

MINUTES OF THE HENDERSON COUNTY  
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held its regular meeting May 26th at 4:00 p.m. in the King Street Meeting Room, 100 N. King Street, Hendersonville, North Carolina. Those present were: Jim Phelps, Chairman, Tony Engel, Hunter Marks, Alternate, Brandon Yelverton, Alternate Janice Brown, Zoning Administrator Toby Linville, Deputy County Attorney Sarah Zambon, and Zoning Board Secretary, Karen Ann Antonucci.

Chairman Phelps: Called the meeting to order at 4:03 PM. Chairman Phelps introduced the board members, indicating there was one board member yet to come.

Chairman Phelps: Everybody had a copy of the minutes. Hope you've had a chance to go over them. Are there any corrections, additions, adjustments, or comments regarding these minutes? If not, do I hear a motion that we approve the minutes as they were presented?

TEngel: I motion to approve them.

JBrown: Indicated second.

Chairman Phelps: Tony moves. Janice seconds. All in favor say aye. Opposed, no.

All board members indicated they approved the minutes.

Chairman Phelps: Unanimously approved. The next on the agenda would be the New Business but since we're short one member right now, Sarah, would you like to bring up the training issue? What is the pleasure of the board? We also have the option of proceeding with the case but recognize with the parties that are appearing here that it takes a vote of four people to uphold or deny the appeal. What do you think we should do? If it's ok with the people here about this issue, the case that's going to come before us, Case A-10-03, that we wait a few more minutes, then we will do so to have the fifth member.

HMarks: We might as well just wait a few more minutes.

Chairman Phelps: Do you want to address the training then and then we'll be doing something while we're sitting here, Sarah?

Deputy County Attorney Sarah Zambon provided training on creating orders via redacted minutes.

**CASE**

Case A-10-03, Velma Taylor, requesting appeal of Minimum Housing Code Violations Section 120-8 Unsafe Structures and Equipment, and Order to Vacate 18 Hutchinson Wood Drive, Fletcher, (PIN 9662847232).

**Parties**

Virginia Mattson - property owner

James Lee – attorney for Ms. Mattson

Velma Taylor – renter of property

**Witnesses**

n/a

Chairman Phelps: Now that we have five members here, we have no order to sign this time, so the next thing on our agenda is New Business Case A-10-03 Velma Taylor requesting appeal of Minimum Housing Code Violations Section 120-8 Unsafe Structures and Equipment, and Order to Vacate 18 Hutchinson Wood Drive, Fletcher, (PIN 9662847232). Alright. I will need to read you our opening statement for Zoning Board of Adjustment:



A quasi-judicial proceeding is much like a court proceeding where an individual's rights and interests are being decided upon specific rules of procedure. Parties to this case have the right to present evidence and cross examine witnesses. The burden of proof in these cases typically lies with the Applicant. The extent to which the Rules of Evidence used in courts apply is up to the discretion of the board. Quasi-judicial proceedings are different from other public hearing in that not everyone has the right to present evidence before this board and to become a party to this proceeding. Only those who can demonstrate that they will be affected by the outcome of the hearing may become parties. After a description of the person's interest in this case, the board will determine whether they will be allowed to present evidence as a party. Please note you do not have to be a party to testify if someone who is a party calls you as a witness. All parties and witnesses who intend to present evidence or testify before this board must be sworn in.

The North Carolina Supreme Court has ruled that witnesses must be sworn and anyone who isn't sworn will not be allowed to give evidence. Attorneys who are not sworn in also will not be able to give evidence but may present arguments or represent their client. So is everyone who feels that they have interest in this case signed in? If so I would like to call them forward to first give their name and address and let us determine whether or not you have standing. I need a motion to open the case.

TEngel: I'll motion to open the case.

Chairman Phelps: Tony. Second?

JBrown: Second.

Chairman Phelps: Janice seconds it. Any discussion on the motion, if not shall we come to a vote?

All in favor, aye.

All board members said, aye.

Chairman Phelps: Unanimous, so we've now opened the case and we can proceed with determining if people have standing. So would you call the first name, Karen.

Zoning Board of Adjustment Secretary KAAntonucci: Virginia Mattson.

My name is Virginia Mattson. My address is 4 Mariners Cove. I'm from Salem, South Carolina. I am the owner of the house at 18 Hutchison Wood Drive, Fletcher. This is my old house.

Chairman Phelps: Thank you. I don't think there's any doubt of standing with the board. Ok, she has standing. Thank you. The next one, Karen Ann.

Zoning Board of Adjustment Secretary KAAntonucci: That would be James Lee.

Attorney JLee: If it pleases the board my name is James Lee. I'm an attorney. I represent Ms. Mattson in this matter.

Chairman Phelps: Do you intend to be –

JLee: I don't intend to offer any factual evidence.

Chairman Phelps: Just act as her attorney?

JLee: Just act as her attorney.

Chairman Phelps: Thank you. Next.

Zoning Board of Adjustment Secretary KAAntonucci: Velma Taylor.

VTaylor: I'm Velma Taylor. I live at 18 Hutchison Woods Drive. And I'm the one that brought the appeal.

Chairman Phelps: And you're presently residing there?

VTaylor: Yes.

Chairman Phelps: Ok. Obviously you would have standing with the board. Thank you.

Deputy County Attorney SZambon: And the county would like to be a party. And Crystal Lyda is here from Building Inspections to be the county's witness. Toby's off the hook for this hearing.

Chairman Phelps: Toby's off the hook. Anybody else here? Ok then at this point I'd like to swear in if everybody will come to the podium, please, we will swear you in. So if everyone will place your left hand on the Bible and raise your right hand: Do you swear or affirm that the testimony you shall to give to the Zoning Board of Adjustment shall be the truth, the whole truth, and nothing but the truth, so help you God?



All parties were properly sworn in by Chairman Phelps.

Chairman Phelps: Please be seated. Under our normal rules of procedure we will have the county first present the case before us and give their evidence. There will be opportunity then for the applicant and other people with standing to question and cross examine. But to let you know this is the order of the business. First the county and then the appellate and then we will proceed through, giving everyone the opportunity to question each other. First the county, and you say-

Deputy County Attorney SZambon: We're going to call Crystal Lyda.

Chairman Phelps: You will come to the podium, please.

Deputy County Attorney SZambon: Can you state your name for the record?

Chairman Phelps: And position.

Deputy County Attorney SZambon: And position.

CLyda: Crystal Lyda, Building Code Official for Henderson County Inspection Department.

Deputy County Attorney SZambon: As a building official what areas are you certified in under building code?

CLyda: I have a standard certificate in electrical level one and I have probationary in building level one, plumbing level one, and mechanical level one.

Deputy County Attorney SZambon: And what does – and how long have you been working with building inspections?

CLyda: I've worked for building inspections for five years. I've transitioned over to inspections a year and a half ago.

Deputy County Attorney SZambon: And your certifications are through who?

CLyda: Through the North Carolina State.

Deputy County Attorney SZambon: How did you go about getting those certifications?

CLyda: You have to have background experience. And then you have to take class two weekends in a row. Then you're on probation for a year and a half. And then you have to take a state test. Once you pass the state test you receive your certificate.

Deputy County Attorney SZambon: So the county would like, unless there are any objections for the record certify Ms. Lyda as an expert in building inspections given her work history and her certifications under the state, for the purposes of this hearing.

Chairman Phelps: If there's no objection, so ordered.

Deputy County Attorney SZambon: Ms. Lyda what is your – how long have you been working with the Henderson County Minimum Housing Code?

CLyda: Since January 1st, 2009.

Deputy County Attorney SZambon: How long has Henderson County had a Minimum Housing Code?

CLyda: Since January 1st 2009.

Deputy County Attorney SZambon: So you've been working with it since it's adoption.

CLyda: Yes.

Deputy County Attorney SZambon: And approximately how many cases have you investigated under the Minimum Housing Code?

CLyda: Probably, there about, maybe 20.

Deputy County Attorney SZambon: And just because this is the board's first appeal under the Minimum Housing Code can you give them a little explanation as to how investigations are conducted? How do you choose where you investigate, all that stuff?

CLyda: The first thing that happens is the tenant will come in, fill out a complaint form. We usually try to do an inspection within one to two days. We go out there. We also contact the landlord as well so that they're aware we're going to go out there as well, if they want to meet us out there. We go out there. We have an investigation report. We walk through the house with the tenant. As we look at our investigation report it specifies what's required in the Minimum Housing Code.

