.

(Mr. Richard) states he is going with S. Ring and D. Petersen on this one. He states everything was forth coming, no one tried to hide anything.

(Mr. Richard) states he will accept a motion for either 50% or 25% with the remainder in abeyance. He continues that if the Hogs come before the Board in the upcoming year for other properties or this one, they will have to pay the entire amount.

(Mr. Morris) adds that if payment is not made, the Town will put liens on the property and they will follow all avenues to collect.

MOTION

(Mr. Richard) makes a motion to assess 25% of the fine payable within (30) days and with the 75% remaining in abeyance for one year. The motion continues that if the Hogs are not back before the Board for any other matters for any of their Salisbury properties, and the current matters are addressed with one year the 75%. **(Mr. Morris interjects and states that the current matters are not an option for a year as they are before the court and out of the Board's hands)**. Mr. Richard continues and adds that the matters that they have jurisdiction over only. Ms. Petersen seconds the motion as stated by Mr. Richard. Ms. Tapper votes against the motion. Mr. Laffely abstains. Ms. Ring votes for the motion. 3 are in favor, 1 opposed, 1 abstains. Motion carries and is passed.

Correspondence - None

Health Officer Reports –NONE

Nurse Report- NONE

Public Comments – None

(Mr. Morris) explains that there is a new MAVEN surveillance nurse. The former nurse could not be reached and she had not logged into MAVEN since April 2nd. All forms of correspondence were used to locate her; email and a letter to her home address. Also, a phone call was made to the husband's phone and he said everything was OK. Mr. Morris states he had to make a change due to timing as an important case came up that had to be worked on. The new Nurse is Patricia Palombo.


The Board discusses the next meeting. Mr. Morris states the Board usually skips July and August unless other cases come up. (Mr. Richard) states the next meeting is September 5, 2023.

ADJOURN

(Ms. Petersen) motions to adjourn; Mr. Laffely seconds. All vote in favor to adjourn, 0 opposed.

Regular public meeting is adjourned at approximately 7:40 PM

Date:



Ron Laffely

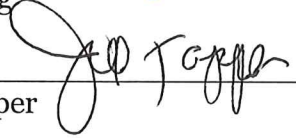


Denise Petersen

Dan Richard



Sue Ring



Jill Tapper

Respectfully submitted by Teresa K. Mahoney



Teresa K. Mahoney



Date