

CITY OF FARIBAULT

RESOLUTION #2019-148

ORDERING THE ABATEMENT OF CONDITIONS CREATING A HAZARDOUS PROPERTY AND PUBLIC NUISANCE AT 1215 DIVISION STREET EAST

WHEREAS, the real property located at 1215 Division Street East, legally described on Exhibit A attached hereto (the "Property"), contains, in part, a single-family dwelling and garage; and

WHEREAS, the Property is owned by Larry R. Preuss (the "Owner") and to the best of the City's knowledge, the Owner is the sole occupant of the Property; and

WHEREAS, on May 22, 2019, pursuant to a duly obtained administrative search warrant, an interior inspection of the Property was conducted by Sergeant Matthew Long of the Faribault Police Department, Chief Dustin Dienst of the Faribault Fire Department, and multiple community service officers (collectively, the "Authorities"), during which the following conditions were observed: garbage and debris strewn around the interior of the dwelling and garage; no clear walking paths throughout the dwelling or garage; ingress and egress blocked throughout the dwelling and garage (unable to access doors, windows, staircases), including piles of junk property stacked to the ceilings throughout both structures; putrid and decaying organic matter throughout the dwelling along with smells of rotting food; signs of rodent infestation throughout the dwelling; unsanitary conditions throughout the dwelling and garage, including in the kitchen and bathrooms; no running water or flushing toilets in the dwelling; significant damage to the dwelling's ceiling, including holes and water damage; and

WHEREAS, also on May 22, 2019, the Authorities conducted an inspection of the exterior portion of the Property and observed numerous piles of personal property stacked in bins and compiled in bags and other containers scattered throughout the yard, along with unmaintained vegetation and inoperable vehicles and trailers throughout the yard; and

WHEREAS, on June 26, 2019, Sergeant Matthew Long visited the Property's exterior again and observed additional accumulations of personal property throughout the Property's exterior; and

WHEREAS, Minnesota Statutes, section 463.15, subdivision 3 defines a “hazardous building or hazardous property” as “any building or property, which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition or abandonment, constitutes a fire hazard or a hazard to public safety or health”; and

WHEREAS, Minnesota Statutes, section 609.74 and section 16-1 of the Faribault City Code deem it a public nuisance to maintain or permit a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any number of members of the public; and

WHEREAS, section 16-3 of the Faribault City Code deems it a public nuisance to accumulate decayed food, refuse, rank growths of vegetation, and other debris on private property; and

WHEREAS, section 16-4 of the Faribault City Code deems it a public nuisance to accumulate materials on private property in a manner conducive to the harboring of rodents, or in a manner creating fire, health, or safety hazards, and to store inoperable vehicles and large trailers on private property; and

WHEREAS, section 16-5 of the Faribault City Code deems it a public health nuisance to accumulate refuse, debris, or any other materials on private property in an unsightly manner which serve to diminish the value or quality of any adjacent property; and

WHEREAS, the conditions outlined above also constitute numerous violations of the Minnesota Fire Code and the International Property Maintenance Code, both of which are expressly adopted by the City of Faribault; and

WHEREAS, despite years of attempting to obtain code compliance at the Property from the Owner, the Owner has taken no or minimal steps to abate the hazardous conditions on the Property; and

WHEREAS, Minnesota Statutes, section 463.161 authorizes the governing body of any city to order the owner of any hazardous building or property within the municipality to correct or remove the hazardous conditions; and

WHEREAS, Minnesota Statutes, section 463.161 et seq. authorizes a city to correct or remove a hazardous condition of any hazardous building if the owner of record fails to do so after a reasonable time and the district court enters a judgment sustaining the city's order; and

WHEREAS, pursuant to Sec. 16-8 of the Faribault City Code, the City Council may also order the abatement of a public nuisance on any premises; and

WHEREAS, based on the information presented, the City Council has decided that the condition of the Property is both hazardous and a public nuisance and, therefore, must be abated in accordance with applicable state and local laws.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Faribault as follows:

1. The City Council adopts, as factual findings, all of the above-listed recitals.
2. The Property's single-family dwelling and garage, along with the exterior portion of the Property, are all hazardous, as defined by Minnesota Statutes, section 463.15.
3. The condition of the Property also constitutes a public nuisance within the meaning of Minnesota Statutes, section 609.74 and Chapter 16 of the Faribault City Code.
4. The City Attorney shall prepare an Abatement Order substantially similar to that attached hereto as Exhibit B.
5. The City Attorney is authorized to take all necessary legal steps to effectuate service of this Resolution and the corresponding Abatement Order in the manner required by state and/or local law.
6. The City Attorney and City staff are further authorized to take all necessary legal steps to secure compliance with the Abatement Order and to obtain authority to remove and abate the hazardous and nuisance conditions on the Property by court order and assess the costs thereof against the Property.