Deputy County Attorney SZambon: So it's a complaint driven ordinance?

CLyda: Yes.

Deputy County Attorney SZambon: Is it always the tenant who complains?



Clyda: Yes.

Deputy County Attorney SZambon: What generally, and the board has copies of the Minimum Housing Code, the ordinance, generally what kinds of things are you looking for in a Minimum Housing Code situation?

Clyda: We look to see if there's hot and cold running water. We look to see if there's electricity. We look to see if there's heat. And if there is heat it has to be at least 65 degrees in the house. There can't be any kerosene heaters or anything like that. It has to be like a heat pump or a gas furnace or something like that. We also like to see if there's any floors falling through. Make sure the flooring's stable. Make sure all the windows open for ventilation. Make sure they lock. Make sure the doors lock and unlock as well. And they have to have a working stove or microwave.

Deputy County Attorney SZambon: How did you – what led you to investigate this particular residence that's in question today?

Clyda: Ms. Taylor came in, filled out a complaint form, it doesn't have the date on there. She came in and filled out a complaint and I went to do the inspection on March 18<sup>th</sup>.

Deputy County Attorney SZambon: So the investigation was on March 18<sup>th</sup>?

Clyda: Yes.

Deputy County Attorney SZambon: And you hadn't been out to this particular residence before then?

Clyda: No.

Deputy County Attorney SZambon: Who is Ms. Taylor?

Clyda: She was the tenant.

Deputy County Attorney SZambon: And who is the owner?

Clyda: The owner is Ms. Virginia Mattson.

Deputy County Attorney SZambon: Did you inform Ms. Mattson that you were going to do an inspection?

Clyda: Yes, I did.

Deputy County Attorney SZambon: Did Ms. Mattson come to the inspection?

Clyda: No, she did not.

Deputy County Attorney SZambon: Did Ms. Taylor come to the inspection?

Clyda: Yes.

Deputy County Attorney SZambon: And you personally did the inspection?

Clyda: Yes.

Deputy County Attorney SZambon: And again, just to give the board a little background information, when you go do an inspection, you talked about what you looked for, what kind of documentation do you fill out?

Clyda: I fill out, it's about 12 pages long or maybe more, it's an investigation report. It's an inspection form that we fill out. And it actually takes you step-by-step through each room of the house.

Deputy County Attorney SZambon: And did you do that in this case?

Clyda: Yes.

Deputy County Attorney SZambon: What is the address for this home?

Clyda: 18 Hutchison Woods Drive, Fletcher.

Deputy County Attorney SZambon: And when you did the inspection on this home did you – what if any violations did you find?

Clyda: The first violation I found when I got there was the power had been turned off by Progress Energy. So I wasn't able to verify any of the electrical issues. So that was the first violation. The second violation is there's a well which requires electricity to run, which meant they had no water. Also, which meant there was no heat at the time. That was the main violation that I had at the time.

Deputy County Attorney SZambon: But you said that there were other things that you couldn't check because they would have required electricity.

Clyda: Correct.



Deputy County Attorney SZambon: Were there any other – what, if any other structural or visible violations did you see?

CLyda: In the living room there was – I was unable to determine if it was a beam or if it was just – or if it was boards surrounding the beam in the ceiling, because the ceiling is really high. They are like 12 foot high ceilings. So I was unable to determine if the board was coming loose from the beam or if it was actual beam. The front porch of the house, you could see the footing on the front porch where the dirt was coming away from the footing.

Chairman Phelps: What do you mean by 'dirt coming away from the footing'? You mean attached to the house?

CLyda: No. The porch is attached to the house here and then it comes out and you have your post. The post goes in a footing and the dirt is compacted around the footing. The dirt is on a slope so the dirt, I guess through erosion or maybe through a lot of rain washed away.

Chairman Phelps: Washed away.

CLyda: Yeah. Yes.

Deputy County Attorney SZambon: What if any problems were there with the heat in the house?

CLyda: When I was there to do the inspection they were using a – there was a kerosene heater in the living room. But there was, there is a heat pump there but I was unable to determine if that worked.

Chairman Phelps: Because the electricity was off.

CLyda: Right.

Deputy County Attorney SZambon: But at the time there was a kerosene heater.

CLyda: Correct.

Chairman Phelps: That was just a space heater? Just a small kerosene space type?

CLyda: Yes. It's one of those big round ones.

Chairman Phelps: About one room size, is that all it would do?

CLyda: Yeah.

Deputy County Attorney SZambon: Ms. Lyda, did you take any pictures when you were out there?

CLyda: Yes, I did.

Deputy County Attorney SZambon: When did you take the pictures? What was the date of the pictures?

CLyda: March 18<sup>th</sup>.

Deputy County Attorney SZambon: March 18<sup>th</sup>. And they are all taken on the property?

CLyda: Yes.

Deputy County Attorney SZambon: Did you personally take the pictures?

CLyda: Yeah. Yes, I did.

Deputy County Attorney SZambon: I'm going to show you some pictures and if you could tell me if these are or accurately portray what you saw at the residence.

CLyda: This one was taken later. This one was taken May 12<sup>th</sup>.

Deputy County Attorney SZambon: Ok. I will take that one out. What about that picture?

CLyda: That one was taken on the 18<sup>th</sup>.

Deputy County Attorney SZambon: Does that fairly and accurately portray what you saw at the house on the 18<sup>th</sup>?

CLyda: Yeah.

Deputy County Attorney SZambon: Except for this one picture of the condemned sign, did you take this picture?

CLyda: Yes, I did.

Deputy County Attorney SZambon: What was the date that you took this picture?

CLyda: May 12<sup>th</sup>.

Deputy County Attorney SZambon: But you also took that picture?

CLyda: Yes.



Deputy County Attorney SZambon: At this time unless there are any objections, and I still have further questions for Ms. Lyda but I'd like to enter the county packet into the record including the pictures that she just verified that she took, unless there are any objections.

Chairman Phelps: Any objections? There being none we will so enter them.

Deputy County Attorney SZambon: Ms. Lyda if I can take you through these pictures, except for the 'condemned' sign. I'll hold them up for the board and you tell the board what the problem is, why you took this picture.

CLyda: Ok. This is in the living room and this is the ceiling, what I was talking about, whether it was part of the beam or if it was actually boards that surrounded the beam. It looked like it was coming away from it.

Deputy County Attorney SZambon: Ok. What is this picture?

CLyda: That's an open outlet which has no outlet receptacle in it or a face plate.

Deputy County Attorney SZambon: How would a person fix this problem?

CLyda: By putting an outlet in and putting a face plate on it.

Deputy County Attorney SZambon: Ok. What is this picture?

CLyda: That's where the stairs are coming away when going down the stairs. The stairs are coming away at the entrance where the door way is.

Deputy County Attorney SZambon: How would someone fix this picture?

CLyda: A couple of screws or nails to nail it back in.

Deputy County Attorney SZambon: What is this picture?

CLyda: That's the downstairs which looked to me like there appeared there was a remodeling process that was going on. So I'm not sure exactly what was going to be put down there. But they ran a wire. It looks like it may go to a stove or something, maybe they were going to put a kitchen down there or something and where they just stapled it in. They haven't hooked it up to an outlet or a receptacle yet.

Deputy County Attorney SZambon: What's wrong with this picture?

CLyda: It's not in an electrical box. It's hanging freely in the studs.

Deputy County Attorney SZambon: How would a person fix it?

CLyda: Just an electrical box and put a switch in.

Deputy County Attorney SZambon: What's wrong with this picture?

CLyda: The stairs going down, this is going down to the downstairs. There's pickets missing from the railing.

Deputy County Attorney SZambon: What are pickets? Can you point out the pickets? Because I didn't know what this word was.

CLyda: This is existing pickets and they are missing on these risers.

Deputy County Attorney SZambon: So how would you remedy this problem?

CLyda: You could just buy more pickets.

Deputy County Attorney SZambon: Is this another electrical box? What is this?

CLyda: That's outside the meter base. There's a cover that goes on, that goes here.

Deputy County Attorney SZambon: Why do you have to put a cover on it?

CLyda: So water doesn't get in there and cause electrical shock or a fire.

Deputy County Attorney SZambon: What's this picture? I don't even know, does it go this way?

CLyda: Yeah. This is where the dirt is washing away from the footing of the front porch deck.

Deputy County Attorney SZambon: Is this similar?

CLyda: Yeah, that's just a close-up.

Deputy County Attorney SZambon: And how would you fix those?

