



TOWN OF WESTBOROUGH MASSACHUSETTS

BOARD OF HEALTH

FORBES MUNICIPAL BUILDING
45 WEST MAIN STREET, SUITE 25
WESTBOROUGH, MA 01581-1916

TEL. (508) 366-3045
FAX (508) 366-3047

July 15, 2011

Nancy Yendriga
Town Clerk
Town Hall
34 West Main Street
Westborough, MA 01581

Dear Nancy:

The Board of Health will meet on Tuesday, July 19, 2011 at 2:00 p.m. in room 24 in the Forbes Municipal Building.

The purpose of the meeting is to conduct requested hearings pursuant to section 410.850 of the State Sanitary Code, Chapter II, 105 CMR 410.000.

The agenda is as follows:

1. 2:00 p.m. - George Bell, 1 Ashley Way.
2. 2:30 p.m. - Grace & Michael Mowczko, 58 West Main Street.

Respectfully submitted,

Steven Baccari
Board of Health



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Minutes of Board of Health Public Hearing
July 19, 2011

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Pursuant to section 410.850 of the State Sanitary Code, Chapter II, 105 CMR 410.000, the Board of Health held two public hearings on Tuesday, July 19, 2011, in room 24 in the Forbes Municipal Building. The first hearing was called to order at 2:00pm. by Chairman Federici. Those present were Member Ehrlich, Director McNulty, Sanitarian Baccari and Town Counsel, Greg Franks. Absent was Member Walsh. Also in attendance were George and Audrey Bell, Grace and Michael Mowczko and interested residents.

The hearings were requested by George Bell, 1 Ashley Way and Grace and Michael Mowczko, 58 West Main Street.

GEORGE BELL, 1 ASHLEY WAY - 2:00 P.M.

Chairman Federici read an opening statement calling the public meeting to order.

Mr. Bell provided background for his request for the hearing.

On Feb. 3rd, an ice dam developed on the roof of his residence located in Walker Meadows. The ice dam caused water to drip through the ceiling and down the walls of his living room. The property management was notified and came out the next day to remove the ice dam. In the process of removing the ice dam, the roof and some of the flashing was damaged. Mr. Bell said hatchets were used to break up the ice dam. He said water poured into his living room along an interior wall for over 24 hours causing \$5,000 worth of damages and resulted in an insurance claim. Holes were punctured through the flashing in more than one place; these holes have existed since February. When he pulled off the wallpaper, along with removing a piece of the sheetrock from the inside wall, mold was discovered. A contractor that he had hired to make the repairs sprayed inside the wall with a mold spray and then repaired the wall. At his request, the Board of Health conducted an inspection of his residence last month. As a result of the inspection, the management company was ordered to make repairs to the roof and stairs. At the time of the inspection, Mr. Bell showed photos to Sanitarian Baccari showing the mold growth in the wall cavity. Sanitarian Baccari informed Mr. Bell that he could not require the Walker Meadow trustees or the management company to address any problems within the wall cavity because he could only cite what he sees; he did not see any mold. However, Mr. Bell believes that under the State Sanitary Code, the Walker Meadow trustees and the management company should be held responsible for the repairs. Mr. Bell referenced an USEPA website that pointed out the danger of hidden mold inside walls cavities. The website stated that dead mold is a health issue and must be removed. He said that even if there is currently no mold, he believes with all the moisture that has penetrated the walls, the insulation and other construction material will need to be replaced. Mr. Bell said he is asthmatic and tested positive for mold allergies several years ago. He has developed some health issues in the last few months. He said he found sections in the State Sanitary Code that allow for an inspection of the interior walls under certain circumstance. He also found frequent reference to conditions that "may" endanger public health. He said he believes that he and his wife are living in an environment that may be endangering their health, safety, and well-being. He said there is a problem, how extensive it is, he doesn't know. It might be just damage within the walls, but the worst case scenario is there is still mold growing in there. He is requesting property management make the repairs to the rear interior walls and the roof and he wants the Board of Health to order to do so.

Sanitarian Baccari said a permit has been obtained from the building department to repair the roof and the repairs are scheduled to start tomorrow.

Director McNulty said in order for the Board of Health to cite someone with a violation, we actually have to see the violation. If we can't see mold, we can't order anyone to correct it.

Sanitarian Baccari said he thinks there are two issues here. The management company never touched the internal wall. This is similar to a condo set-up; the interior is owned by the owner; the exterior is maintained by the condo association. There is no way to know if there's any leaking now. There is no evidence. There is no mold now.

In response to a question from Member Ehrlich, Sanitarian Baccari replied that Mr. Bell wants the BOH to order the management company to open up the wall to verify if there is mold. Because of the poor condition of the roof shingles, Mr. Bell believes the roof is still leaking. He said there is no sign or evidence of leaking. He can't order the company to open up the wall if there is no evidence.

Mr. Bell responded that there is evidence. There are holes in the roof that have been there for six months. That should be evidence right there. There's been a lot of snow and rain.

Sanitarian Baccari said if there is a leak in the roof, there would be evidence, such as a stain on the ceilings, squishy drywall, mold or something.

In response to a question from Chairman Federici, Mr. Bell responded that the wall does not have to be removed; he just wants it tested for mold.

Sanitarian Baccari said there are no indoor air quality standards for mold testing. There are mold spores all over. The State says you go by what you can see. If you can see mold, there's probably a problem.

Referring to one of the photographs, Member Ehrlich asked Mr. Bell what he was asking to be investigated.

