



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 07/20/10

SUBJECT: Code Enforcement Board Case # 10-0301, PARCEL ID: 6307-11-00-1180, 4679 Chardonnay Drive, Port Orange. This property was deemed a sanitary nuisance and a threat to the health, safety and welfare of the general public by the Code Enforcement Board on July 7, 2010.

DEPARTMENT: COMMUNITY DEVELOPMENT

RECOMMENDED MOTION:

Authorization for City to initiate civil litigation against GMAC Mortgage, LLC, current property owner of 4679 Chardonnay Drive, Port Orange, if the Order of the Code Enforcement Board, to clean and secure the property, has not been complied with by July 18, 2010.

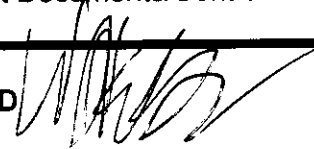
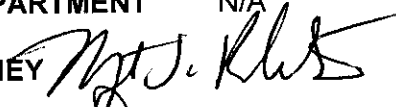

SUMMARY:

Case #10-0301 was first heard by the City of Port Orange Code Enforcement Board on June 2, 2010. The Board ordered, then property owner, Susan K. Gray be found in violation of Chapter 42, Article III, Section 42-54 (Sanitary Nuisance Prohibited) of the City of Port Orange Code of Ordinances, and ordered the property to be brought into compliance by June 10, 2010. There was no compliance. The property was in foreclosure. GMAC Mortgage, LLC took title to the property on June 22, 2010.

The property was reposted with Notice of Violation and Request for Hearing on June 25, 2010 with GMAC Mortgage, LLC as the property owner. The case was heard by the Code Enforcement Board on July 7, 2010. The Board ordered GMAC bring the property into compliance by July 18, 2010 or the city may lien the property for all costs of abatement and assess a \$500.00 per day penalty for continuing non-compliance. Due to the gravity of the violation and the threat to the health, safety and welfare of the general public, staff is requesting authorization to initiate civil litigation against GMAC Mortgage, LLC to have the property cleaned up and brought into compliance.

ATTACHMENTS: Ordinance Resolution Budget Resolution

Other Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT HEAD		Wayne Clark Community Development Director	Date 7/9/10
FINANCE DEPARTMENT	N/A	Approved as to Budget Requirements	Date
CITY ATTORNEY		Approved as to Form and Legality	Date 7.9.10
CITY MANAGER		Approved Agenda Item For:	7/20/10

COUNCIL ACTION: Approved as Recommended Disapproved

Tabled Indefinitely Continued to Date Certain Approved with Modification:

II. CONCLUSION OF LAW :

Respondent, GMAC Mortgage, LLC, by reason of the foregoing, has violated Chapter 42 (Nuisances), Article III (Sanitary Conditions), Section 42-54 (Sanitary Nuisance Prohibited) of the City of Port Orange Code of Ordinances: A sanitary nuisance in the city is hereby declared to be the commission of any act, by any person, or the keeping, maintaining, propagation, existence or permitting of anything by any person, by which the life or health of any person, or the health or lives of persons, may be threatened or impaired, or by which or through which, directly or indirectly, disease may be caused or the environment of any person rendered unclean or unwholesome by act of another or others. Sanitary nuisances are prohibited:

The respondent failed to take any action to ensure that the home is sanitary and livable and does not present a serious threat to the health, safety and welfare of the public, and is therefore subject to the provisions of Chapter 162, FL Statutes (2001).