CLyda: Well the slope – they could compact more dirt around it. But the slope is pretty steep. It would take a lot of dirt to do that.

Deputy County Attorney SZambon: So after you did your inspection and took pictures and wrote up your inspection report, what did you do next? First of all, I guess, who if anyone received copies of your inspection report?



Clyda: Ms. Taylor received a copy and Ms. Mattson received a copy.

Deputy County Attorney SZambon: And what was your recommendation in your report from your May – or your March 18<sup>th</sup> visit?

Clyda: In the report it just says what the violations are. Normally the landlord will call and ask how they go about to fix the problem.

Deputy County Attorney SZambon: What happened in this case?

Clyda: Once Ms. Mattson received the report, well there were mailing issues, but once she did finally receive it evidently it was already started in the court process, and so she wasn't able to go at the time because she had to wait her 10 days. So she said she'd have to wait 10 days before she could go back on the property.

Deputy County Attorney SZambon: And I don't really know anything about the court process but whatever the court process is doesn't have anything to do with your decision. We're just here on minimum housing stuff. So what did you do next?

Clyda: So then we waited and then we sent another letter because I hadn't heard if the power had been turned back on or not. I'd asked Ms. Taylor to let me know when the power had been turned back on and I could come back on there. I didn't hear anything so then I sent a letter out on April 9<sup>th</sup>.

Deputy County Attorney SZambon: What if anything was different about our April 9<sup>th</sup> letter from the previous correspondence you had had with Ms. Mattson and Ms. Taylor?

Clyda: The April 9<sup>th</sup> letter, I had wrote in there that the house was unfit for human habitation and they would have 72 hours within receiving this letter to move out.

Deputy County Attorney SZambon: You've taken us through the violations that you've observed. Why are those violations? What's the big deal?

Clyda: Because in order for it to be sanitary you have to have hot and cold running water in the, I know not now, but in the wintertime there has to be heat. You have to have heat to survive.

Deputy County Attorney SZambon: So there weren't, when you inspected this house, there were no utilities running to this house.

Clyda: Correct.

There was no electricity, no water, and no central heat.

Clyda: Right.

Deputy County Attorney SZambon: Why did you decide that – what makes it unfit for human habitation?

Clyda: I took it from our ordinance that if it's unsanitary it's unfit for you to live there. And that's where I got that it was unfit for human habitation because if it being unsanitary.

Deputy County Attorney SZambon: And you also said in your letter that it's unsafe. Why was it unsafe? What violations made it unsafe?

Clyda: Health-wise not being able to – if you don't have hot and cold running water you're not able to take showers. There's diseases and things like that that you could probably get.

Deputy County Attorney SZambon: So to clarify, and correct me if I'm misstating what you're saying, the lack of utilities to the home were what made it a risk for human habitation.

Clyda: Correct. That's correct.

Deputy County Attorney SZambon: And all of the utility issues according to your testimony are related to the electricity?

Clyda: Correct.

Deputy County Attorney SZambon: Did you ever through the course of your inspection talk to Ms. Taylor about the fact that there was not electricity?

Clyda: Yes.

Deputy County Attorney SZambon: And what did you learn from that conversation? She's here. We can ask her too.

Clyda: Once I sent her the 72 hour letter she had called and asked for an extension. Then I called her back and asked her how much longer that she needed. And she said three to four days and I



told her that was ok. And then I spoke to her again on May 3<sup>rd</sup> and asked her if the power had been turned back on and she not yet but she was still working on it. And then on May 12<sup>th</sup> when I went out to the residence and posted the condemned sign I spoke to Ms. Taylor again and she told me it would either be that day, today or tomorrow.

Deputy County Attorney SZambon: To the best of your knowledge is there power currently going to this residence?

CLyda: Not to my knowledge.

Deputy County Attorney SZambon: The residence is wired for electricity, correct?

CLyda: Correct.

Deputy County Attorney SZambon: What, if any, communication did you have with Ms. Mattson during this time?

CLyda: She had spoke to me just to get updates to see what was going on with it. And I spoke to her just a couple of times and told her I'd posted the condemned sign and made her aware of that. And I'd made her aware that the power still hadn't been turned back on yet.

Deputy County Attorney SZambon: What if anything – what remedies, if any, need to be taken so that this house is fit for human habitation?

CLyda: If the electricity gets turned back on, that's really the only remedy if the electricity gets turned back on they'll have water, they'll have heat. I mean they don't now but the utilities would work. All the utilities would work and it would be habitable for them to live there.

Deputy County Attorney SZambon: And there would still be other structural problems there that you pointed out. But those wouldn't make it inhabitable.

CLyda: Right, those could be fixed while they were living there.

Deputy County Attorney SZambon: And in your opinion, in your expert opinion, how difficult is it – how difficult would it be to get power to this residence?

CLyda: I guess it would depend on what funds the tenants have, if they could get help from different agencies. I don't know if that's a possibility for them or not.

Deputy County Attorney SZambon: Unlike some of the structural issues or unlike some issues you might see in other residences with violations this is just a matter of – is this a relatively easy fix if someone has money?

CLyda: Yes.

Deputy County Attorney SZambon: I don't believe I have any more questions but the board is welcome to ask questions and any of the other parties are welcome to ask questions.

Chairman Phelps: Questions from the board?

TEngel: The structural on that one beam, it appears, is that just a covering over the beam?

CLyda: That's what I was unable to determine, because the ceiling was so high.

TEngel: It doesn't look like it's structural. So it probably isn't a problem, more of a cosmetic problem.

HMarks: So I understand the time-line, I noticed on the picture of the condemnation notice there's a date that's been crossed out and the 12<sup>th</sup> of May put in there, did you originally place that placard at an earlier date?

CLyda: No, I did not. I had typed this out and because of the other job that I do I wasn't able on that date to go post the condemned sign, with the other job that I do.

HMarks: So the 12<sup>th</sup> is the day you actually went out.

CLyda: Correct.

TEngel: Do you know why the electricity was turned off?

CLyda: To my knowledge it was just they were having problems paying their bill. The bill was too high.

Chairman Phelps: Do you feel, Ms. Lyda, if the power was turned back on before these various pictures we have here of the electrical discrepancies, would that constitute a hazard either as a fire hazard or a safety issue from being shocked or shorted?

CLyda: It's a possibility, yes.

Chairman Phelps: Oh, it is? This turned on power is a possible hazard?



CLyda: Um-hm.

Chairman Phelps: Other questions?

JBrown: How were they using the bathroom with no water?

CLyda: I was told by Ms. Taylor they were going to the neighbors to get water. They were getting water from the neighbors to be able to flush the toilet.

Chairman Phelps: And just pouring it into the tanks, the receptacle, the commode?

CLyda: Um-hm.

TEngel: How common a problem is this? I mean-

CLyda: This is the first case that I've had.

TEngel: Ok. So you don't know about all the other cases that there are homes in the county that have their electricity turned off because of non-payment? So normally the tenant, I guess, doesn't complain?

CLyda: Yeah.

HMarks: Well if they're responsible for their electricity-

JBrown: It was really bad this January. A lot of my tenants had that problem. Their power bills went up.

Chairman Phelps: It's a cold winter so you can understand.

TEngel: Very cold. A heat pump went into the resistive heat so it was very high bills.

JBrown: I don't know if I'm asking this to the right person or not but why have the power sockets and stuff not been covered? Why is that work not done?

CLyda: That's something you'd have to ask either the landlord or the, probably the landlord.

Chairman Phelps: Further questions? If not, should we ask the questions of Ms. Mattson or Ms. Taylor?

Ms. Taylor, do you have questions of this witness?

VTaylor: Just maybe one more comment.

Chairman Phelps: Would you please come to the podium.

VTaylor: Actually there's two. The date from the time that I made the complaint to the date that she came out. I can't remember how long it was, but the power was only turned off two days before she came in to do the inspection. The question I have is; was the place at all unsanitary or anything when you were there?

CLyda: No, it was not.

VTaylor: That's all I have.

Chairman Phelps: Ms. Mattson, or your attorney have any questions of this witness?

JLee: We don't have any questions for her.

Chairman Phelps: Thank you. Ok, Sarah then should we next hear from Ms. Taylor?

Deputy County Attorney SZambon: It's up to the board which party you'd like to hear from next. You could do them in the order they signed up I guess.

Chairman Phelps: Which is what?

Zoning Board of Adjustment KAAntonucci: Ms. Mattson is first.

