

ORDINANCE NO. 2018-24

AN ORDINANCE AMENDING ORDINANCE 2018-7 TO REMOVE THE REFERENCE TO 249 LAKE STREET, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO A NUISANCE ABATEMENT AGREEMENT WITH THE PORTAGE COUNTY LAND REUTILIZATION CORPORATION TO ASSIST THE CITY IN ABATING CERTAIN STRUCTURES THAT HAVE BEEN DECLARED TO BE A PUBLIC NUISANCE, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent wishes to enter into a Nuisance Abatement Agreement between Portage County Land Reutilization Corporation ("Land Bank"); and

WHEREAS, the Land Bank helps Portage County municipalities in abating insecure, unsafe or structurally defective structures that they have declared to be a public nuisance by funding and causing such structures to be removed at no cost to the municipality; and

WHEREAS, the City of Kent has declared the structures at 210 Harris Street and 249-1/2 Lake Street, Kent, Ohio to be a public nuisance; and

WHEREAS, this Ordinance amends Ordinance No. 2018-7 by removing 249 Lake Street from the properties declared to be a public nuisance because it is not a public nuisance.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

SECTION 1. That Council does hereby authorize the City Manager, or his designee, to enter into a Nuisance Abatement Agreement with the Portage County Land Reutilization Corporation ("Land Bank") to assist in abating the structures that have been declared to be a public nuisance at 210 Harris Street and 249-1/2 Lake Street, Kent, Ohio, and is more fully described in Exhibit "A" attached hereto and incorporated herein.

SECTION 2. That the provisions in Ordinance No. 2018-7 inconsistent or conflicting with the provisions in this Ordinance be, and hereby are, repealed.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council,

this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: February 7, 2018
Date

J. Fiala
Jerry T. Fiala
Mayor and President of Council

EFFECTIVE: February 7, 2018
Date

ATTEST: Tara Grimm
Tara Grimm, CMC
Clerk of Council

I, TARA GRIMM, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF *ORDINANCE No.* _____, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON _____, 20_____.

(SEAL)

TARA GRIMM, CMC
CLERK OF COUNCIL

Nuisance Abatement Agreement

This Agreement is entered into this _____, 20____, by the Portage County Land Reutilization Corporation, an Ohio nonprofit corporation (the "Land Bank"), and the City of Kent, Portage County, Ohio ("Kent") (collectively, the "parties").

Whereas, the Land Bank has adopted a Demolition Assistance Program to assist, as applied here, Portage County municipalities in abating insecure, unsafe, or structurally defective structures that they have declared to be a public nuisance by funding and causing such structure(s) to be removed at no cost to the municipality (the "Program");

Whereas, Ohio R.C. 1724.02(J) allows the Land Bank to contract with Kent to provide such nuisance-abatement assistance and Ohio R.C. 715.261(E) allows Kent to contract with the Land Bank as set forth in this Agreement;

Whereas, Kent has declared the structure at 210 Harris Street, Kent, Portage County, Ohio, PPN 17-007-10-00-017-000, as more fully described in Exhibit A, to be a public nuisance and has obtained a settlement agreement from the property owner, Michelle L. Setlock, authorizing the demolition of the structure, a copy of the agreement is attached as Exhibit B; and its legal advisor has opined that Kent, or its agent, has the authority to remove the structure, see opinion attached as Exhibit C;

Whereas, in addition, Kent has declared the structure at 249 1/2 Lake Street, Kent, Portage County, Ohio, PPN 17-031-21-00-045-000, as more fully described in Exhibit D, to be a public nuisance and has obtained a settlement agreement from the property owner, Patrick M. DeGregio (and the neighboring property owner, Amy M. Waples, because the structure encroaches on her property), authorizing the demolition of the structure, a copy of the agreement is attached as Exhibit E; and its legal advisor has opined that Kent, or its agent, has the authority to remove the structure, see opinion attached as Exhibit F;

Whereas, the structure at 210 Harris Street and the structure at 249 1/2 Lake Street are referred to as the "Nuisance Structures" in this Agreement;

Whereas, Kent has applied under the Program because the Nuisance Structures are eligible and subject to removal but it lacks the funds to remove them;

