

# BOARD OF CODE STANDARDS AND APPEALS MINUTES

December 5, 2011

**Members:** Francisco Banuelos, Randy Coonrod, Daryl Crotts, Brad Doeden, Randy Harder, Russ Redford, Larry Webb, Gregg Wilhite, Warren Willenberg

**Present:** Banuelos, Crotts, Doeden, Redford, Webb, Wilhite, Willenberg

**Staff Members Present:** Kurt Schroeder, Deb Legge, Penny Bohannon, Elaine Hammons (Central Inspection); Jeff Van Zandt, Elizabeth Harlenske; Kelly Rundell (Law Dept.)

Due to the unavoidable absences of both Chairman Coonrod and Vice Chairman Harder, Mr. Van Zandt requested that a member of the Board make a motion to appoint an Acting Chairman to preside over the December 5, 2011, meeting. Board Member Doeden made a motion to appoint Board Member Gregg Wilhite to serve as temporary Chair for the December 5, 2011, meeting. Board Member Redford seconded the motion. The motion was approved.

The regular meeting of the Board of Code Standards and Appeals was called to order by Acting Chairman Wilhite on Monday, December 5, 2011, at 1:33 p.m. in the 1<sup>st</sup> floor Board Room, City Hall, 455 N. Main, Wichita, Kansas.

Acting Chairman Wilhite asked that the Board Members and City staff introduce themselves to the public in attendance.

## **Approval of the November 7, 2011, minutes.**

Board Member Willenberg made a motion to approve the November 7, 2011, minutes. Board Member Banuelos seconded the motion. The motion carried.

## **Approval of the December 2011 license applications as follows:**

| <u>Applicant Name</u>  | <u>Company Name</u>                                | <u>Class</u> |
|------------------------|--|--------------|
| Ted Burns              | Ted Burns dba Kansas Carpentry                     | Class B      |
| John Ed Cook           | John Ed Cook dba JC Remodeling and<br>Construction | Class C      |
| Peter W. Chronis       | Reece-Campbell, Inc.                               | Class A      |
| Juvenal Fernandez, Jr. | Juvenal Fernandez, Jr. dba<br>Remnew Properties    | Class C      |
| Susan Kelly            | Zerr Enterprises, Inc.                             | Class A      |
| John Underwood         | BCI Communications, Inc.                           | Class A      |

Mr. Juvenal Fernandez, Jr. was present to answer any questions that the Board might have regarding his request for licensing. Finding his license documentation in order, Board Member Crotts made a motion to approve Mr. Fernandez's request for a Class C Contractor's License. Board Member Doeden seconded the motion. The motion passed.

On behalf of Ted Burns, Mrs. Patty Burns attended the meeting to answer any questions that the Board might have regarding Mr. Burns' request for licensing. After perusing the submitted application packet, Board Member Webb made a motion to approve Mr. Burns' request for a Class C Contractor's License. Board Member Crotts seconded the motion. The motion was approved.

Board Member Willenberg made a motion to approve the remaining license applications with the exception of Mr. John Ed Cook and Mr. Peter W. Chronis, which were approved pending the receipt of the necessary documentation by Central Inspection. Board Member Doeden seconded the motion. The motion passed.

**Change of Company Name – Chad Buresh, Simpson & Associates, Inc. (Class A)**

Board Member Doeden requested to be excused from discussion and voting on this item due to a potential conflict of interest.

Although neither Mr. Buresh (Qualified Person) nor Mr. Simpson (President) was present, they requested that the Board approve the change of company name to Simpson Construction Services, Inc. on the Class A Contractor's License. With all documentation in order, Board Member Crofts made a motion to approve the change of company name from Simpson & Associates, Inc., to Simpson Construction Services, Inc. Board Member Webb seconded the motion. The motion carried. (Board Member Doeden abstained from the vote.)