Chairman Phelps: Ms. Mattson, would you or your attorney like to come forward? State your name again, please.

VMattson: Virginia Mattson.

Chairman Phelps: Is there anything that you would like to have this board hear from you?

JLee: Why don't you tell the board the history of your interaction with Ms. Taylor and anything about her denying you access to your property.

VMattson: Ok. I have rented this house to Miss Taylor - Mrs. Taylor about a year and a half earlier. I had problems out there but we were on a month to month contract. I had given her a 30 day notice to leave and a 30 day notice she could give me 30 days, I could give her 30 days, it was a month. I did that on December 15. She complained bitterly because of the weather so we extended it to the end of January. After that she was, you know, we had no contract. She should have been out of there. After that date I went ahead and filed. She wasn't paying rent. I filed claims so this has gone through small claims court. I went to small claims court. I believe it was about March 4<sup>th</sup> regarding



this. They gave me possession of the property but there was a 10 day appeal period. She and her attorney did appeal on the ninth day. So that went back and that's still in appeal. So that's going through the court system. Once I start working with them and they don't belong there I don't go out to the house. I'm not aware of any of these problems. I'm more than happy to fix things up and keep it going but she's not even to be out there. She's more or less been evicted. And I'm trying to think what else. I worked with Crystal, talked to her over and over. I said, "These people don't belong here". They've got the power turned off. We've got these problems going on. I want to get out there and do these repairs. And they just need to leave but they know the system or whatever and they keep doing the appeals. Some of the things I was not even familiar with. But they are going through the system of appeals to stay as long as they can. And I just told her what was going on. And I'm more than happy to work but once they don't pay rent I start the court system. I don't go on the property. I put a 'no trespassing' sign but I don't go on the property. I don't go in it. I just stay away from it till the system is over. I work with the police, whatever's necessary to go through that.

JLee: Let me just ask, Ms. Taylor, I'm sorry, Ms. Mattson has Ms. Taylor denied you access to the property?

VMattson: Good question. The last couple times I was out there I've not been in the property. She comes to the door and meets me. She wasn't comfortable. We weren't talking since December. I think I was out there twice, talked to her twice since December 15. You need to leave, I've given you your 30 day notice. We're trying to work together, we're trying to get this done, I need to get in here and you know the house is for sale. I need to get it, whatever, I need to get it fixed up. And she didn't invite me in. She really didn't want me out there. I just kind of left it. And once we started, she wasn't paying her rent. And we go through the appeal system I don't even go out there. I just leave it alone.

JLee: If I may clarify for the board some of the procedural history with the small claims court.

Chairman Phelps: Please come up to the microphone so we're sure to pick you up if you don't mind, please.

JLee: Let me clarify the procedural history. Ms. Mattson filed a small claims complaint. And my understanding, I wasn't present, she didn't have an attorney for the small claims complaint, but Ms. Taylor did not show up in her own defense for that matter. Ms. Mattson won the small claims complaint, summary ejectment was granted. Ms. Taylor had 10 days to appeal that which she did, then went to district court. Ms. Taylor did not appear for her district court appeal and the district court judge, that was May 19<sup>th</sup>, he dismissed for failure to appear. So now Ms. Taylor has 30 days to appeal the district court judge's ruling at which time the clerk can then issue a writ of possession. Ms. Mattson can then go back on the property to make these repairs.

Deputy County Attorney SZambon: Ms. Mattson, Crystal Lyda contacted you from the county?

VMattson: Yes.

Deputy County Attorney SZambon: And she sent you the inspection report?

VMattson: Yes.

Deputy County Attorney SZambon: Now I understand for your reasons, for the legal process you're not allowed out there but I just want to take you through some of these pictures. Were there pickets missing in this railing when you rented Ms. Taylor the house?

VMattson: Yes. Or I don't know that they were all missing, there were some. I had an agreement with her and her son. They received a \$300 discount on their rent each month for repairs, the repairs out there.

Deputy County Attorney SZambon: Was this there when they-

VMattson: I'm not aware of it any open boxes. I'm not aware of any of the wires. I'm not aware of any of that. And until I get out there and see it, to my knowledge they weren't there but -

Deputy County Attorney SZambon: Where is this in your home?

VMattson: I have no idea.

Deputy County Attorney SZambon: You don't know where this is?



VMattson: No.

Deputy County Attorney SZambon: So is it your testimony that you, that some of these may have been there when you rented it but you're not sure?

VMattson: True.

Deputy County Attorney SZambon: And if I may ask, and your attorney can object, why are you here before the board today? Is it that you're objecting – do you not think these are violations?

VMattson: Actually I'm on your side. I want to get out there. I want to get this fixed. This lady does not belong out there. I asked her to leave on December 15<sup>th</sup>. I'm on your side. I'm not on the other side. I want this place fixed up. Whatever is wrong we need to fix. So I feel like I'm on your side. And I'm in my defense and well as your defense.

Deputy County Attorney SZambon: So you're not disputing whether or not there are violations currently on the property?

VMattson: No, no.

Deputy County Attorney SZambon: And is it your testimony today that once you gain access to the property that you will fix these violations?

VMattson: Yes.

Deputy County Attorney SZambon: And did previous to the county getting involved did you know that there were any Minimum Housing Code or Building Code violations on the property?

VMattson: I don't believe so.

Deputy County Attorney SZambon: To the best of your knowledge and the best of your memory?

VMattson: To the best of my knowledge.

Deputy County Attorney SZambon: But you had hired, you had given Ms Taylor and her son a discount for repairs?

VMattson: Yes.

Deputy County Attorney SZambon: So you knew there were things that were wrong?

VMattson: Yes.

Deputy County Attorney SZambon: I don't have any further questions. Does the board have any further questions?

Chairman Phelps: Questions from the board?

HMarks: Ms. Mattson, did you live in that house previously?

VMattson: I did.

HMarks: When did you last live there?

VMattson: From about 93 to 2004 or 5.

HMarks: Were there other tenants before Ms. Taylor?

VMattson: Yes. The house is for sale currently. I would like to sell it but I've had tenants in there.

JBrown: How long has Mrs. Taylor lived there?

VMattson: I don't have my papers. It was November of 2008 I believe. So it was a little over a year we had gone through an eviction that almost didn't work out the year before. During the winter she got behind in her rent and she said the power wasn't working and she was sure it was using too much power and anyway we finally resolved it for a while.

JBrown: And with the discount per month were they supposed to have the repairs made or you just gave them a cut in the rent, for the condition of the home?

VMattson: I – we went – when they rented it I went through the whole house and there were minor things. I don't remember any wires being open or any of that, that kind of thing. But there were things we needed to paint. We weren't finishing the basement. The basement's like paint down there, you know, it's kind of storage down there. But the agreement was that they do some of these minor things. And we went over them, what they were. But I didn't like list them single things to get a discount every month if you help me keep it up.

JBrown: So to your knowledge though most of the electrical covers were properly in place?

VMattson: I'm not aware of any being off. But I don't want to swear to that but I'm not aware of anything. I'm not aware of any wires being out there. And it could be that maybe it was up in the



loft and I didn't see it or nobody ever saw it till the inspector came. You know I can't say for sure. I just, to the best of my knowledge there weren't any problems.

BYelverton: Ms. Mattson, do you have any other rental properties?

VMattson: Yes.

BYelverton: How many approximately do you have?

VMattson: Just three.

BYelverton: Three total?

VMattson: Three total.

BYelverton: Is that what you do for a living?

VMattson: No. I'm a registered nurse. I work at Spartanburg Regional in the surgery department.

BYelverton: Ok. Were you aware of this problem that she said she had with the well pump, that's caused her power to be so high that she couldn't pay?

VMattson: She called me after we had gone through the eviction. I had asked her to leave and she called and said that she was having problems. In fact she called and said that the water had gone out. I said, "Why are you calling me, you know you're not even supposed to be out here. We've had this discussion two weeks ago and you said you were leaving. Why are you out there?" I said, "I just need for you to leave. We'll get this fixed up. Things do need to be fixed out here. I don't know what's wrong with the well". I later sent her a message by way of a neighbor there's reset buttons, you know, at least hit the reset buttons. But he said the power's already been turned off.

BYelverton: When did you first send her notice of eviction that you wanted her to leave, not an eviction but that you wanted her to get out?

VMattson: December 15 she had a 30 day notice.

BYelverton: When did she make you aware of this pump problem?

VMattson: February 4 in the evening.

BYelverton: Do you have any of this documented?