Whereas, by this Agreement, the parties desire to set forth the terms and conditions under which the Land Bank will act as agent for Kent in causing the removal of the Nuisance Structures, at no cost to Kent; and

NOW, THEREFORE, the parties, intending to be legally bound by this Agreement, and for the purposes set forth, do declare and agree as follows:

(1) Agent. Per the terms and conditions of the Program and the additional terms and conditions set forth in this Agreement, Kent appoints the Land Bank as its agent to cause the removal of the Nuisance Structures at no cost to Kent, as follows:

EXHIBIT "A"

- (a) The Land Bank will fund and cause the removal of the Nuisance Structures by an independent contractor in accordance with all applicable federal, state, and local rules and regulations;
- (b) The Land Bank will cause the site to be reasonably graded and seeded and clean of all debris associated with the removal of the Nuisance Structures;
- (c) The Land Bank will account but not record all costs incurred in performing its services rendered under this Agreement. Notwithstanding Ohio R.C. 715.261, neither Kent nor the Land Bank will assess the removal costs against the properties at 210 Harris Street and 249 1/2 Lake Street per the settlement agreements (Exhibits B and E); and
- (d) The Land Bank will perform its services under this Agreement within a reasonable time, not to exceed 180 days from the date of this Agreement, unless the parties agree otherwise.

(2) Defend. Kent represents that it has complied with the law in declaring the Nuisance Structures to be a public nuisance and has obtained the settlement agreements authorizing the removal of the Nuisance Structures by Kent, or its agent, and thereby agrees to defend and hold harmless the Land Bank, as its agent, and its officers and independent contractors, against all liabilities, claims, or demands for injuries or damages to any person or property arising out of or connected with any actions or inactions of Kent in declaring the Nuisance Structures to be a public nuisance or entering into the settlement agreements. Kent understands and agrees that the Land Bank has relied on this representation and the opinion of its legal counsel in entering into this Agreement.

WHEREFORE, the parties have signed this Agreement in Portage County, Ohio on the date first about written.

Land Bank:

City of Kent:

By _____
Stacy Brown, Authorized Representative

By _____

Approved as to form:

Chad Murdock, Attorney for Land Bank

James Silver, Kent Law Director

EXHIBIT "A"

Exhibit A

Situated in the City of Kent, County of Portage and State of Ohio: and known as being 80 feet off the west end of lots 87 and 88 in Henry Ainsworth's Addition to the City of Kent, as the same is platted and recorded in Deed Book 88, Page 43, Portage County Records of Plat.

Parcel ID: 17-007-10-00-017-000

Address: 210 Harris Street, Kent, OH 44240

EXHIBIT "A"

Exhibit B

SETTLEMENT AGREEMENT

This Settlement Agreement is made effective as of the date of execution hereof by the last party to sign by and between the CITY OF KENT, OHIO, 319 S. Water Street, Kent, Ohio and Michelle L. Setlock (hereinafter, "Property Owner"), with a mailing address of 947 Middlebury Road, Kent, OH 44240.

WITNESSETH:

WHEREAS the PROPERTY OWNER owns property at 210 Harris Street, Kent, Ohio 44240 (Parcel # 17-007-10-00-017-000) (hereinafter, "the premises"); AND

WHEREAS the building official for the CITY OF KENT, OHIO has determined that the structure located at the premises is uninhabitable; AND

WHEREAS the CITY OF KENT, OHIO and the PROPERTY OWNER agree that the structure located at the premises constitutes blight as defined in Ohio Revised Code Chapter 1.08; AND

WHEREAS both the CITY OF KENT, OHIO and PROPERTY OWNER desire to take advantage of available grant funding, or programs offered by the Portage County Land Reutilization Corporation (PCLRC), which provides funds for razing blight; AND

WHEREAS the PROPERTY OWNER has had the opportunity to review this matter, including the terms of this Agreement, with legal counsel; AND

THEREFORE, in consideration of the above recitals and covenants and promises hereunder set forth, and for other good and sufficient consideration, the CITY OF KENT, OHIO and PROPERTY OWNER agree to the following:

THAT the CITY OF KENT, OHIO, or its designee, may take all steps necessary to raze the structure at the designated premises, including:

1. Negotiating with any other lien holders on the property to facilitate the razing of the premises; AND
2. Authorizing the CITY OF KENT, OHIO, building official, the PCLRC, or their designee(s), to inspect the property, engage in asbestos mitigation, and any other activity necessary to facilitate razing the premises; AND

FURTHER, the CITY OF KENT, OHIO will attempt to utilize funds from available grant funding, or programs offered and implemented by the Portage County Land Reutilization Corporation, to cover the expenses for razing the structure at the premises; AND

EXHIBIT "A"

Exhibit B

FURTHER, the CITY OF KENT, OHIO will NOT place a lien on the premises for any expenses incurred relative to the razing of the structure at the premises; AND

FURTHER, the CITY OF KENT, OHIO will not file a legal action filed in the Portage County Common Pleas Court; AND

FURTHER, the PROPERTY OWNER will be required to continue to maintain the property for the duration of their ownership in accordance with all applicable Kent Codified Ordinances (KCO), including KCO 119.05 "Uncut Grass or Weeds".

PROPERTY OWNER
Michelle L. Setlock

BEFORE ME, A Notary Public, personally appeared _____, who acknowledges that he/she did sign the foregoing SETTLEMENT AGREEMENT and that the same is his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at _____ County, _____, this _____ day of _____, 2017.

Notary Public

Bridget O. Susel,
Community Development Director
City of Kent

Date

Witness

EXHIBIT "A"

Exhibit D

Situated in the Township of Franklin (now City of Kent), County of Portage and State of Ohio: and known as being part of Franklin Township Lot 31, bounded and described as follows: Commencing at an iron pipe of the northeast corner of S.C. Leighton's Lot on Marvin Street; Thence North 10.5 feet to the South line of Lot 1 in John Arighi's Allotment; Thence West along the South line of Lot 1; 169.5 feet to the West line of said Lot 1; Thence South 70 feet to a diagonal line of Arighi's land; Thence Northeasterly 180.8 to the place of beginning and supposed to contain .16 of an acre. Intending hereby to convey Lot 1261 in the Arighi addition in the City of Kent, Arighi Allotment Vol. 3, Page 21 of Portage County Records.

Parcel ID: 17-031-21-00-045-000

Address: 249 ½ Lake Street, Kent, OH 44240

Exhibit E

SETTLEMENT AGREEMENT

This Settlement Agreement is made effective as of the date of execution hereof by the last party to sign by and between the CITY OF KENT, OHIO, 319 S. Water Street, Kent, Ohio and Amy M. Waples (hereinafter, "PROPERTY OWNER"), with a mailing address of 551 Valleyview Street, Kent, OH 44240.

WITNESSETH:

WHEREAS the PROPERTY OWNER owns property at 249 Lake Street, Kent, Ohio 44240 (Parcel # 17-031-21-00-066-000); AND

WHEREAS the building official for the CITY OF KENT, OHIO has determined that the structure located at 249 ½ Lake Street, Kent, Ohio 44240 (Parcel # 17-031-21-00-045-000) (hereinafter, "DESIGNATED PROPERTY"), is uninhabitable, constitutes blight and its OWNER and the CITY desires to attempt to utilize funds from available grant funding, or programs offered and implemented by the Portage County Land Reutilization Corporation (PCLRC), which provides funds for razing blight pursuant the Settlement Agreement dated _____; AND

WHEREAS the improvements on the DESIGNATED PROPERTY scheduled to be razed encroach upon the PROPERTY OWNER'S property; AND

WHEREAS the PROPERTY OWNER'S property will be aesthetically enhanced by the razing of the improvements on the DESIGNATED PROPERTY; AND

THEREFORE, in consideration of the above recitals and covenants and promises hereunder set forth, and for other good and sufficient consideration, the CITY OF KENT, OHIO and PROPERTY OWNER agree to the following:

THAT the CITY OF KENT, OHIO, building official, the PCLRC, or their designee(s) will take all steps necessary to raze the structure at the DESIGNATED PROPERTY, including:

1. Removal of the portion of the house that encroaches upon the PROPERTY OWNER'S property; including removal of any utility connections;
2. Necessary restoration of land to existing grade and grass seeding with straw, where applicable.

