

FOR REGISTRATION REGISTER OF DEEDS
Elizabeth T Cooper
Burke County, NC
May 14, 2014 11:21:48 AM
Book 2137 Page 330-335
FEE: \$26.00
INSTRUMENT # 2014003805



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ORDINANCE # 14 - 10

**ORDINANCE AND ORDER DIRECTING THE CODE ENFORCEMENT OFFICER TO
EFFECTUATE THE PURPOSES OF ARTICLE E, PART 9 OF THE CHARTER AND
CODE OF ORDINANCES FOR THE CITY OF MORGANTON REGARDING
PROPERTY AT 309 FLETCHER STREET**

WHEREAS, complaints have been received concerning the dilapidated conditions of the structure located at 309 Fletcher Street, Morganton, North Carolina, (the "Premises"); and

WHEREAS, the owners of record of the Premises are the heirs or devisees of Geneva H. Bates, deceased, namely: Heather Bates and Jamie Lee Bates, (the "Owners" or "Property Owners") and the Premises is subject to the lien of a Deed of Trust currently held by Bank of America; and

WHEREAS, the Building Inspector and Code Enforcement Officer for the City of

options and provide the City with a plan of action, to which proposal the Building Inspector agreed; and

WHEREAS, more than thirty (30) days have passed since the hearing of March 31, 2014, and no action whatsoever has been taken by the Owners or lienholder to remove or demolish the structure, and Bank of America has informed the Building Inspector that since it is merely a mortgage holder and has not commenced a foreclosure proceeding, that it would be unable to take any action at this time; and

WHEREAS, following the hearing of March 31, 2014, the Building Inspector determined, and also informed the parties, that the structure on the Premises cannot be repaired at a cost of less than sixty percent (60%) of the value of the structure, and therefore ought to be removed or demolished as required by Section 9-2069(b) of the Code of Ordinances. The Building Inspector sent a written order to that effect to the Owners and the lienholder on April 30, 2014; and

WHEREAS, based on their representations, including those at the hearing of March 31, the Owners and the lienholder will not comply with the order of the Building Inspector to demolish and remove the structure, such that the Building Inspector anticipates requesting that the City demolish and remove the structure as provided in Section 9-2070 of the Code of Ordinances; and

WHEREAS, before the Building Inspector may proceed with demolition and removal, the City Council must first order the Building Inspector to proceed by adopting an ordinance, as provided in Section 9-2070(c) of the Code of Ordinances.

NOW, THEREFORE, be it ordained and ordered by the City Council of the City of Morganton as follows:

1. This is a proceeding to declare a dwelling structure located within the City of Morganton unfit for human habitation in accordance with Article E of Part 9 of the Charter and Code of Ordinances of the City of Morganton and in accordance with Section 160A-443 of the General Statutes of North Carolina.
2. The Premises involved in this proceeding is owned by Heather Bates and Jamie Lee Bates is located at 309 Fletcher Street, Morganton, North Carolina, is described in the Warranty Deed recorded in Book 568, at Page 463 of the Burke County Registry, and is also identified as Burke County PIN #1792944092. A more complete description of the Premises is provided in Exhibit "A" attached hereto.
3. The Building Inspector for the City of Morganton, after giving due notice to the Property Owners and to the mortgage lienholder on the premises, and after a hearing was held on March 31, 2014, determined the Premises described above

to be unfit for human habitation, and allowed the Property Owners appropriate opportunity and ample time to commence repairs to bring the structure into compliance with the housing code and building code now in effect in the City of Morganton.

4. The Property Owners have failed to complete such repairs or to demolish and remove the structure on the Premises, and the Building Inspector has now requested from the City Council authority to proceed to effectuate the purposes of Article E of Part 9 of the Code of Ordinances by demolishing and removing the structure on the Premises.
5. From the evidence and information presented, the City Council finds the following facts to be true:
 - a) The structure located at 309 Fletcher Street, Morganton, North Carolina is a 1967 frame house containing approximately 1400 square feet of living space with a full unfinished basement. The residential structure has been vacant since 2008 and suffered extensive fire damage early in 2012, and has been left unsecure since the date of the fire.
 - b) The structure is unoccupied.
 - c) Because of exposure to weather, there is substantial damage continuing to occur to the structural components of the residence.
 - d) Structural walls, roof, floor joists, electrical wiring, HVAC systems, and windows are in poor condition, and most of the interior and exterior doors of the structure need repair or replacement.
 - e) The structure is generally in a condition of serious dilapidation, which has increased the hazards of fire, accident or other calamity.
6. Based upon the forgoing specific findings of fact, this Council further determines and concludes:
 - a) that the structure on the Premises is unfit for human habitation and that the improvements or repairs needed to bring it into compliance with the housing code cannot be made at a cost equal to or less than sixty percent (60%) of the value of the dwelling; and
 - b) that the Property Owners have failed to eliminate, remove or repair the Premises, despite being given a reasonable opportunity to bring the residence

into compliance with the Housing Code, or to remove or demolish the remains of the structure; and

c) that the Premises in its current condition has become or will become if not immediately repaired or demolished, a nuisance as defined by the Code of Ordinances, which poses an imminent or immediate threat to the public health, safety, and welfare.

