

# **TOWNSHIP OF LOWER MERION**

## **Building and Planning Committee**

### **Issue Briefing**

**Topic:** Property Maintenance Code Appeal

**Prepared by:** Robert Duncan, Assistant Township Manager

**Date:** December 10, 2016

#### **I. Action to Be Considered by The Building & Planning Committee:**

Building & Planning staff issued a violation notice to the property owner at 139 Ashland Avenue, Belmont Hills for violations of the Township's Property Maintenance Code (PMC). The property owner has filed an appeal of this notice. The Building & Planning Committee is required to hear this appeal and make a determination as to whether more time should be given to the property owner to make the required repairs.

#### **II. Why This Issue Requires Consideration:**

The Building & Planning Committee serves as the Township Appeals Board for appeals from the Township's Property Maintenance Code.

#### **III. Current Policy or Practice (If Applicable):**

This is the first time an appeal has been filed from a PMC violation notice issued by Building & Planning Department staff. The Building & Planning Committee of the Board of Commissioners is charged with hearing this appeal and rendering a decision regarding whether adequate time was provided to the property owner to make the required repairs to bring the property into compliance with the Township's PMC.

#### **IV. Other Relevant Background Information:**

The property at 139 Ashland Avenue, Belmont Hills has been in violation of the Township's Property Maintenance Code off and on for many years. The Township has recorded liens for past violations and has sought injunctions to require the previous owner to bring the property into compliance with the code. All of this activity occurred under the previous ownership of the property.

The home on this property is vacant and has been vacant for an extended time period. In addition to the open roof violation, there are numerous violations on the interior of the home but as long as the house remains vacant, these violations do not create a public nuisance and can be corrected prior to renewed occupancy of the home. The outstanding violation that does create a nuisance, and which is causing further deterioration of the house, is the condition of the roof

structure. There is a section of the roof that has deteriorated and is open and subject to further damage with ongoing rains and winter weather conditions. This roof structure must be repaired with new roof rafters, roof sheathing and shingles to protect the structure from the elements. The current condition is a violation of the Township's Property Maintenance Code, the 2009 International Property Maintenance Code, Section 304, Exterior Structure.

The most recent legal action against the previous owner occurred earlier this year but was placed on hold when it became clear that the bank was going to take ownership of the property. Wells Fargo took the property back from the previous owner on August 3, 2016 by way of sheriff's sale and recorded the deed on August 19<sup>th</sup>. Wells Fargo remains the current owner of the property.

Staff has been working with the Township Solicitor's office and has been in communication with Wells Fargo representatives about the need to correct the property maintenance violations beginning on March 9, 2016. Although Wells Fargo did not own the property during our initial communications, they were well aware of the violations and the obligation to make the required repairs to the roof structure. Wells Fargo representatives were also in attendance at a site meeting with staff and the Solicitor's office on August 23, 2016, and again on November 7, 2016, to review the conditions of this home. The goal for these site meetings was to establish a list of repairs and a time line to perform the repairs. Township staff suggested the home be demolished due to the poor condition of the structure, but the bank representatives have decided to keep the existing house and perform the repairs to bring the house into compliance with Township codes.

A formal violation notice was issued to Wells Fargo on November 23, 2016 citing the roof structure violation and ordering Wells Fargo to complete the roof repairs within 10 days of the violation notice. Wells Fargo has appealed this order and is requesting more time to perform the roof repairs.

## **V. Impact On Township Finances:**

This appeal has no financial impact to the Township but the Township has incurred thousands of dollars in legal expenses to enforce the property maintenance code violations at this property.

## **VI. Staff Recommendation:**

Since the Building & Planning Committee is in the unique condition and serving as an Appeals Board in this matter, they will make their decision after hearing the evidence presented at this meeting. Staff will present the Township's evidence at this meeting, so no staff recommendation is being provided.

## **Lower Merion Code Chapter 92, Housing-Property Maintenance Code**

A certain document, three copies of which have been and are presently maintained on file in the office of the Secretary of the Township of Lower Merion, being marked and designated as "International Property Maintenance Code 2009" be and is adopted as the Property Maintenance Code of the Township of Lower Merion, creating a code of property maintenance regulations for the protection of public health, safety, and welfare as herein provided; and each and all of the regulations of the International Property Maintenance Code 2009, including Appendix A Boarding Standards, except as provided in § 92-2 are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, with the additions, insertions, deletions, and changes, if any, outlined in § 92-2.

§ 92-2 Insertions, additions and revisions.

Section 111, Means of Appeal, shall be deleted in its entirety.

M. A new Section 111.1, Appeals, shall be added to provide as follows:

111.1 Appeals: An appeal from any decision of the Director of Building Regulations may be taken to the Building and Planning Committee of the Board of Commissioners. Such appeal shall be made in writing within 10 days after such decision has been made. The appeal shall be verified by an affidavit and shall be filed with the Township Secretary. The appellant or his representative shall have the right to appear and be heard, if such right is requested in the written appeal. A prompt decision of such appeal shall be made by the Building and Planning Committee. In making a decision, the Building and Planning Committee may vary or modify any provision of this Code where there are practical difficulties in the way of executing the strict letter of the law so that the spirit of the law shall be observed, public safety secured, and substantial justice done. Such variation or modification shall be the minimum necessary in order to grant relief. Every action of the Building and Planning Committee on such appeals shall be by resolution, copies of which shall be certified to the Director of Building Regulations and the appellant.