FURTHER, the PROPERTY OWNER, its successors, heirs, or assigns, will release and forever discharge and hold harmless the City, the PCLRC, and/or its contractors from any and all liability, claims, and demands of whatever kind or nature, either in law or in equity, which arise or may, hereafter, arise from these activities. The PROPERTY OWNER will release and forever discharge from any liability or claim that it may have with respect to bodily injury, personal

EXHIBIT "A"

injury, illness, death, or property damage that may result from these activities. FURTHER, the **Exhibit E**

PROPERTY OWNER, agrees to indemnify and to hold harmless the City, the PCLRC, and/or its contractors from any loss, liability, damage, cost, or expense which they may incur as a result of death, injury, or property damage as a result of this agreement.

PROPERTY OWNER
Amy M. Waples

BEFORE ME, A Notary Public, personally appeared _____, who acknowledges that he/she did sign the foregoing SETTLEMENT AGREEMENT and that the same is his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at _____ County, _____, this _____ day of _____, 2017.

Notary Public

Bridget O. Susel,
Community Development Director
City of Kent

Date

Witness

Exhibit E

SETTLEMENT AGREEMENT

This Settlement Agreement is made effective as of the date of execution hereof by the last party to sign by and between the CITY OF KENT, OHIO, 319 S. Water Street, Kent, Ohio and Patrick M. Degregio (hereinafter, "Property Owner"), with a mailing address of 1227 E. Main Street, Apt. 2, Kent, OH 44240.

WITNESSETH:

WHEREAS the PROPERTY OWNER owns property at 249 ½ Lake Street, Kent, Ohio 44240 (Parcel # 17-031-21-00-045-000) (hereinafter, "the premises"); AND

WHEREAS the building official for the CITY OF KENT, OHIO has determined that the structure located at the premises is uninhabitable; AND

WHEREAS the CITY OF KENT, OHIO and the PROPERTY OWNER agree that the structure located at the premises constitutes blight as defined in Ohio Revised Code Chapter 1.08; AND

WHEREAS both the CITY OF KENT, OHIO and PROPERTY OWNER desire to take advantage of available grant funding, or programs offered by the Portage County Land Reutilization Corporation (PCLRC), which provides funds for razing blight; AND

WHEREAS the PROPERTY OWNER has had the opportunity to review this matter, including the terms of this Agreement, with legal counsel; AND

THEREFORE, in consideration of the above recitals and covenants and promises hereunder set forth, and for other good and sufficient consideration, the CITY OF KENT, OHIO and PROPERTY OWNER agree to the following:

THAT the CITY OF KENT, OHIO, or its designee, may take all steps necessary to raze the structure at the designated premises, including:

1. Negotiating with any other lien holders on the property to facilitate the razing of the premises; AND
2. Authorizing the CITY OF KENT, OHIO, building official, the PCLRC, or their designee(s), to inspect the property, engage in asbestos mitigation, and any other activity necessary to facilitate razing the premises; AND

FURTHER, the CITY OF KENT, OHIO will attempt to utilize funds from available grant funding, or programs offered and implemented by the Portage County Land Reutilization Corporation, to cover the expenses for razing the structure at the premises; AND

EXHIBIT "A"

Exhibit E

FURTHER, the CITY OF KENT, OHIO will NOT place a lien on the premises for any expenses incurred relative to the razing of the structure at the premises; AND

FURTHER, the CITY OF KENT, OHIO will not file a legal action filed in the Portage County Common Pleas Court; AND

FURTHER, the PROPERTY OWNER will be required to continue to maintain the property for the duration of their ownership in accordance with all applicable Kent Codified Ordinances (KCO), including KCO 119.05 "Uncut Grass or Weeds".

PROPERTY OWNER
Patrick M. Degregio

BEFORE ME, A Notary Public, personally appeared _____, who acknowledges that he/she did sign the foregoing SETTLEMENT AGREEMENT and that the same is his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at _____ County, _____, this _____ day of _____, 2017.

Notary Public

Bridget O. Susel,
Community Development Director
City of Kent

Date

Witness