**Request for Second License/Request for Change in Qualified Person – Tony Zimbelman, Zimbelman Construction, LLC (Class B) and Wichita Habitat for Humanity, Inc. (Class C)**

Mr. Zimbelman, Qualified Person for Zimbelman Construction, LLC, requested that the Board approve his request to be the Qualified Person for the license currently held by Wichita Habitat for Humanity, Inc., (Class C) due to the retirement of Richard Stewart, the former Qualified Person for Wichita Habitat for Humanity, Inc. Mr. Zimbelman explained that Mr. Stewart had moved out of state, leaving the Wichita Habitat for Humanity, Inc., contractor's license without a Qualified Person. While arranging for someone to take the required test and be approved as the new Qualified Person, Mr. Zimbelman, also Chairman of the Board of Wichita Habitat for Humanity, Inc., asked to be approved as the Qualified Person in the interim. Board Member Crofts made a motion to approve Mr. Zimbelman's request to be approved as the Qualified Person for the Wichita Habitat for Humanity, Inc., Class C Contractor's License. Board Member Willenberg seconded the motion. The motion was approved.

**Request for Change of Qualified Person – Lowe's Home Centers, Inc. (Class C) and Upgrade of Contractor's License to Class B**

Submitting his request to the Board, Mr. William L. Hicks requested that he be approved as the Qualified Person for the Class C Contractor's License currently held by Lowe's Home Centers, Inc. The former Qualified Person is no longer employed with Lowe's Home Center, Inc. Board Member Willenberg made a motion to approve Mr. Hicks' request to be allowed to become the Qualified Person for Lowe's Home Centers, Inc., and to upgrade the license to a Class B. Board Member Webb seconded the motion. The motion carried.

**Request for Renewal of Contractor's License without Retesting – Darlene Hultman (Class B)**

Darlene Hultman requested that the Board approve the reinstatement of her Class B Contractor's License upon her retirement from her current position as the Building Inspection Administrator for the Building Inspection Section in Central Inspection, City of Wichita, without retesting. Determining that Ms. Hultman meets the requirements to obtain a Class B Contractor's License, Board Member Willenberg made a motion to approve Ms. Hultman's request to have her license reinstated upon her retirement from the City of Wichita, Central Inspection. Board Member Crofts seconded the motion. The motion was approved.

**Condemnation Hearings:**

**Review Cases:**

**1. 802 S. Fern**

Mr. Mario Hernandez was present at the meeting.

A one- and one-half story frame dwelling, the building is about 24 x 36 feet in size. Vacant for at least four months, this structure has been damaged by fire. It has broken, missing and fire damaged siding shingles; badly worn and fire damaged composition roof; deteriorated, rotted front porch; and the 10 x 15 foot accessory structure is deteriorated.

The property was last before the Board on November 7, 2011. At that meeting, the Board approved a motion to allow until the December 5, 2011, meeting to bring the exterior into compliance, maintaining the site in a clean and secure condition in the interim. If the exterior was not complete by the December 5, 2011, hearing, the property owner was to reappear before the Board with an update.

The 2009 and 2010 taxes are still delinquent in the amount of \$1,208.15; there is a 2011 Special Assessment for lot clean-up in the amount of \$1,681.06, and for an emergency board up in the amount of \$402.44. There is tree debris on the site, as well as a tire and miscellaneous trash. Although the property is secure, there has been no change to the structure since the last hearing.

Mr. Hernandez addressed the Board and said the trash and debris had been removed from the premise. He said he had cut the trees because there were branches leaning against the house; he told the Board that he had made repairs on the porch but could not paint because of the cold temperature. Mr. Hernandez assured the Board that he had already repaired the brick chimney.

Board Member Crotts noted that the recent photos from the last site inspection by Central Inspection staff did not show much progress on the repairs. Mr. Hernandez responded that he had since installed new air conditioning and had cleared the debris. Board Member Webb asked if there had been extenuating circumstances preventing Mr. Hernandez from getting the repairs accomplished by the December 5, 2011, hearing. Mr. Hernandez replied that he had worked on the site as much as he had been able to do so but that he also had to work at his job. Providing a receipt from the Sedgwick County Appraiser's Office, Mr. Hernandez said he had made a payment toward the balance on the delinquent taxes.