VMattson: Documented, just in my head.

BYelverton: So we can ask her when she told you about the pump also?

VMattson: Yep. Right. Well we've had discuss- we've had water problems out there. I've had the water company out. They put in a new holding tank and it runs a lot more often. I used to have a great big one out there and they put in a new one. And it's much smaller. And the thing's shutting on and off every little while. But also we went through this last winter. When she had high power bill she was sure that something was wrong with the electricity and I needed to pay for part of her power bills and I was like, oh it's the winter, we're doing this again.

BYelverton: Thank you.

JBrown: I got one more question. Were you aware that there were five people living there? And do you have a limit on people in your residence?

VMattson: Yes. I have a lease. It's a three bedroom house. I know the Housing Code and it is six people. By the time she moved out there were three, I believe, in the household. And that was a whole, I mean we don't even want to go into that. I mean, I got calls from the neighbors that there were 15 people out there. I've been in and out trying to keep things within code the best I could.

Chairman Phelps: When was the last time you received any rent from her?

VMattson: She paid partial rent in December. She paid rent in January. I did not receive February's. Once it went through the court system they started picking her up. So she is now – there's like three months of where we got something like, I don't remember the exact amount but there's several months of unpaid rent, but she is making her payments to the court house which is \$700 a month. She's made that for two months. And I believe there's a partial one she when she went in and filed the appeal. At that time you have to-

Chairman Phelps: So she hasn't made up what she was in arrears?

VMattson: No. And I didn't ask her, I just asked her to leave. I said, "There are repairs out here that need to be done. They are not getting done. I need to get this house fixed up. Here's a 30 day



notice". But then in the end she quit paying rent and didn't leave. So when I went to court that was for non-payment of rent. That's why we went to small claims court.

Chairman Phelps: Any other questions? If not Ms. Taylor, do you have questions of Ms. Mattson?

VTaylor: (Inaudible).

Deputy County Attorney SZambon: She said, "No".

Chairman Phelps: Ok. Thank you, Ms. Mattson. You may sit down. Ok, Ms. Taylor we will hear from you.

VTaylor: My name is Velma Taylor. I reside at 18 Hutchison Woods. I do have some pictures before we moved in of what the place looked like. I picked up the wrong pack of the after pictures. But, you know, I do have a letter here that states the reason I did file the complaint was because of the well. It was working bad and then it quit working all together. At the same time before we had the cold spell the power bills almost tripled. I asked the power company and they told me that it looked like it was something in the well itself, which I couldn't get anybody out there to do anything. Yes, she had asked me to leave because of a family we had let stay or was going to let stay through the holidays and they started some trouble. I immediately got them out of there. But of course that started all of this. I have a letter here that shows she knew about that as far back as December 15<sup>th</sup>, as far as the electric and water problems, right here.

Deputy County Attorney SZambon: Ms. Taylor do you want the board to look at that stuff?

VTaylor: Yes, please.

Deputy County Attorney SZambon: Do you want to enter it into evidence?

VTaylor: Yes, please.

Deputy County Attorney SZambon: Does the board accept it? Are there any objections?

JLee: I'd like to see them.

Deputy County Attorney SZambon: Yeah, you can see them. Can you show him the stuff and then we'll give it to the board.

VTaylor: Like I said I forgot – I picked up the wrong pack of the after pictures of what it looks like after we have been working on the house.

Deputy County Attorney SZambon: Did you take the pictures?

VTaylor: Yes.

Deputy County Attorney SZambon: Ok. Does the board accept her stuff into evidence?

JLee: When were these taken?

VTaylor: Before we moved in. Actually we had already done some cleaning before we moved, before we took those pictures.

Chairman Phelps: And when was that?

VTaylor: That was in September 2008.

Chairman Phelps: That's when the pictures were taken?

VTaylor: Um-hm.

Chairman Phelps: Any objection to accepting these into evidence?

JBrown: Are you saying that those pictures you picked up by mistake, those are the after?

VTaylor: No. These are the before pictures.

Chairman Phelps: So she has no after pictures.

JBrown: But those pictures that she showed us are after? Those are recent?

VTaylor: Yes. Those are recent.

Chairman Phelps: Should we review the pictures before we decide whether we accept them as evidence or do you want to –

Deputy County Attorney SZambon: My advice to the board would be to decide whether or not you want to accept the pictures before you look at them.

TEngel: How can we do that? Ok.

Deputy County Attorney SZambon: I know you don't like to.

Chairman Phelps: If we don't have the after pictures what good are the before pictures?



(Several board members talking at the same time).

TEngel: To determine if the place should be condemned.

Chairman Phelps: And what bearing - Sarah, help us here, what bearing would these pictures have on the appeal before us? They are before pictures and we're talking about current conditions.

Deputy County Attorney SZambon: The county does not have any objections to the pictures. Whether or not Ms. Mattson and her attorney have any objections to the pictures is a different story. Or they may have a rebuttal. The benefit I guess to seeing the pictures would be first of all to give you a better of the house in general. And then again the decision before this board is whether or not there are violations right now and what the remedy should be.

TEngel: Ok well really that has nothing - we don't need those pictures at all then.

Deputy County Attorney SZambon: It's up to the board.

TEngel: The pictures are irrelevant. We see what's now and what exists right now and those pictures are not significant for us. And if we find that the - what was listed as being in violation exists then we just go along with the condemnation. Is that what we're-

Deputy County Attorney SZambon: It's up to the board. Ms. Taylor wants you to see the pictures, the county doesn't care, and I don't know how Ms. Mattson feels about it.

JLee: We don't have an objection to them but I don't think they're relevant to this proceeding.

JBrown: I agree. I don't think so either.

BYelverton: I don't really see that they are relevant either.

Chairman Phelps: Ok. Then we will not enter those into evidence.

Deputy County Attorney SZambon: Ms. Taylor also has a letter. Ms. Taylor, would you like to enter this into evidence?

VTaylor: Yes, please.

Deputy County Attorney SZambon: Do you have any objection to this letter? Do you want to see it again?

VMattson: Yeah.

Deputy County Attorney SZambon: And Ms. Taylor, just so the board recalls after the lengthy picture discussion, why do you want to introduce the letter? Why do you want the board to see the letter?

VTaylor: To show there was a problem with the water back in December, before. And that I had let her know that. And that is according to the power company which I know they're not, you know, get in and check the things but that's what they told me had made the power bill go so high, which it got over two thousand dollars. At the time we couldn't pay it. We had been all along working on with various agencies. As they get their funds in or paid on it and it should be on any time and I'm still under the appeal as far as on the eviction. Because at the time, you know, I had no idea it was being done except for these people that caused so much trouble. I didn't know that was being done. And like I said as soon as I found out I did get them out of there. And we have done a lot of work on the place. They've - she's worked on the place also.

TEngel: Did you say the power bill was over two thousand dollars?

VTaylor: Yes.

TEngel: Two thousand dollars for one month?

VTaylor: No, that was for three months, I believe.

Deputy County Attorney SZambon: Before we move on too far can we figure out the issue of the letter?

HMarks: The letter if from and to who?

VTaylor: It's from Ms. Mattson to me.

HMarks: To you. Ok.

Deputy County Attorney SZambon: The county doesn't have any objection.

JLee: We don't have an objection. I'm not sure it demonstrates what she says it demonstrates but I -

HMarks: Personally I would like to see the letter.



Chairman Phelps: There being no objection we can enter the letter but we need to have it circulated up here.

Deputy County Attorney SZambon: And it might give you a sense of date.

Chairman Phelps: We will accept it into evidence but we need to see it at this point.

Deputy County Attorney SZambon: I'll bring it up.

TEngel: Why don't you just read it to us that way we don't all have to read it?

JBrown: Why don't you read it to us?

Deputy County Attorney SZambon: Well the other thing is that I would like to mention too the letter is unsigned.

TEngel: An unsigned letter?

Deputy County Attorney SZambon: So we talk a lot about credibility of evidence and all that stuff. It's dated, not signed.

