



**CITY OF LA VISTA
BOARD OF APPEALS
JUNE 5, 2013
6:00 P.M.**

The City of La Vista Board of Appeals held a meeting on Wednesday, June 5, 2013, in the Harold "Andy" Anderson Council Chamber at La Vista City Hall, 8116 Park View Boulevard. Chairman Dean Paulsen called the meeting to order at 6:05 p.m. with the following members present: Karnik, Malmquist, Paulsen and Strittmatter. Absent: Jordan. Also in attendance were John Herdzina, Hearing Examiner, Jeff Sinnett, Chief Building Official, and Michelle Alfaro serving as Recording Secretary.

Legal notice of the public meeting and hearing were posted, distributed and published according to Nebraska law. Notice was simultaneously given to all members of the Board of Appeals and to those persons who had appeals pending before the Board. All proceedings shown were taken while the convened meeting was open to the attendance of the public.

1. Call to Order and Roll Call

The meeting was called to order by Chairman Paulsen at 6:05 p.m. and roll call was taken. Copies of the agenda and staff reports were made available to the public. Herdzina noted the attorneys for the appellant and the city are not present because this is a continuation of a hearing. Herdzina explained for the record the Board gave the appellant a list of items to be done and Mr. Sinnett will advise the Board on where that stands. The appellant may respond with any additional comments if needed and the Board will decide a course of action.

2. Approval of Meeting Minutes – April 10, 2013

The Board voted to approve the April 10, 2013 minutes. **Ayes:** Karnik, Malmquist, Paulsen and Strittmatter. **Nays:** None. **Abstain:** None.

Motion Carried. (4-0)

3. Continuation of hearing regarding the appeal of Building Official Notice and Order, originally commenced on January 16, 2013, and continued to, and held in part, on February 4, 2013.

A. Shadow Ridge Apartments – 8500 Granville Parkway

- i. **Continuation of Hearing:** Paulsen turned the hearing over to the hearing examiner, John Herdzina. Herdzina noted that the attorneys for both the City and for the appellants, SR Group, have stipulated and agreed that they would not attend tonight because things are moving along and they have been communicating with the City, Mr. Sinnett, so there are no adversarial proceedings to be taken up at this

continuance and the purpose of the continuation is to update the Board of Appeals.

Sinnett came forward and updated the Board of Appeals, stating that the appellant did complete the inside of the 28 units to the city's satisfaction and passed inspection. Additionally another 56 units were inspected on the inside and passed, although these units were not part of the original 28 units in question. The exterior conditions of the porch and entryway had been photographed, which were marked by Herdzina as "Exhibit 3, SR Group", "Exhibit 4, SR Group" and "Exhibit 5, SR Group" and made part of the record for this hearing, have been inspected and also passed. The remaining issue is the decks which have not been started. The appellant indicated at a previous meeting these repairs would be completed prior to this meeting. The appellant submitted a campus plan and Mr. Sinnett had a few comments regarding this plan. He explained the appellant proposed to complete two buildings per year until they get all buildings up to date, and they would start with the original two buildings that were the subject of the order. In addition the maintenance supervisor would inspect the entire property for the decks and stairways that need immediate attention. Mr. Sinnett explained he would like to add the requirement that for the decks that are to be replaced entirely or if substantial improvements need to be made: the appellant must get City permits for this work, as well as have inspections and approval by the city, and any decks the city deemed to be dangerous must be fixed immediately and/or the decks will be condemned, as stated on the campus plan.

Before the Board's questions, Herdzina clarified the status of the original 28 units in the city's notice and order and asked if they have been inspected now and the interior repairs have been completed.

Sinnett stated that is correct.

Herdzina asked about the campus plan that has been submitted and if Mr. Sinnett is requesting it be expanded upon.

Sinnett stated the appellant could be more aggressive on the plan and more detailed on it. Sinnett explained if they are replacing decks they will need permits for those decks, and 16 out of the 28 units had decks that needed some type of correction. Sinnett noted that two to four had decks that needed complete replacement and those would definitely need permits. The substantial improvements to decks would be considered those which need more than four joists replaced.

