

TOWNSHIP OF LOWER MERION

Building & Planning Committee

Issue Briefing

Topic: Property Maintenance Code Appeal.

Prepared by: Robert Duncan, Assistant Township Manager

Date: March 1, 2017

I. Action To Be Considered By The Building & Planning Committee:

Consider an appeal of a Property Maintenance Code violation from the property owner at 256 W. Montgomery Avenue, Haverford. This is a multi-unit apartment house. The Owners are James A. Doherty, James M. Doherty and John H. Doherty and their address as documented in the Montgomery County tax records is listed in Lubbock, Texas. The appeal was filed by Mary Lou Doherty, Esq. who has an address in Haverford.

II. Why This Issue Requires Building & Planning Committee Consideration:

The Building & Planning Committee (B&P Committee) serves as the Township's Appeals Board for any appeal from a property maintenance code violation notice. The B&P Committee's decision on this appeal will be the final decision at the Township level.

III. Current Policy Or Practice (If Applicable):

The Board of Commissioners adopted the 2009 International Property Maintenance Code and the adopting ordinance established the B&P Committee as the Appeals Board for any appeals from the property maintenance code.

IV. Other Relevant Background Information:

On January 26, 2017, the Township's Housing Officer received a complaint from the tenant in unit 12 located at 256 W. Montgomery Avenue informing the Township that after she contacted the landlord about a leak in her bathroom, the owner's representative responded by shutting off the water to the unit and taking no further action to correct the leak. An inspection was performed on January 27th. The Township's Housing Inspector confirmed the recent water damage to the unit below and confirmed the water in unit 12 was turned off.

The tenant was living in this unit with a newborn baby and a toddler and was forced to temporarily move in with a relative because she had no access to running water. Her furniture and other personal property remain in the apartment. The Housing Officer initially issued a verbal order to Mary Lou Doherty to fix the leak and turn the water back on. This verbal notice

was followed up with a written violation notice mailed to the property owners at the address in Texas listed in the Montgomery County tax record database. A notice was also mailed to and posted on the apartment door at 519 W. Montgomery Avenue, Haverford, apartment #2. This apartment in Haverford is the address provided by the property owner on the Township's 2017 rental license application. Another tenant in the building verified that one of the property owners resides in this apartment unit.

Mary Lou Doherty responded by fax on January 31st and February 2nd to the Housing Officer's verbal notice to correct the violations but failed to even acknowledge that there was a leak or that the water was turned off. On February 8th, a violation notice was issued to the three different property owners to the Texas address and a local apartment at 519 Montgomery Avenue, Haverford. The owners, through their attorney, have appealed this notice to the Township's Appeals Board. The B&P Committee serves this role as the Appeals Board for the Township.

This appeal filed on behalf of the property owner does not challenge the fact that violations were found at the property. The appeal raises a number of technical issues regarding the nature of the notice itself and fails to even acknowledge the leak in this apartment unit and the manager's response to this leak and code violation. Further, the appeal focuses entirely on the initial verbal notice but fails to acknowledge that it was followed up by the written violation notice that is referenced in the first paragraph of their appeal. As a technical matter, the appeal asserts that the Housing Officer lacked certification under the Pennsylvania Uniform Construction Code (PAUCC). However, the Township Property Maintenance Code is not a part of the Uniform Construction Code. Furthermore, there is no requirement in the PAUCC or Township Code that Property Maintenance Code enforcement personnel have to be certified. Staff will provide documentation to the B&P Committee at the appeal meeting.

Normally the relevant issue before the B&P Committee in an appeal from a Notice of Violation would be whether there was in fact a code violation, i.e. where there was a leak in an apartment and whether the property owner's failed to make any attempt to repair the leak. In this case there were aggravating factors, in that for over a month no repairs have been made and the rental unit remains without water, thereby forcing the tenant and her newborn baby to move from the apartment. However, this appeal appears to waive the violation issue, and focuses entirely on the adequacy of the notice to the Owners.

V. Impact on Township Finances:

This appeal has no impact on Township finances

VI. Staff Recommendation

Since the B&P Committee is serving as an Appeals Board and must make their decision based on the information presented at the meeting, a staff recommendation is not provided. I would like to point out that the failure of this landlord to take any action to correct this leak is an unacceptable condition and cannot be allowed to continue.