HMarks: *This is an unsigned letter dated April 25<sup>th</sup>, 2010 to Velma Taylor and Family from Virginia Mattson, 4 Mariners Cove, Salem, South Carolina. And it starts: Rental Property in eviction, colon, 18 Hutchison Woods in Fletcher. Eviction notice given February 4<sup>th</sup>, 2010. Monies owed to Virginia Mattson:*

*\$600 from November and December 2008*

*\$120 from December 2009*

*\$700 for February, 2010*

*\$700 for March, 2010*

*\$700 for April 2010*

*Court costs and attorney fees.*

*Present total: \$2820 plus court cost and attorney fees.*

*Whatever monies have been deposited into the court system toward this bill may be subtracted from this total.*

*Please disregard the name Georgia on the rental agreement. That was an obvious error.*

*Request to vacate the house given on December 15 so that repairs could be done including any electric and water problems.*

*March 18, the county inspections department requested the property be vacated immediately.*

*And that's it.*

Chairman Phelps: Questions regarding the letter from the board members? Was that mailed by US mail or was it an email?

VTaylor: She left it at the door.

Chairman Phelps: It was posted at the door. Ok.

VTaylor: When she posted the 'no trespassing' signs.

Chairman Phelps: So none of those amounts listed in the letter you have paid to her, is that correct?

VTaylor: Not the – that are going through the court now because of the eviction.

Chairman Phelps: Well that was prior to you going to court, the monies due then.

VTaylor: Well I – the February rent, yeah, the February rent I did offer. I did have a witness to that and she said, "Don't worry about it, I just want you to move".

JBrown: And that was just one month though, right?

VTaylor: Right, but I have not paid it.

JBrown: But you have not paid back the, paid back any of the arrears money? You've just started when they gave you this bill?

VTaylor: Right. For now.

JBrown: But you still owe all this back money? And at the same time-

VTaylor: Seven hundred twenty dollars is what I owe so far.

JBrown: So at the same time you weren't paying rent or the power?

VTaylor: Pardon me?



JBrown: You weren't paying rent or the power, right?

VTaylor: No, the back rent, the six hundred dollars was from 2008.

JBrown: Yeah, six hundred dollars, but the rest of it – see I understand you're 2,800 plus in arrears now?

VTaylor: She's counting –

Deputy County Attorney SZambon: If I may, I would like to try to get us back on track in terms of what this board can decide. Again, as both parties have stated, not the county because we're not a party to that action, but they are dealing with this in court and if nobody else has a problem with us moving on.

VMattson: I wanted to make a comment.

Deputy County Attorney SZambon: Well you'll have time for rebuttal but I'd really like the board, in the interest of time and you know, I don't want you to get frustrated with what I'm allowed – you're allowed to make decisions about. The issue is the Minimum Housing Code violations, whether there are violations and what the remedy is.

JBrown: Very good.

Chairman Phelps: Ok, so then the question to you is; have any of these pictures, any of the things that we were shown been corrected?

VTaylor: Are they incorrect? No.

Chairman Phelps: Have any of them been corrected?

VTaylor: No.

Chairman Phelps: So they are still in existence as of this date?

VTaylor: Yes. We had nothing to do with the electrical part of the house.

TEngel: Has the electric been turned on?

VTaylor: It should hopefully be there by the time I get back to the house.

VTaylor: So it's not turned on then a lot of these violations are due to the fact that the electricity has been turned off.

VTaylor: But the well didn't work before the power was off, so –

TEngel: The well, did it run?

VTaylor: They said it was running all the time. No, we'd had no water.

TEngel: Did you have water when it was running when the electricity was turned on?

VTaylor: Yes, when the electricity was on we had no water.

Deputy County Attorney SZambon: I'm confused.

HMarks: So when the power is on – so if you get home tonight and the power is on you still won't have water?

VTaylor: No. And that was the problem that I originally complained about.

Deputy County Attorney SZambon: I have some questions. And maybe it will clarify some things because I know I'm confused. Ms. Taylor, why did you complain to the Henderson County Minimum Housing Officer, Crystal Lyda?

VTaylor: Because we had no water and I had asked for it to be fixed and nobody ever came to fix it. She said she wasn't going to fix it because we had been asked to leave.

Deputy County Attorney SZambon: Had you notified your landlord that you had no water?

VTaylor: Yes.

Deputy County Attorney SZambon: Did Ms. Lyda come out and do an inspection?

VTaylor: Yes she did.

Deputy County Attorney SZambon: When she came and did the inspection what did she tell you?

VTaylor: She said she couldn't do a lot of the inspection because of the power which had just been cut off two days before she came out.

Deputy County Attorney SZambon: Why was the power cut off?

VTaylor: Because of the high power bill which the power company is saying is due to the well, something wrong in the well.

Deputy County Attorney SZambon: But nothing due to your landlord?



VTaylor: No, except for not fixing it. That's what the problem was.

Deputy County Attorney SZambon: Not fixing what?

VTaylor: The well.

Deputy County Attorney SZambon: There's power running to the house.

VTaylor: There was, there's not now.

Deputy County Attorney SZambon: If the power company turned on whatever they turn on, the house is wired for power?

VTaylor: Yes.

Deputy County Attorney SZambon: At the time Ms. Lyda came to inspect what were us using for heat?

VTaylor: We had a kerosene heater.

Deputy County Attorney SZambon: Did she advise you that a kerosene heater is a violation?

VTaylor: Sort of but we had used it all winter long because the heat pump doesn't keep it warm enough in there when it's cold.

Deputy County Attorney SZambon: When did Ms. – approximately, you might not remember the exact date, when did Ms. Lyda come visit you?

VTaylor: I believe it was March 18<sup>th</sup>.

Deputy County Attorney SZambon: Is it your testimony today that the things she said were violations are not violations under the Minimum Housing Code?

VTaylor: I don't understand your question.

Deputy County Attorney SZambon: Ok. Ms. Lyda testified there are some structural problems with the house, a violation is that the power was out, the water was off and the heat is off. Are you saying that those violations were not there?

VTaylor: No. The power was off therefore the heat and the water couldn't be checked. The heat does work when the power's on. But the water – the well has not worked since it stopped completely in January.

Deputy County Attorney SZambon: So you received – Ms. Lyda told you the violations that needed to be corrected in March?

VTaylor: Um-hm.

Deputy County Attorney SZambon: When was the next time you heard from Ms. Lyda?

VTaylor: I don't remember the exact date that I got a letter in the mail.

Deputy County Attorney SZambon: Do you remember approximately?

VTaylor: Probably, maybe three or four weeks later, maybe.

Deputy County Attorney SZambon: Did you get a letter from her in early April? What did the letter in early April say?

VTaylor: It said that she found those things to be in violation of the Housing Code.

Deputy County Attorney SZambon: And what did she tell you you had to do?

VTaylor: That I needed to work on getting the power back on that that would take care of the whole thing.

Deputy County Attorney SZambon: Between when she inspected and when you got that letter did you get the power turned on?

VTaylor: Not yet. Like I said it was over two thousand dollars and we're still – it should be on today by the time I get there because it's after five now, so-

Deputy County Attorney SZambon: Later did you receive a letter from Ms. Lyda telling you you had 72 hours?

VTaylor: Yes I did.

Deputy County Attorney SZambon: At that point that you received that letter was the power turned on?

VTaylor: No.

Deputy County Attorney SZambon: And it's your testimony today that up until yesterday for argument the power was still not turned on?



VTaylor: Right.

Deputy County Attorney SZambon: So you were informed of this problem in March.

VTaylor: Um-hm.

Deputy County Attorney SZambon: You were informed in April that you had to leave. And now that it is the end of May the power's still not on, is that correct?

VTaylor: Right. We had – because of I'm on a set income, I'm on disability - we've gone through the agencies that help. Most of the agencies don't get the big funds after March because they said the crisis is over. So we've just had to get little bits along as we went.

Deputy County Attorney SZambon: And your testimony is that even if the power goes on you still won't have water?

VTaylor: Right.

Deputy County Attorney SZambon: Once you got the letter from Ms. Lyda saying you had 72 hours what did you do next?

VTaylor: I filed the appeal on that.

Deputy County Attorney SZambon: Why did you appeal?

VTaylor: Because it just, I mean to me that wasn't a reason not to be able to stay in a house. I don't know, it's just – because we were keeping things clean, we kept water.

Deputy County Attorney SZambon: You should tell the board.

VTaylor: We were keeping things clean. We had water that we brought in. We were staying clean. We were staying warm. We had, you know, light at night so I really didn't see where that would make it uninhabitable as far as that goes.

Deputy County Attorney SZambon: Are you of the opinion that the things Ms. Lyda sited you for shouldn't be violations? Or are you of the opinion that they are violations but you need more or you needed more time to fix them?

VTaylor: That I needed more time. I mean as far as, like I said, the power and I had no idea that was a violation of any kind that if you got your power cut off it made your house uninhabitable. I had no idea that was any kind of rule or law or whatever.