Herdzina asked if those permits are required by ordinance in any regard.

Sinnett stated that is correct.

Herdzina asked if the building materials for the decks are on site.

Sinnett indicated the materials were on site for the entries and porches, which is what they were starting on. Sinnett explained the maintenance person stated they were going to start on the decks, which has not happened yet.

Herdzina questioned if the decks are the second exit to each apartment.

Sinnett stated yes.

Herdzina stated his understanding was the appellant hoped to have the decks and everything done by the end of May.

Sinnett stated that was also his understanding.

Paulsen questioned if any of the decks are dangerous.

Sinnett replied two of the decks need to be completely replaced and after tonight's meeting the inspectors will go out and do another inspection to see if any of the additional decks have gotten any worse.

Paulsen questioned if the decks are dangerous and if any of our citizens are in danger, has anyone notified them to stay off of them.

Sinnett stated he had hoped these repairs would have been completed by now however when he goes back out he may have to proceed with that. The city can close the deck and place an unsafe placard. Sinnett stated approximately six weeks to two months ago, the inspectors drove around the complex to make sure they did not see that anything had gotten worse.

Strittmatter asked if the decks did not have stairs, were they just to be able to get out of the apartment.

Sinnett stated yes, they are an alternative egress which is allowed since the buildings have fire sprinkler systems.

Karnik asked about the reason the decks had not been completed, although he realized this question may be for the appellant.

Sinnett stated he knew other projects which had been affected by weather delays.

Herdzina asked if Sinnett had been getting regular reports.

Sinnett stated yes, he was getting weekly updates.

Herdzina asked Laura Miller, the property manager, if she had any comments.

Ms. Miller stated the entryways were completed earlier this week or last week. One of the bridges also needed some attention per the maintenance supervisor and they went ahead and took care of that. Ms. Miller also addressed the photographs, marked for the record as Exhibits 3, 4 and 5. The Exhibits have been made part of the record. In regard to the balconies, Ms. Miller stated they had hoped to have these finished however they had snow and rain delays. She stated it is her recollection it is only one deck which needed a full replacement but that unit is not occupied and will

not be occupied until that deck is completed. She hopes to have a schedule from Five Star Construction which is the contractor they have hired to do this job and she has given the information to the city regarding which ones are going to be completed. She just needs a schedule from the contractor on the time they can do the work. She stated they have spent a lot getting things up to where they need to be and they will continue to do so until all of these items are taken care of.

Herdzina questioned what the photographs handed out by Ms. Miller represent.

Ms. Miller explained these are all the main entryways to the buildings that are in the first 28 units. She stated they went beyond that and went to the second 28 also, and another deck at 8530 that had not been inspected yet just in order to address everything that was going to be an immediate concern, as well as complete the entries for the 28 units being evaluated now. Ms. Miller explained in addition to each of these front entryways which are wood stairs, you have an entryway on the back which is concrete. There are two ways you can get out of any of these buildings.

Herdzina asked if Mr. Sinnett agreed the photographs marked as Exhibits 3, 4 and 5 were accurate and asked Ms. Miller if the photographs marked as Exhibits 3, 4 and 5 were accurate. Both stated yes.

Strittmatter asked if there was a plan for the replacement of the remaining decks. Ms. Miller stated they are ready and have hired the contractor and are waiting on their schedule. She stated they are behind schedule due to some weather delays. She is hoping the work can be completed within the next 60 days at the most.

Paulsen stated the Board has been very lenient with the appellant and the continuances have given them plenty of time, and it sounds like we will need to give them another continuance.

Herdzina stated it is fair for the Board to give the appellant a date by which this Board wants it done. He stated he appreciated their efforts and likes their commitment that the unit with the bad deck will not be rented. Herdzina stated he believed he heard Mr. Sinnett state that he preferred if the appellant had a more ambitious schedule, so Herdzina would like to set a time at which it is done or if it is not done, at least that night the Board has a full hearing and can make a decision. If a decision is not made, it is another 40, 60 days down the road. We should have a full hearing with their attorneys present and you present whatever evidence you have so the Board can issue their decision in writing.