III. ORDER:

- A. Respondent shall correct the aforesaid violation by removing all garbage, junk, trash, debris, fecal and urine matter, food, waste, etc. inside the home, garage and exterior of the home. (Entire dwelling needs to be cleaned up and carpet removed). In addition, respondent shall also fumigate for rodents and pests and sanitize the entire dwelling. The property (windows, doors, screens, etc) shall be secured and locked, on or before July 18, 2010. If compliance with this order is not met by July 18, 2010, staff is ordered to proceed with civil court action to bring property into compliance and to lien the property for all costs of abatement. In the event the property is not brought into compliance before July 18, 2010, a fine in the amount of \$500.00 per day shall be assessed for each day the violation exists beyond July 18, 2010. A copy of this order will also be sent via certified and regular mail to all persons and representatives with any interest in this property.
- B. In the event that the Respondent or any parties with an interest in the property completes the requirements listed above, respondents shall request a re-inspection by the Code Compliance Inspector to determine whether the violation has been brought into compliance.

The findings in this Order shall constitute notice of the violation upon recording of a certified copy in the public records of Volusia County, Florida, and shall be binding upon Respondents and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to Section 162.07, Florida Statutes (2002).

DONE AND ORDERED this _____ day of _____, 2010.

**CITY OF PORT ORANGE , FLORIDA
CODE ENFORCEMENT BOARD**

Attest : _____
Secretary,
Code Enforcement Board

By : _____
Chairman,
Code Enforcement Board

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law and Order have been furnished to Respondent

_____ at

_____, Port Orange,

Florida 32129, by U.S. Mail this _____ day of _____, 2010.

Secretary, Code Enforcement Board

Exhibit A

CEB CASE # 10-0301
4679 Chardonnay Drive
PORT ORANGE, FL 32129

LEGAL DESCRIPTION:

LOT 118 GLENWOOD VILLAGE PHASE II MB 39 PGS 167 & 168 PER OR 3242 PG 1598

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT BOARD

CASE NO. 10-0301

CITY OF PORT ORANGE,
a Florida municipal corporation

Petitioner,

v.

Susan K. Gray
4679 Chardonnay Drive
Port Orange, FL 32129
6307-11-00-1180

Respondent.

Space Reserved for Recording Data

FINDING OF FACT, CONCLUSION OF LAW
AND ORDER

THIS CAUSE came on for public hearing before the Code Enforcement Board on June 2, 2010 after due notice to the Respondent, and the Board having heard testimony under oath, received evidence and heard argument, thereupon issues its Findings of Fact, Conclusions of Law and Order, as follows :

I. FINDINGS OF FACT:

- A. Respondent, Susan K. Gray, whose mailing address was 4679 Chardonnay Lane, Port Orange, FL 32129 is the owner of the property located at 4679 Chardonnay Drive, Port Orange, FL 32129 and more particularly described on Exhibit A:
- B. The condition of 4679 Chardonnay Drive, Port Orange, FL 32129 was first observed at the real property described above on March 15, 2010. A re-inspection made on June 1, 2010, confirmed the condition as being the same. Nature of violation constituted an emergency hearing on the case and therefore written notice was not received by respondent. Daniel Gray (son and caretaker of Susan Gray(property owner) and resident in the home, was contacted via telephone on June 1, 2010 at 5:32 PM and was verbally notified of the unsanitary nuisance that exists on the property. Mr. Gray stated that he and Ms. Gray have permanently left the residence. Due to the unsafe and hazardous conditions inside the home and the vacating of the premises, this case was added to the agenda for the June 2, 2010 code board in an effort to proceed with bringing the property into compliance and abating all unsanitary and hazardous conditions.
- C. At the time of the hearing on June 2, 2010 the violations cited above continue to exist.

II. CONCLUSION OF LAW :

Respondent, Susan K. Gray, by reason of the foregoing, has violated Chapter 42 (Nuisances), Article III (Sanitary Conditions), Section 42-54 (Sanitary Nuisance Prohibited) of the City of Port Orange Code of Ordinances: A sanitary nuisance in the city is hereby declared to be the commission of any act, by any person, or the keeping, maintaining, propagation, existence or permitting of anything by any person, by which the life or health of any person, or the health or lives of persons, may be threatened or impaired, or by which or through which, directly or indirectly, disease may be caused or the environment of any person rendered unclean or unwholesome by act of another or others. Sanitary nuisances are prohibited:

The respondent failed to take any action to ensure that the home is sanitary and livable and does not present a serious threat to the health, safety and welfare of the public, and is therefore subject to the provisions of Chapter 162, FL Statutes (2001).

