



## Legislation Text

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**File #:** ID# 18-469, **Version:** 4

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Agenda Date: March 20, 2019

Subject:

Appeal the November 1, 2018 Notice and Order of Demolition

Presented By: Ken Fellman, Special Counsel
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### APPEAL SUMMARY:

Location: 7874 S. Windermere Cir Littleton CO 80120

Appellant: Dave Lynch, Homeowner; Linda Birch ( POA for owner)

Case Description:

The Appellant is appealing the November 1, 2018 Notice and Order of Demolition issued by code enforcement on a single family residential structure. A copy of the appeal notice is included in your meeting packet.

### BACKGROUND:

This single family residential structure was inspected and posted as unfit for habitation and ordered vacated on April 16, 2012 due to unsanitary, filthy, dilapidated and unsafe conditions. The property has remained vacant and in a state of noncompliance since that time. The parties will be presenting evidence regarding the history of code issues pertaining to the property.

The property owner has failed to meet any of the compliance dates of the notices issued since 2012. The notices include three notice and orders of abatement, a notice granting a sixty-day extension, and the November 1, 2018 notice and order of demolition.

The City of Littleton has received complaints of the increasingly dilapidated condition of the residence and exterior property. The residence has been vacant and abandoned more than six years and the dilapidated condition of the property is a public nuisance.

### STAFF ANALYSIS:

The Appellant requests that either the November 1, 2018 notice and order of demolition be vacated, or a 90-day stay be granted based on “good faith efforts” listed in the application document.

The basis for the Notice and Order of Demolition issued by the City is:

That the property is in violation of the following code sections of the 2012 International Property Maintenance Code (IPMC):

- 1) IPMC 304 Exterior Structure- 304.1 General states, the exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. (304.1.1 (4), (8) and (12) Unsafe Conditions, 304.2 Protective Treatment).

***The exterior of the structure is an extreme state of disrepair with evidence of water intrusion at the roof and walls. Walking surfaces to the front and rear entry ways are in a dangerous state of disrepair.***

- 2) IPMC 305 Interior Structure- 305.1 General states, the interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. (305.3 Interior Surfaces).

***The entire interior is in an extremely unsanitary condition with bio-hazard material throughout, and accumulation of trash and miscellaneous items.***

- 3) IPMC 504 Plumbing- 504.1 General states, all plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

***Copper pipes and fixtures missing, abandoned and/or non-functional. No water utility.***

- 4) IPMC 603 Mechanical Equipment- 603.1 Mechanical Appliances states, all mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function. (603.3 Clearances)

***Non-functional equipment stripped of parts and deteriorated beyond repair. No gas utility.***

- 5) IPMC 605 Electrical Equipment- 605.1 Installation states, all electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

***Exposed wires, electrical fixtures removed throughout the structure.***

- 6) IPMC 702 Means of Egress- 702.1 General states, a safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code.

***Egress is compromised in every room of the structure, due to accumulation of trash and miscellaneous items.***

This property is under the purview of the following code sections:

- Littleton City Code section 4-1-1 adopts the 2012 International Codes, including the International Property Maintenance (IPMC). Section 108.1.3 of the IPMC states: a structure is unfit for occupancy whenever the structure is found to be unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary, or heating facilities or other essential equipment required by

this code.

- IPMC section 108.1.5 (1)(2)(7)(9): the structure or premises is dangerous when it has any or all or the following conditions: (1) Compromised means of egress (2) Walking surface is warped or damaged and is unsafe (7) Structure is neglected, damaged, dilapidated, unsecured or abandoned as to become an attractive nuisance (9) Inadequate maintenance, dilapidation, decay, damage, inadequate light, ventilation, mechanical or plumbing system, unsanitary conditions.

Finally, the City issued a finding and determination that pursuant to Section 110.1 of the IPMC the structure is so deteriorated and dilapidated it is unsafe, unsanitary and otherwise unfit for habitation and more than two years have lapsed with insignificant repairs under the currently issued Notice of Abatement, and the City may proceed to demolish the structure within thirty calendar days from the date of this notice.

#### **BOARD PROCESS AND CONSIDERATION:**

The Building Board of Appeals shall hear testimony and receive evidence regarding the Appellants request to appeal the November 1, 2018 Notice and Order of Demolition issued by code enforcement on the single-family residential structure that has been posted as unfit for habitation since April 16, 2012.

This is a quasi-judicial proceeding governed under the City's Rules of Quasi-Judicial Procedure. You have all previously received a copy of the City's Rules of Quasi-Judicial Procedure and I understand you may have received some training in this as well. To be safe, another copy of the Rules are included with your packets. Please review your packet material and be prepared to make your decision based solely on the evidence (verbal and written) that is introduced at the hearing. Please do not display any indication of a predisposition as to how you intend to vote until a motion is made for Board action. Please do not make contact with any interested parties, including code enforcement staff, regarding this matter in advance of the hearing. If you have questions before the hearing, please get them to Denise Ciernia or me, and we will make sure they get addressed. I can be reached at 303-320-6100 or by email at [kfellman@kandf.com](mailto:kfellman@kandf.com) [<mailto:kfellman@kandf.com>](mailto:kfellman@kandf.com).

After the hearing is concluded and all evidence is in the record, the Board may, if it chooses, ask for an executive session if you need to obtain legal advice on any matter related to the hearing before you make a decision. The agenda will include the possibility of an executive session. We will only have one if you feel you need it.

#### **PROPOSED MOTION:**

##### ***MOTION TO UPHOLD THE NOVEMBER 1, 2018 NOTICE & ORDER OF DEMOLITION:***

I move to uphold the November 1, 2018 Notice & Order of Demolition issued by code enforcement for 7874 S. Windermere Circle, based upon the following findings:

1. *(insert evidence from the hearing supporting your motion.)*
- 2.

##### ***MOTION TO OVERTURN THE NOVEMBER 1, 2018 NOTICE & ORDER OF DEMOLITION:***

I move to overturn the November 1, 2018 Notice & Order of Demolition issued by code enforcement for 7874 S. Windermere Circle, based upon the following findings:

1. *(insert evidence from the hearing supporting your motion.)*
- 2.