

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 3, 2011

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM:  BRUCE JOHNSON, ACTING CITY MANAGER

SUBJECT: CONSIDERATION OF AN ORDINANCE TO DECLARE 325 DUKE STREET A NUISANCE UNDER CITY CODE SECTION 8-1-154

ISSUE: An ordinance to declare 325 Duke Street a nuisance and authorize repairs to abate such nuisance pursuant to City of Alexandria Code Sec. 8-1-154 and Code of Virginia Section 36.1-49.1:1(G).

RECOMMENDATION: That the City Council introduce the ordinance to declare 325 Duke Street a Nuisance and to authorize repairs to abate such nuisance, pass it on first reading, and schedule it for second reading, public hearing, and final passage on Saturday, June 25.

BACKGROUND: This memorandum is intended to brief City Council on the recommendations to correct recurring violations at 325 Duke Street, and that this property has been of concern to the surrounding community. After multiple attempts seeking voluntary compliance, the issuing of notices of violation under the Virginia Maintenance Code, and the issuing of citations of violations regarding historic preservation, staff recommends that Council consider proceedings under the nuisance and spot blight provisions of the City Code.

In 2004, similar actions were undertaken by the City and resulted in minimum compliance. However, the property has continued to decline due to a lack of maintenance, particularly over the past eighteen months. To our knowledge, the owner, listed in City Real Estate records as Nancy Lee Hoy, has not been at the property for a number of years. Staff has made extensive efforts to locate the owner's current address and to engage the owner regarding this issue; the owner has not contacted staff in an attempt to resolve the matter.

In 2005, the owner painted the house under the spot blight work plan. Unfortunately, the work was not performed correctly. This has resulted in a significant peeling paint condition. Other problems at the house include: debris in the rear yard, a damaged historic fence, a deteriorated basement entry hatch located on a City sidewalk, and shutters that have detached from the house and become hazardous.

Staff recommends that City Council declare the property to be a nuisance by ordinance pursuant to City of Alexandria Code Sec. 8-1-154, and Code of Virginia Section 36.1-49.1:1(G), and direct Code Administration staff to oversee the repair of the property to abate the nuisance. Cost for this action will be invoiced to the owner at the last known address and placed as a lien on the property until collected.

FISCAL IMPACT: The repairs are estimated not to exceed \$25,000 for which the City will eventually be reimbursed. According to Department of Finance published records, property tax have not been paid since 2008, and approximately \$12,443 in taxes are outstanding but not delinquent for a time period to make the property eligible for a judicial sale.

ATTACHMENTS:

Attachment 1: Ordinance

STAFF:

Mary O'Donnell, Assistant City Attorney

John Catlett, Director, Department of Code Administration

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

Introduction and first reading: 6/14/11
Public hearing: 6/25/11
Second reading and enactment: 6/25/11

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to declare the property located at 325 Duke Street a blighted property and a nuisance to the community, and authorizing the abatement of such nuisance.

Summary

The proposed ordinance provides that the property located at 325 Duke Street, Alexandria, Virginia, is a blighted property and a nuisance to the community, detailing the lack of maintenance to the property which creates such nuisance, and authorizes the City to expend funds to abate such nuisance and to then collect the costs of such abatement from the property owner.

Sponsor

Staff

John Catlett, Director, Department of Code Administration
Mary O'Donnell, Assistant City Attorney

Authority

City of Alexandria Code §8-1-154
Code of Virginia §§36-49.1:1, 36-3; 15.2-900; 15.2-1115; 15.2-1432.

Estimated Costs of Implementation

\$25,000

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

ORDINANCE NO. _____

AN ORDINANCE to declare the property located at 325 Duke Street a blighted property and a nuisance to the community, and authorizing the abatement of such nuisance.

WHEREAS, Code of Virginia §36-49.1:1(G) authorizes localities to declare blighted property as defined in Code of Virginia §36-3 to be a nuisance; and

WHEREAS, the City of Alexandria has codified the provisions of Code of Virginia §36-49.1:1(G) in City of Alexandria Code §8-1-154; and

WHEREAS, the structure located at 325 Duke Street, Alexandria, Virginia, was built in approximately 1800, and is located in the Old and Historic Alexandria District of the City of Alexandria; and

WHEREAS, City of Alexandria Zoning Ordinance § 10-110 of the provides that all structures within the Old and Historic Alexandria District shall be maintained in good repair, structurally sound, and reasonably protected against decay and deterioration in compliance with Volume II -- Building Maintenance Code of the Uniform Statewide Building Code, as adopted by City of Alexandria Code §8-1-2; and

WHEREAS, for at least the last four years, the City of Alexandria has received numerous complaints from the public regarding the lack of maintenance of the property located at 325 Duke Street, including reports of peeling paint and rotting siding, repeated incidents of trash in the backyard (visible to the street), shutters falling off the structure into the right-of-way, and vagrants breaking into the residence; and

WHEREAS, Alexandria Department of Code Administration Staff believe that little to no maintenance has been performed on the structure since it was removed from the Spot Blight Program in 2005; and

WHEREAS, over at least the past four years, the property has become increasingly dilapidated, resulting in the following current conditions:

1. Peeling and fading paint, leaving the bare wood of the siding exposed to the elements, resulting in rotting and weathering of the historic structure;
2. Debris in the rear yard;
3. The historic decorative fence is falling over into the right-of-way, and the paint on such fence has faded and chipped such that it does not protect the wood;
4. The basement entry hatch, located on a City sidewalk, has deteriorated to the extent that if someone fell or tripped over it, it could collapse inward into the basement; and
5. Shutters have detached from the house and become hazardous; and

1 WHEREAS, such conditions endanger the public's health, safety, or welfare because the
2 structure and improvements upon the property are dilapidated, and deteriorated; and
3

4 WHEREAS, over the past several years, Alexandria Department of Code Administration
5 Staff have issued numerous violations of Volume II -- Building Maintenance Code of the
6 Uniform Statewide Building Code, against the property owner for her lack of maintenance of the
7 property; and
8

9 WHEREAS Alexandria Department of Code Administration Staff and the City
10 Attorney's Office attempted for a number of years to contact the property owner to discuss the
11 lack of maintenance to the structure, with the last letter being sent both to her last-known
12 address, and to her attorney in New York, on March 10, 2011, demanding that the property be
13 repaired; and
14

15 WHEREAS, she has failed or refused to repair said property; and
16

17 WHEREAS, a copy of this Ordinance was sent via certified and first-class mail to the
18 property owner to her current address listed in the real estate tax assessment records of the City
19 of Alexandria; and
20

21 WHEREAS, the estimated cost of repairs to correct the current conditions of the
22 property, as stated above, such that it is no longer a nuisance, are approximately \$25,000 and
23 Code of Virginia Sec. §36-49.1:1(G) allows for the recovery of such costs from the property
24 owner.
25

26 THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:
27

28 **Section 1.** That, for the reasons stated above and for any reasons discussed at the City
29 Council meeting held on this Ordinance, the subject property, located at 325 Duke Street,
30 Alexandria, Virginia, is declared to be blighted and thereby constitutes a nuisance, as provided
31 for by Code of Virginia §36-49.1:1(G).
32

33 **Section 2.** That abatement of the nuisance, as stated above, may be carried out pursuant
34 to the Code of Virginia §§15.2-900 and/or 15.2-1115, in addition to all other remedies available
35 to the City. Any costs incurred by the City associated with such abatement shall be recovered
36 from the property owner and, if not immediately recovered, recorded as lien on the property until
37 paid, as allowed by Code of Virginia §36-49.1:1(G) and §15.2-1115.
38

39 **Section 3.** That this ordinance shall become effective upon the date and at the time of its
40 final passage.
41

42 WILLIAM D. EUILLE
43 Mayor

44 Introduction: 6/14/11
45 First Reading: 6/14/11
46 Publication:
47 Public Hearing:
48 Second Reading:
Final Passage:

16

6-14-11

June 13, '11

Alexandria City Council

I have been involved in a case in Federal court in New York state and have been there since late January of this year. Obviously, that has taken 24 hours a day of my time and attention. Therefore, I have not received notices about repairs to be made at my property at 325 Duke Street. However, my phone number of the past 25 years remains the same. I have never received a phone call about these matters or even serious break-in's at the property. I was just made aware of your intent and this situation via a letter from the city attorney to a third party.

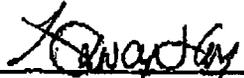
When trying to call code enforcement, I have not even been able to get an answer! The tape selection for "staff directory" only gives options if you already know who you want to contact -- there exists no "directory" in reality. There is no option pertaining to notices and citations. All options seem to be for building permits, etc. The "press 0" option only picked up once in many attempts. Then, I was refused information about my own property.

Although I fully want to make these repairs, it must be realized that they are not major structural problems, as your extreme action would infer. The techniques used by this council against myself have always been that of an axe to kill a fly. I am fully aware of, and have been for years, the covetous and imperially-minded individuals who have determined to unilaterally take my house from me, by any means possible, for their own particular greed and purposes. It is in conjunction with such simple violations, or rather natural occurrences to buildings in the natural progression of time and weather, that these secret conspirators have gained access to my property, both real and personal: Great damage has been perpetrated on my house -- the structure and its parts, i.e. shutters -- by operatives of the City of Alexandria. Furthermore, because of the council's last involvement with my property, both real and personal, I sustained a loss of around \$200,000. worth of antiques and personal effects. The Alexandria police have coincidentally refused to even investigate this crime, despite multiple efforts made by myself and others to get them to fulfill their civic duty to myself as a citizen and taxpayer. Furthermore, any vandalism and outside theft cannot be reported to them, leading to more "code violations" incurred by third party perpetrators.

However, it seems that "chipping paint" is such a huge offense that it mandates confiscation of ~~and further access to~~ private property. Hmmm. This is America? No, it is the domain of those pernicious persons again who shall remain nameless. We all know who they are, and we all know that this is reality ~~and not a fantasy~~.

I have spoken with the city attorney and discussed my intentions to make these ~~rather~~ minor repairs in a timely fashion. I get the impression that you, however, are going to steamroll this process further, thus revealing your true intent to once again gain access to my real and personal property. If it is truly the desire of the city council to just have the property conform to the "code" and appear better, then such confiscatory measures will not be pursued by yourselves. I would hope that the process would continue in a simple, ordinary fashion without obvious criminal possibilities and the superfluous vitriol to which I have been subjected to routinely.

Respectfully,



Nancy Hoy

P. O. Box 24538
Pittsburgh, Pa. 15234
Phone: (212) 956-5811/ (812) 406-8571

It is always better to call me, than write.