Sinnett stated the Board is scheduled to meet August 7, 2013 as the date to hear the continuance of the Hollens appeal.

Malmquist stated if the Board was to continue the hearing to that date it is critical they get everything done by then with no further delays at all. They would have an opportunity to defend themselves if they were not able to do the work, but she does not see it as defensible.

Karnik asked Ms. Miller if Five Star Construction gave her an idea of how much time it would take.

Ms. Miller stated it was supposed to start on May 1st but she is confident in saying if construction crews are a few weeks out, she doesn't feel there should be a problem with them being here by the end of the month.

Karnik asked if they had put a deposit down with Five Star Construction.

Ms. Miller stated they had signed a contract with them.

Karnik asked if they had a back-up plan if they cannot get to the work.

Ms. Miller stated they would have to find someone else if they cannot get to it in the next few weeks, but she is confident they will be able to get there. She stated the reason they are not there now is because May 1st was their start date and we had snow that week and then we have had so much rain. She felt they had done a good job on getting the entryways done which are important because so many people use them, and with the one deck that was condemned, that person moved out and they have kept the unit vacant.

Karnik asked if they have done the work on the entryways, there shouldn't be a reason for them to suspend the work.

Ms. Miller explained Decks Plus did the entryways and Five Star will do the balconies because they have the equipment to go up higher.

Strittmatter stated if the Board was comfortable the one deck was closed off and was not an eminent public safety issue, a continuance makes sense. Strittmatter stated the message is the Board is tired of the continuances so push and get it done by the deadline.

Ms. Miller stated that is the only thing they have left to do in the first 28 units. They have been going through all the units that are coming up for inspection, including the ones that have already been inspected. The owner is taking this to heart and is putting a lot into this property. It has been very expensive to do all of this, although she was not saying it did not need to be done, but he is very motivated to get this done.

Paulsen stated it is also expensive for the city to keep having meeting after meeting.

Ms. Miller stated she understood that but as she looks around La Vista she sees a lot of properties that are not maintained as well as their property and she doesn't know why she is here.

Malmquist stated their interest is to make sure housing is safe and habitable, and this was inspected and we need to bring it up to the standards.

Ms. Miller stated she is seeing things in far more in need of help than what she is seeing at Shadow Ridge. She stated it calls into question the character of the ownership and she believes in what they do and they put a lot back into the properties they own and always have. She hopes that is recognized.

Herdzina stated the Board needs to set a date for the next hearing and it will be a full hearing with the attorneys present. August 7th was the next scheduled date or there is another alternate of a July date.

Alfaro stated that she wanted to make sure Five Star has complied with City Ordinance and is a licensed contractor in the City in order to prevent any delays from permit issuance. Alfaro also addressed Ms. Miller's other concern regarding other apartment complexes. She explained she works with all of the property managers and all of the inspections the city has done where there have been issues, they have been addressed. This case was the first situation where it was appealed.

There was general discussion about a date to continue the hearing.

- ii. Strittmatter moved, seconded by Malmquist to continue the hearing to August 7, 2013. **Ayes:** Karnik, Malmquist, Paulsen and Strittmatter. **Nays:** None. **Abstain:** None. **Motion Carried.** (4-0)

4. New Business

None.

5. Adjournment

Malmquist moved, seconded by Karnik, to adjourn. **Ayes:** Karnik, Malmquist, Paulsen and Strittmatter. **Nays:** None. **Abstain:** None. **Motion Carried.** (4-0)

Reviewed by Board of Appeals:


Secretary


Chairman

7-16-13
Approval Date

\\Lvdcp01\Users\Community Development\M Alfaro\My Documents\Board Of Adjustment\Board Of Appeals Minutes 06-05-2013.Doc