III. ORDER:

- A. Respondent shall correct the aforesaid violation by removing all garbage, junk, trash, debris, fecal and urine matter, food, waste, etc. inside the home, garage and exterior of the home. (Entire dwelling needs to be cleaned up and carpet removed). In addition, respondent shall also fumigate for rodents and pests and sanitize the entire dwelling. The property (windows, doors, screens, etc) shall be secured and locked, on or before June 10, 2010. In the event that the aforesaid violator has not complied with the above order by June 10, 2010, staff will be directed to proceed with civil court action to bring property into compliance and to lien the property for all costs of abatement. A copy of this order will also be sent via certified and regular mail to all persons and representatives with any interest in this property. The property was posted at 9:45 AM by Building Official, Kerry Leuzinger, on June 3, 2010 with a placard indicating that the structure is considered unsafe and unlawful to occupy, per Section 103.5 Local Administrative Amendments to the Florida Building Code.
- B. In the event that the Respondent or any parties with an interest in the property completes the requirements listed above, respondents shall request a re-inspection by the Code Compliance Inspector to determine whether the violation has been brought into compliance.

The findings in this Order shall constitute notice of the violation upon recording of a certified copy in the public records of Volusia County, Florida, and shall be binding upon Respondents and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to Section 162.07, Florida Statutes (2002).

DONE AND ORDERED this 2nd day of June, 2010.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT BOARD

Attest:

Glenda J. Hefter
Secretary,
Code Enforcement Board

By: 

Chairman,
Code Enforcement Board

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law and Order have been furnished to Respondent

Susan K. Gray at

4679 CHARDONWAY DR., Port Orange,

Florida 32129, by U.S. Mail this 4th day of June, 2010.

Glenda J. Hefter
Secretary, Code Enforcement Board

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IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA
CIVIL ACTION

GMAC MORTGAGE, LLC,
Plaintiff,

vs. CASE NO. 2009-34280 CICI
DIVISION 32

06/22/2010 03:07 PM
Doc stamps 427.00
(Transfer Amt \$ 61000)
Instrument# 2010-111994 # 1
Book : 6487
Page : 3802

SPACE FOR RECORDING ONLY F.S. §695.26

SUSAN K. GRAY; TENANT #1 N/K/A DANIEL GRAY;
Defendant(s).

CERTIFICATE OF TITLE

The undersigned Clerk of the Court certifies that he executed and filed a Certificate of Sale in this action on June 9, 2010, for the property described herein and that no objections to the sale have been filed within the time allowed for filing objections.

The following property in VOLUSIA County, Florida:

LOT 118, GLENWOOD VILLAGE, PHASE II AS RECORDED IN MAP BOOK 39, PAGES 166 AND 167, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

A/K/A 4679 CHARDONNAY DRIVE, PORT ORANGE, FL 32129-7417

was sold to: GMAC MORTGAGE, LLC, whose address is: 1100 Virginia Drive, Fort Washington, PA 19034.

WITNESS my hand and seal of the Court on June 22, 2010, as Clerk of the Circuit Court.

(SEAL)



Diane M. Matousek
Clerk of the Circuit Court

By: JENNIFER VAZQUEZ
Deputy Clerk

Copies furnished to:
Florida Default Law Group, P.L.
P.O. Box 25018
Tampa, Florida 33622-5018
All parties on the attached service list.

Parcel # 630711-00-1180

CLERK OF THE CIRCUIT
& COUNTY COURT
VOLUSIA COUNTY, FL
CC 64

JUN 22 2010

FILED

\$61,000.00

\$427.00 DIS VOL JV



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