Date Adopted: July 23, 2019

Faribault City Council

Kevin F. Voracek, Mayor

ATTEST:

Timothy C. Murray, City Administrator

EXHIBIT A TO RESOLUTION

Legal Description

Lot 2, Block 1, in Brand's Addition, Section "A", Faribault, Rice County, Minnesota.

EXHIBIT B

Abatement Order

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RICE

THIRD JUDICIAL DISTRICT

Case Type: Other Civil

In the Matter of the Hazardous
Property Located at 1215 Division Street East,
Faribault, Minnesota

**ORDER FOR ABATEMENT OF
HAZARDOUS/NUISANCE
PROPERTY**

TO: All owners, occupants, and lienholders of record.

The City Council of the City of Faribault (the “City”) orders that within 20 days of service of this Order that you abate the hazardous/nuisance conditions which exist on the property located at: 1215 Division Street East, in the City of Faribault, which property is legally described on Exhibit A attached hereto (the “Property”).

The City, pursuant to Minnesota Statutes Sections 463.15 to 463.261, finds that the Property is hazardous. The following observations lead to these findings: garbage and debris strewn around the interior of the dwelling and garage; no clear walking path throughout the dwelling or garage; ingress and egress blocked throughout the dwelling and garage (unable to access doors, windows, staircases), including piles of junk property stacked to the ceilings; putrid and decaying organic matter throughout the dwelling along with smells of rotting food; signs of rodent infestation throughout the dwelling; unsanitary conditions throughout the dwelling and garage, including in the kitchen and bathrooms; no running water or flushing toilets in the dwelling; significant damage to the dwelling’s ceiling, including holes and water damage;

numerous piles of personal property stacked in bins and compiled in bags and other containers scattered throughout the yard; unmaintained vegetation throughout the yard; and inoperable vehicles and trailers on the Property. The City also finds that the Property constitutes a public nuisance for the same reasons set forth above and is in violation of numerous provisions of the Faribault City Code, the International Property Maintenance Code, and the Minnesota Fire Code.

Accordingly, it is hereby ORDERED that you abate the hazardous/nuisance conditions within 20 days of the date of service of this Order by completing the following:

1. Remove all accumulation of junk, garbage and unnecessary articles from both inside and outside of the dwelling and garage, including all materials that have been piled throughout the yard;
2. Provide clear passage through the dwelling's rooms;
3. Provide egress to all doors and windows inside of the dwelling and garage;
4. Repair any roof and ceiling damage within the dwelling to ensure weather tightness;
5. Remove and properly dispose of all decaying and putrid organic matter inside the dwelling;
6. Treat the dwelling for rodent infestation to ensure removal of all pests;
7. Provide running and flushing water to the dwelling;
8. Remove any inoperable vehicles and trailers that are unlawfully parked on the Property.

You must apply for and obtain any appropriate permit(s) for the work you intend to perform from the appropriate City offices before abating the conditions. This Order is not a permit. Further, all work completed is subject to inspection by City staff, including, without

limitation, the building inspector, police and fire department personnel, and other City personnel to ensure compliance with applicable rules and law.

You are further advised that unless such corrective action is taken or an Answer is served on the City and filed with the Rice County District Court Administrator within 20 days of the date of service of this Order upon you, a motion for summary enforcement of this Order will be made to the Rice County District Court.

You are further advised that if you do not comply with this Order and the City is compelled to take any corrective action, all necessary costs incurred by the City in taking the corrective action will be assessed against the property pursuant to Minnesota Statutes Section 463.21. In connection thereto, the City intends to recover all its expenses incurred in carrying out this Order, including specifically but not exclusively, filing fees, service fees, publication fees, attorneys' fees, appraisers' fees, witness fees, including expert witness fees and traveling expenses incurred by the City from the time this Order was originally made pursuant to Minnesota Statutes Section 463.22.

Dated _____, 2019

KENNEDY & GRAVEN, CHARTERED

By: _____

David T. Anderson (#393517)
Scott J. Riggs (#244788)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

**ATTORNEYS FOR THE CITY OF
FARIBAULT**

ACKNOWLEDGMENT

The undersigned acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, subd. 2, to the party against whom the allegations in this pleading are asserted.

David T. Anderson

EXHIBIT A TO ABATEMENT ORDER

Legal Description

Lot 2, Block 1, in Brand's Addition, Section "A", Faribault, Rice County, Minnesota.