Board Member Crotts asked how long Mr. Hernandez would need in order to complete the exterior repairs on the structure. Mr. Hernandez said he could bring the exterior into compliance within thirty days. Board Member Crotts made a motion to allow until the February 2012 hearing to make substantial progress or the property will be submitted to the City Council with a recommendation of condemnation, with ten days to start demolition and ten days to complete the demolition. Board Member Banuelos seconded the motion. The motion was approved.

## **2. 1711 N. Madison**

The property owner, Caster Barry, attended the hearing.

Approximately 42 x 29 feet in size, this one-story frame dwelling has been vacant for at least five years. This structure has a cracking block foundation; missing brick, hardy plank siding; badly deteriorated composition roof, with holes and areas of missing shingles; and rotted soffits, fascia and wood trim.

At the October 3, 2011, meeting, the Board granted until the December 5, 2011, meeting to have the roof completed or for the owner to have made significant progress on the repairs. The taxes are current and there are no Special Assessments against the property. The premises are clean and the structure is secure.

Work on the roof is in progress; however, there is concern about the work done on the rafters without the necessary structural permit. The quality of the sheathing used for the roof work is also in question. A Stop Work order was posted on the property by the Building Section of Central Inspection.

Mr. Barry said that the photos taken on November 28, 2011, were no longer an accurate depiction of the property condition. The only item still needing completion is painting on the trim work. The Stop Work order, Mr. Barry explained, was because his permit had expired. He contacted Central Inspection and was told that he needed to have the permit extended. The old sheathing as shown in the photos of the roof had since been removed and new OSB had been used to deck the roof where replacement was needed.

Mr. Schroeder advised Mr. Barry to contact Central Inspection and schedule an inspection for the structural portion of the roof. Mr. Barry agreed that he would have the roof inspected.

Board Member Crotts made a motion to defer action on the property until the next regularly scheduled meeting in January 2012 to allow the roof to be inspected by Central Inspection staff. Board Member Banuelos seconded the motion. The motion carried.

### **3. 2107 W. Irving**

There was no representative present for this property.

Vacant for at least two months, this one-story frame dwelling is about 24 x 31 feet in size. This structure has rotted and missing wood lap siding; badly worn composition roof; deteriorated front porch; rotted wood trim; and the 6 x 6 foot metal accessory structure is deteriorated.

Ms. Legge told the Board that the owner was unable to attend the November 7, 2011, meeting due to illness. At that time, the Board approved a motion to wait until the December 5, 2011, meeting to make a determination on the property. A letter was sent to the owner advising her that at the very minimum the site needed to be cleaned of debris and maintained secure in order for the Board to grant any additional time.

The owner was unable to attend the December 5, 2011, meeting, citing her continued health issue. No exterior repairs have been made, and there has been no progress on the clean-up.

Board Member Crotts made a motion to refer the property to the City Council with a recommendation of condemnation, with ten days to begin wrecking the structure and ten days to finish clearing the site. Board Member Willenberg seconded the motion. The motion passed.

### **Review of the Class B Contractor's License of Mr. Tin Lu dba American Midwest Roofing & Construction**

Mr. Van Zandt announced to the Board that he would have to excuse himself from any involvement of the review of the Class B Contractor's License of Mr. Tin Lu dba American Midwest Roofing & Construction due to a conflict of interest. Ms. Elizabeth Harlenske, Assistant City Attorney, City of Wichita Law Department, joined the meeting to act in the advisory capacity to the Board.

The review of Mr. Lu's license was brought to the Board by Central Inspection staff in accordance with Chapter 18.12.140 of the Code of the City of Wichita, Kansas. Ms. Harlenske noted for the record that at 1:57 p.m. Mr. Tin Lu dba American Midwest Roofing & Construction had not arrived at the hearing, and there was no representative attending on his behalf.