Deputy County Attorney SZambon: But she told you in March that that was a violation.

VTaylor: Right.

Deputy County Attorney SZambon: And a serious violation.

VTaylor: Yes.

Deputy County Attorney SZambon: And then she gave you until April to fix it and it still wasn't fixed.

VTaylor: Well that's because it was so high that we couldn't get it fixed up.

Deputy County Attorney SZambon: Right. I understand, I'm just – and the structural things that she sited earlier, the electrical box?

VTaylor: That's something we have nothing to do with.

Deputy County Attorney SZambon: Were all those – were the structural issues that she pointed out, the electrical boxes, the stairs, were – have you changed those at all since you've moved in?

VTaylor: No, we haven't touched anything electrical.

Deputy County Attorney SZambon: Have you changed the railing for the stairs at all since you moved in, the pickets?

VTaylor: Not on those. On the ones there's another set of stairs that had no railing what so ever and we have – we put that up.

Deputy County Attorney SZambon: And how many people live in the house now?

VTaylor: Right now there's four.

Deputy County Attorney SZambon: Who lives in that house?

VTaylor: Right now there's me, my son, my daughter, and my granddaughter.

Deputy County Attorney SZambon: What do you mean by 'right now'?

VTaylor: Well my other granddaughter and her husband were living with us. And they just had a new baby so they're staying with her dad right now.



Deputy County Attorney SZambon: So in your appeal letter you talked about a pregnant woman, she's no longer there?

VTaylor: Not at the moment. She was until she had the baby, which she just had May 7<sup>th</sup>.

Deputy County Attorney SZambon: Once you got the notification from the county that you had 72 hours to move out did you make any efforts to find emergency housing?

VTaylor: Yes, and there was nobody, I mean I have no family, I have no family that could take us. As far as emergency housing the only place would have been the Salvation Army and they don't go for like just a few days in helping with emergency housing.

Deputy County Attorney SZambon: Did you contact any organizations like the Henderson County, Hendersonville Housing Authority or DSS or –

VTaylor: I contacted all of them.

Deputy County Attorney SZambon: About getting housing not getting assistance for your – did you ask if they could find you housing, not assistance with paying your electric bill?

VTaylor: Right, they said they can do assistance with housing but you have to go through the appeal, I mean the application process.

Deputy County Attorney SZambon: Have you filed an application?

VTaylor: Not for emergency housing.

Deputy County Attorney SZambon: Why?

VTaylor: I didn't know I was still going to need it after I filed the appeal. I'm sorry, maybe I'm just not really smart on when it comes to the law as far as that goes. I just know we tried every route we could go.

Deputy County Attorney SZambon: Does the board have any questions?

Chairman Phelps: We do and before I give the opportunity to Ms. Mattson and her attorney here we're going to take a five minute break just to stretch our legs. If no objections we'll be back in five minutes.

Chairman Phelps: If we could reconven, and Ms. Taylor come back to the podium for additional questions.

VMattson: Sure.

Chairman Phelps: Mr. Lee or Ms. Mattson, do you have questions of Ms. Taylor?

JLee: Yes. Ms. Taylor when did you first notify Ms. Mattson that there was a problem with the well?

VTaylor: There was a problem with the water back in December. It's the first time it would cut on and off and we were having to constantly prime it and it was after, I guess a month or two after the tank had been replaced.

JLee: And how did you notify her? Was it in writing?

VTaylor: By phone.

JLee: By phone. Did you ever notify her in writing of any of these problems?

VTaylor: No, not in writing I don't think.

JLee: When were you aware, as you say, that the pump was causing a higher electric bill?

VTaylor: It was after I got the first one. I think I got the first one in January which would have been for December. It was before the cold spell that we had.

JLee: Ok. What did you do after getting that bill?

VTaylor: Well, I talked to the power company first and asked them to check the meter because I thought something had to be wrong with the meter or something. And they said it wasn't the meter so I asked them what else could be causing it and they said it either had to be heat pump and this is in their opinion of course, the heat pump or the well pump, maybe a busted pipe between the house and the well or something.

JLee: Ok. At that time did you notify Ms. Mattson again of what the power company told you?

VTaylor: Yes. I told her that they said it was the well, something wrong with the well because the heat pump seemed to be doing ok.



JLee: At any time have you prevented Ms. Mattson from coming on the property?

VTaylor: No. I have not. If I go, I mean just because you meet somebody at the door is not saying you can't come in, she's not asked to come in. I have no problem with that.

So you'd have no problem with Ms. Mattson going on the property this week and making repairs?

VTaylor: No. I've never had a problem with her coming to make repairs.

JLee: No further questions.

Chairman Phelps: Questions from the board?

BYelverton: I have a question about your lease. You said it was a month to month lease.

VTaylor: Yeah.

BYelverton: Do you have it in writing?

VTaylor: Yeah, it was originally in writing, yeah.

BYelverton: So when it ran out it went month to month?

VTaylor: Yeah.

BYelverton: And she gave you 30 days notice?

VTaylor: Yes.

BYelverton: You are aware of that?

VTaylor: Um-hm.

BYelverton: When was that 30 day notice? When did she give you that notice?

VTaylor: Uh, I was trying to remember the last time, let's see, she gave me one in December and then just changed it to me staying through January and then in February I believe is when she took out the eviction papers.

BYelverton: So you found out the power bill was excessively high around the same time you knew you had to be out?

VTaylor: Actually like I say, it was before, it was the beginning of January.

BYelverton: In December she told you you had to get out.

VTaylor: Well she, then she changed it to January 31<sup>st</sup>.

BYelverton: But you already knew you had to be out the 31<sup>st</sup>?

VTaylor: Yeah.

BYelverton: And you receive the power bill on the 15<sup>th</sup>?

VTaylor: It wasn't on the 15<sup>th</sup>. I don't remember what day it was. But it was-

BYelverton: Somewhere in the middle of January?

VTaylor: Pardon?

BYelverton: Somewhere in the middle of January?

VTaylor: It usually comes around the first of the month.

BYelverton: Ok. Thank you.

JBrown: And she extended the eviction at your request. So she allowed you to stay there another 30 days?

VTaylor: Right. But that's when we had all of the snow and the bad weather and, you know, couldn't do anything so she went ahead and filed the eviction papers. And then I filed the appeal.

Chairman Phelps: So you said in your notice to appeal dated four fifteen ten; number one that you could not get out in 72 hours after receiving the notice.

VTaylor: Right.

Chairman Phelps: You said you had paid the rent for this month.

VTaylor: I had, to the court.

Chairman Phelps: The court but not to her?

VTaylor: Yes.

Chairman Phelps: Ok, but you had previously been evicted and you had previously been told to get out, right? So you had had notice before that you should be out and now you say you can't get out in an additional 72 hours, right?

VTaylor: Well, no. This was before the - I had appealed it before that happened.



Chairman Phelps: I understand, I'm going by the date, four fifteen ten. I'm going by what you've written and signed, ok?

VTaylor: Right, yeah.

Chairman Phelps: The second thing down here is you said, "We're going to get the power on by next week". That would be the 22<sup>nd</sup>.

VTaylor: We had hoped to.

Chairman Phelps: And it's still not on as of the time you came to this hearing.

VTaylor: At the time I came to this hearing it should be by the time we get back to the house.

Chairman Phelps: But you told us before and told other members of the county that it would be on.

VTaylor: Well, I thought -

Chairman Phelps: And it still has not been.

VTaylor: Right, but that's not due to anything I could help but like I said it was -

Chairman Phelps: But it goes to credibility.

VTaylor: Well sure but I don't even make that much money so we have to turn to agencies to help out. We've been paying on it all along.

Chairman Phelps: If you can't fix the pump with the water well -

VTaylor: Pardon?

Chairman Phelps: You can't fix the pump on the well without the power being on, isn't that correct?

VTaylor: Right, but the power was on for a long time before and the pump has been off since January. They didn't turn the power off until March 15<sup>th</sup>, 16<sup>th</sup>, something like that.

Chairman Phelps: So you went two months without any water?

VTaylor: Yes.

Chairman Phelps: And you made what effort?

VTaylor: What effort?

Chairman Phelps: To get the water fixed.

VTaylor: I called the landlord.

Chairman Phelps: How many times?

VTaylor: Several times.

TEngel: They couldn't fix the water without the pump working.

Chairman Phelps: Well like she said, the electricity was on. That was my point here -

VTaylor: It was on, yes.