Mr. Bell responded that he wants the interior to be tested for mold or a determination if there is dead mold inside. He's been told insulation and wood are food sources for mold. He just spent over \$5,000 in interior repairs; he does not want to remove the interior drywall. The back side of the wall should be management's responsibility. They can do it from the outside.

Director McNulty said if we can see it, then we can order it removed. Unless the wall is removed, we can't see it. But we can't order them to remove the wall unless we can see it. If we can see the wall all moldy and wet, then we order them to repair it. The mold has to be visible.

Director McNulty said the Board has three choices to make before the hearing is concluded. The Board can either withdraw the order, sustain the order (which will leave it like it is), or modify the order.

Town Counsel said a decision should be made at this time.

Director McNulty said he believes what Mr. Bell is asking for is a modification of the order, so that the Board would order the maintenance company to inspect for mold and damages. In his opinion, the Board can't do it because we haven't seen it.

Member Ehrlich made a motion to sustain the order. The motion was seconded by Chairman Federici; the vote was unanimous.

The hearing ended at 2:45 p.m.

GRACE AND MICHAEL MOWCZKO, 58 WEST MAIN STREET - 2:45 P.M.

Pursuant to section 410.850 of the State Sanitary Code, Chapter II, 105 CMR 410.000, the Board of Health held a public hearing on Tuesday, July 19, 2011, in room 24 in the Forbes Municipal Building. The meeting was called to order at 2:45 pm. by Chairman Federici.

(On July 13, 2011, the Board of Health issued an order to Mr. and Mrs. Mowczko to exterminate a rat problem identified on their property located at 58 West Main Street. On July 14, 2011, the Board of Health received a written request from Mr. and Mrs. Mowczko requesting a hearing in response to the order.)

Chairman Federici read an opening statement calling the public meeting to order.

Mr. Mowczko provided background for his request for the hearing.

On July 6, 2011, Director McNulty informed Mr. and Mrs. Mowczko that a rat was observed in their back yard. He showed them some pictures of the rat on their lawn. He also told them how to get rid of the rats by using boxed bait and suggested they stop feeding the birds. Mr. Mowczko said that they didn't want to use any poison on their property because his wife is undergoing chemo treatments.

Director McNulty said he suggested the Mowczko's hire a professional exterminator. Exterminators use bait and/or traps. The Mowczko's indicated they would hire an exterminator, but they did not and nothing was done. That is why the order was issued.

Mrs. Mowczko said they went on-line and determined the traps were the best means for catching the rats.

In response to a question from Mrs. Mowczko, Director McNulty said several other properties were inspected (Cross Street, School Street and West Main Street); no evidence of rats was noted.

Mr. Mowczko said he didn't understand why they had to clean up the whole neighborhood.

Chairman Federici said the Board of Health is not asking them to clean up the whole neighborhood, just their yard. Having rats on their property is a dangerous situation. It would be responsible of the Mowczko's to get rid of the rats.

Steve Weiss, 54 West Main St., said he has lived at that address for 15+ years and until recently, never saw a rat. He saw six rats come out of a compost pile in the back of 58 West Main Street.

Mary Culhane, 52 West Main St., said she also has seen rats around the compost pile.

Mr. Weiss said in the last 72 hours, he has become more aware of rat activity. He set out traps around his property and caught one. Action needs to be taken.

David Pickering, 62 West Main Street, said he owns two properties that abut 58 West Main Street. Rat activity was noticed a few weeks ago by his tenants who live at 4 School Street. They saw rats around 6 School Street, both in the yard and driveway. He hired a professional exterminator who set out bait traps. A burrow was found by the front door of his funeral home. He is very concerned. He has a business where many people are in and out of that front door. He said it's unacceptable. It's fruitless for him to do anything if there is no other work done. The rats are making their way down the street.

Member Ehrlich said everyone agrees they want to get rid of the rats. There are two issues to resolve: the use of poison and who is paying for it.

Mrs. Mowczko said she didn't have a problem with the order per se. She's not appealing the order; she just doesn't want to use poison.

Director McNulty said the order did not specify the use of poison.

Steve Weiss said nobody wants rats. Traps are very effective.

Chairman Federici said the main issue is to eradicate the rats. Either hire an exterminator or use the traps.

Director McNulty said an exterminator would be able to locate the source or sources of the rat problem.

Ms. Culhane said the area around the compost pile needs to be cleaned up. She believes that has become a food source for the rats. The neighbors could help.

Sanitarian Baccari said he thinks a letter should be sent to residents in the area informing them on how to prevent rats from becoming established on their property. Mr. and Mrs. Mowczko need a professional who could locate ground zero and offer some guidance in eradicating the rats.

Mr. Weiss said that if money is an issue, the neighborhood would help with the financing.

Mrs. Mowczko said she would like to know where the rats are coming from.

Director McNulty said there are three options; withdraw, sustain or modify the order.

Member Ehrlich made a motion to sustain the order. The motion was seconded by Chairman Federici; the vote was unanimous.

Member Ehrlich said he would like a letter sent and an inspection conducted of the property at 58 West Main Street.

Director McNulty said in his 20+ years with the Board of Health, there has only been one other issue with rats. Mr. and Mrs. Mowczko need to hire a pest control company.

Member Ehrlich said the order is for Mr. and Mrs. Mowczko to do something now to get rid of the rats. They have to show proof to Director McNulty that the property has been treated and the rats are gone.

Mr. Weiss said over the weekend, a rat ran over the foot of his neighbor's guest as she was leaving his house. This is a very serious health issue.

Chairman Federici agreed and said the problem needs to be eliminated.

The hearing ended at 3:25 p.m.

Respectfully submitted,


Kathleen Smith