7. BASED UPON THE FOREGOING FINDINGS OF FACTS AND CONCLUSIONS, THIS COUNCIL ENTERS THE FOLLOWING ORDER, AND ADOPTS IT AS AN ORDINANCE:

- A) It is ordered that the Property Owners shall be allowed fourteen (14) days from the date of the adoption of this Ordinance within which to obtain a building permit and begin repairs of the Premises so that the Premises may be brought into conformity with the housing code in effect in the City of Morganton, and shall notify the Building Inspector of such permit. It is further ordered that if any such permit is obtained and reported, then subsequently the Premises must be in an occupiable condition and meet minimum housing code within sixty (60) days from the adoption of this Ordinance.
- B) In the alternative, it is ordered that the Property Owners shall be allowed fourteen (14) days from the date of the adoption of this Ordinance within which to obtain proper permits and begin the demolition and removal of the remains of the structure on the Premises, to comply with the orders of the Building Inspector and the requirements of the City's Code of Ordinances. It is further ordered that if such demolition and removal is begun, then subsequently the Premises must be in full compliance with the Building Inspector's orders and the Code of Ordinances within sixty (60) days from the date of adoption of this Ordinance.
- C) If a building permit is not obtained and work commenced on the repair of the Premises by the ordered date, or alternatively if demolition and removal of the remains of the structure on the Premises is not commenced by the ordered date, then the Building Inspector is hereby ordered to proceed to effectuate the purposes of Article E of Part 9 of the Code of Ordinances, and specifically Sec. 9-2070, by demolishing and removing the structure located on the Premises described above without further authority from this Council. Further, if a building permit is obtained, but the work required therefore is not completed by the scheduled date as stated above, then the Building Inspector is ordered to proceed to

effectuate the purposes of Article E of Part 9 of the Code of Ordinances, and specifically Sec. 9-2070, by demolishing and removing the structure located on the Premises described above without further authority from the Council.

- D) It is further ordered that the full cost of the removal and the demolition of the structure on the Premises shall be assessed against the Property Owners in a manner consistent with the City's 2012 Schedule of Fees and Charges, and that a lien shall be filed and have the same priority and be collected as provided in G.S. §160A-216 by the Tax Collector of the City of Morganton, all as provided in Sections 9-2070(c) and 9-2071 of the City's Code of Ordinances.
- E) It is further ordered that a copy of this Ordinance be recorded in the office of the Burke County Register of Deeds and indexed in the name of the Property Owners, and shall be served on the Property Owners, and upon any mortgage lien holder, by certified mail, return receipt requested, at the Property Owner's last known addresses, and by posting a copy of this Ordinance in a conspicuous place on the Premises.

Adopted this the 5th day of May, 2014.


Mayor

Attest:


Clerk

(CORPORATE SEAL)



NORTH CAROLINA

BURKE COUNTY

This the 6th day of May, 2014, personally came before me, MEL L. COHEN, who, being by me first duly sworn, says that he is the Mayor of the City of Morganton and that the seal affixed to the foregoing instrument in writing was signed and sealed by him and attested to by the Clerk, in behalf of said City, by its authority duly given. And the said MEL L. COHEN, acknowledged the said writing to be the act and deed of said City.

Mikela D Russell

Notary Public

My Commission Expires: 03.04.15

(NOTARIAL SEAL)



NORTH CAROLINA

BURKE COUNTY

The foregoing certificate of _____, Notary Public of Burke County, North Carolina, is certified to be correct. This instrument was presented for registration this the ____ day of _____, 2014, at _____ o'clock ____ .M., and duly recorded in the office of the Register of Deeds of Burke County, North Carolina, in Book _____, at Page _____.

This the ____ day of _____, 2014.

REGISTER OF DEEDS OF BURKE COUNTY, NC

By: _____

Assistant/Deputy Register of Deeds



BURKE COUNTY
201 SOUTH GREEN STREET
MORGANTON, NC 28655
(828) 438-5451

Receipt Time: 05/14/2014 11:21:48 AM
Issued To: CITY OF MORGANTON

Receipt #: 5372

Documents

#	Type	# Pages	Quantity	Reference #	Book / Page	Amount
1	ORDER	6	1	2014003805	2137 330	\$26.00
Total :						\$26.00

Payments

#	Type	Payment #	Amount	NSF
1	CHECK	661434	\$26.00	
Total Payments:			\$26.00	

THANK YOU
ELIZABETH T COOPER
REGISTER OF DEEDS
USER00019