Ms. Harlenske introduced Ms. Kelly Rundell, City of Wichita Law Department, representing the case on behalf of City staff. Ms. Rundell requested that Darlene Hultman, Building Inspector Administrator answer questions and present testimony about her findings regarding the alleged violations against Mr. Lu. Ms. Hultman explained that the case against Mr. Lu originated with Richard Brown, formerly employed as a combination building inspector with the City of Wichita, Central Inspection. Ms. Hultman said she accompanied Mr. Brown on more than one occasion to look at the work done by Mr. Lu at 1119 S. George Washington Blvd. Mr. Lu had been informed several times of the needed corrections and had even agreed, in writing, to make the necessary repairs. Mr. Lu entered into a contract with Mr. and Mrs. Odell Harris as a representative of A.T.L. Construction, a company that was not licensed in the City of Wichita as a building contractor. A permit for a portion of the work was issued to Mr. Lu dba American Midwest Roofing & Construction; however, he neglected to get the proper permit to cover the entire scope of the project. Ms. Rundell asked Ms. Hultman to specify the corrections needed. Ms. Hultman identified the following items:

1. The front part of the house (shingles) had to be removed down to the rafters; Mr. Lu was to contact Central Inspection and arrange an inspection of the new rafters had had installed.
2. Solid decking was to be installed per code and an inspection requested of Central Inspection.
3. New shingles were to be installed per code and an inspection requested of Central Inspection.
4. The shingles on the flat portion (rear portion) of the roof had to be removed and rolled roofing was to be installed per code and an inspection requested of Central Inspection.

Ms. Hultman provided copies of letters that had been sent to Mr. Lu to remind him of his obligation to make the corrections. To date, none of the items had been repaired.

Mr. Lance Davis, Building Construction Inspector, testified that he had seen the work done on the roof at the property owned by Mr. and Mrs. Harris and provided current photographs showing the substandard workmanship and code violations on the Harris' property.

Also testifying to the extent of subsequent damage caused by the roof installation by Tin Lu dba Midwest Roofing & Construction, Mr. and Mrs. Odell Harris told the Board that they had paid Mr. Lu according to their original contract, and he refused to come back make the necessary corrections. The Harris's provided documentation showing that a judgment against Mr. Lu and his company had been awarded to the Harris's for damages in the amount of \$33,000. Mr. Lu has not paid any amount to Mr. and Mrs. Harris to date.

Board Member Doeden made a motion to suspend the Class B Contractor's License of Tin Lu dba American Midwest Roofing and Construction for one year, finding him in violation of Title 18 of the Code of the City of Wichita, Kansas, specifically Section 18.12.140(a) Abandonment of Contract; Section 18.12.140(b) Diversion of Funds; Section 18.12.140(d) Willful and Deliberate Disregard and Violations of the Provisions of Title 18; Section 18.12.140(h) Fraudulent Use of License to Obtain Building Permits; and requiring that Mr. Lu satisfy any outstanding judgements; and properly complete all current outstanding construction permits. Additionally, Mr. Lu is prohibited from acquiring any new construction permits and is prohibited from being the qualified person for any other construction entity. Prior to reinstatement of a City of Wichita contractor's license, Mr. Lu must appear before the Board of Code Standards and Appeals with proof that the stipulations regarding the proper completion of outstanding permits and the satisfaction of any judgements against Mr. Lu dba American Midwest Roofing and Construction have been met. If the aforementioned conditions are not met by the end of the one-year suspension, the Class B Contractor's License will be revoked at that time. Board Member Crotts seconded the motion. The motion carried without opposition.

Ms. Harlenske explained that Mr. Lu will be advised of the Board's action regarding his Class B Contractor's License by regular and certified mail. In the letter, Mr. Lu will be also be notified that he will have the opportunity to appeal the Board's action to the City Council within ten days of the date of the letter.

Noting that the Board meeting would be Mr. Schroeder's last as the Secretary of the Board of Code Standards and Appeals, Board Member Willenberg thanked Mr. Schroeder for his years of public service as the Superintendent of Central Inspection. Acting Chairman White affirmed the appreciation for Mr. Schroeder's valued service.

With no other business to conduct, Board Member Willenberg made a motion to adjourn the meeting. Board Member Webb seconded the motion. The motion was approved.

The meeting adjourned at 3:20 p.m.