Chairman Phelps: So what efforts did you really make? I mean if I'm without water for any significant amount of period, I mean I'm raising a lot of stink to get it fixed.

VTaylor: I called several times. She would say, "I'll get somebody out there like tomorrow or the next week or something like that". Then she said, "Well I'm not going to fix it anyway because of the eviction".

Chairman Phelps: Well right, obviously with an eviction notice you shouldn't have been in there anyway. That was before the power was cut off?

VTaylor: Yes, that was before it was cut off.

JBrown: So they cut the power off in January?

VTaylor: No, in March.

JBrown: In March.

Deputy County Attorney SZambon: Can I ask one more question, just out of my own curiosity? Ms. Taylor, if you were evicted or not even evicted, were given your 30 days notice and that was extended until the end of January, correct? So, and you knew about that, right, about that notice?

VTaylor: Um-hm.

Deputy County Attorney SZambon: Why are you still there?

Well, we're already basically all packed and ready to leave. It's just that when you file an appeal under an eviction you wait till you go to court and get a hearing.



Deputy County Attorney SZambon: But what was your appeal under if your lease was up?

VTaylor: What do you mean?

Deputy County Attorney SZambon: What were you appealing? I don't know a lot about eviction law. I work for the county but – and then I guess my other question is, I'll drop that question because it is again, irrelevant, it was just my own curiosity, but your comment earlier was that depending – if this board upholds the ruling you don't have anywhere to go.

VTaylor: No, nowhere to go yet. My check –

Deputy County Attorney SZambon: But your lease was terminated at the end of January.

VTaylor: Well, the month written agreement that she made, it was a separate agreement.

Deputy County Attorney SZambon: And it's – next week will be June.

VTaylor: Right.

Deputy County Attorney SZambon: Ok. I don't have any further questions.

Chairman Phelps: Any further questions from the board?

BYelverton: One more question to do with the Minimum Housing Code. You said you didn't know the kerosene heater was a violation of the Minimum Housing Code?

VTaylor: No I didn't.

BYelverton: You didn't know that having your power was off –

VTaylor: Pardon?

BYelverton: You didn't know that having your power off was a –

VTaylor: No, I didn't.

BYelverton: When was the first time you ever heard of the Henderson County Minimum Housing Code?

VTaylor: The first time I ever heard of it was when I spoke with an attorney about what I could do about my water not being fixed. And that's, I mean they didn't say nothing about any codes or anything like that.

Deputy County Attorney SZambon: I have another question, I'm sorry. You called because – why did you call the county on Minimum Housing Code?

VTaylor: Because I couldn't get the water fixed.

Deputy County Attorney SZambon: Because the water wasn't fixed?

VTaylor: Right.

Deputy County Attorney SZambon: You thought that not having water was a violation.

VTaylor: Right.

Deputy County Attorney SZambon: Why did you think that not having power wouldn't be a violation?

VTaylor: I'd never been told that or heard of it.

Deputy County Attorney SZambon: But why would you assume that water was but power wasn't?

VTaylor: That's just what the attorney told me. I don't know, I mean I had never heard of that before.

Chairman Phelps: Do you have any further cross exam Mr. Lee or Ms. Mattson?

JLee: No, I don't.

Chairman Phelps: Thank you. Ok, I don't, there being no further witnesses or testimony –

BYelverton: Call for rebuttal?

Chairman Phelps: Oh yeah, that's what I was coming up to, we can move forward to rebuttal statements. Does it matter who goes first?

Deputy County Attorney SZambon: The county doesn't have a rebuttal we have a two second closing. If you have any – (to Mr. Lee)

JLee: We don't have a rebuttal.

Chairman Phelps: If not shall we go with the closings then and you want to start with the county, Sarah?



Deputy County Attorney SZambon: All the county cares about in this case is whether or not there are violations, and whether or not the remedy that Ms. Lyda picked was appropriate. There are clearly violations as stated by many parties here today and given the fact that this started in March and it is now almost June and there is still not power in this house, the remedy seems appropriate. So we would ask that the board uphold the county's conditions and the 72 hour, what did you call it? The 72 hours for the person to leave the residence as it is currently uninhabitable by humans. It was closed to two seconds.

Chairman Phelps: Closing statement Mr. Lee?

JLee: We have no objection to what the county wants to do here other than we just want to make sure that once the judicial proceedings have conclude at that time Ms. Mattson will be able to re-enter the property with the writ of possession and a Sheriff's escort. So I want to make sure that she's allowed to enter the property to make the repairs and then have it inspected by the county.

Chairman Phelps: Ms. Taylor, any closing statement?

VTaylor: I just wanted to say will it change the ruling if the power has been cut back on today? Because that's what everybody says was the problem so that would take care of the problem.

Chairman Phelps: That was a major problem. I don't know that that was the one and only problem.

Thank you. At this point we can go into discussion. We can close the hearing or leave it open.

TEngel: So actually we have to determine whether it was correct that they –

Chairman Phelps: We either deny the appeal and uphold the county or we approve the appeal and deny the county's finding.

TEngel: Ok.

Deputy County Attorney SZambon: The two questions before you are whether or not there are violations - not whether or not - whether or not they are violations based on the Henderson County Minimum Housing Code. Again, as we've talked about with other ordinances, not whether or not you agree with the language of the Henderson County Minimum Housing Code. And then the second question is whether or not the remedy chosen by the county was appropriate. And if yes that you'll uphold it and if no what the appropriate remedy should be.

Chairman Phelps: Do I have a motion that we close the hearing?

TEngel: I motion to close the hearing.

BYelverton: I second.

Chairman Phelps: Second, Brandon. All in favor, aye. Unanimously we approve. We are now closed and we are into discussion here among the board.

TEngel: There's really very little to discuss.

BYelverton: I say we make a motion to deny.

Chairman Phelps: I mean I think it's clear –

BYelverton: Motion to deny.

TEngel: I second.

Chairman Phelps: Motion was made and seconded that we deny the appeal. Is there any discussion on the motion?

TEngel: It's pretty straight forward.

Chairman Phelps: I think we heard evidence, no evidence, that any of the violations sited have been corrected. Do you have any comments?

JBrown: no, I agree.

Chairman Phelps: Tony?

Deputy County Attorney SZambon: If I can just –

HMarks: The remedy was reasonable. I don't see what other choice the county had.

Deputy County Attorney SZambon: I just want clarification, is the motion on both parts of the question? Or just whether or not there are violations?

Chairman Phelps: Let's rephrase that so-



BYelverton: I make a motion we deny the appeal.

Chairman Phelps: Deny the appeal.

Deputy County Attorney SZambon: Deny the appeal and uphold both components of the county.

TEngel: Right.

Chairman Phelps: Right, both components so that's a complete motion. . And that's the way seconded it and people understand it, right? There being no further discussion, call the previous question. All those in favor of the motion please say aye. That is unanimous. Each and every member of the board voted in favor of the motion for the record.

Chairman Phelps - Voted to deny the appeal.

Tony Engel - Voted to deny the appeal.

Hunter Marks - Voted to deny the appeal.

Brandon Yelverton - Voted to deny the appeal.

Janice Brown - Voted to deny the appeal.

Chairman Phelps: Ms. Taylor if you would please come back to the podium. You heard the ruling of this board and the 72 hour rule is in effect. And you are to vacate the property in accordance with the county's citation and give the owner, Ms. Mattson rightful access to her property. Do you understand that?

VTaylor: Does that mean that even the power is not going to fix it?

Chairman Phelps: That does not fix all of the violations. And you've had ample time to have the power turned back on.

VTaylor: I understand that part of it but the other violations are not anything –

Chairman Phelps: The motion was to deny your appeal.

VTaylor: Um-hm. ok

Chairman Phelps: I just want to be sure you understand. You may step down now. Mr. Lee, Ms. Mattson, you understand our ruling?

JLee: I do. There might be a procedural matter. I'm not sure that the board has authority to grant Ms. Mattson entry onto the property because Ms. Taylor does have possessory rights through until the clerk issues a writ of possession. So I'm not sure the board actually has authority to authorize that.

Chairman Phelps: Our ruling is from our standpoint. Obviously you have the appeal process as a separate issue from us. But from our standpoint we're saying by denying the appeal the county's citation is in effect.

Deputy County Attorney SZambon: Is this what you're saying? Are you saying that the county's 72 hour order to vacate the property is in effect however Ms. Mattson's entry into the property is an exception to that? She is allowed on the property to fix the problems and that won't be a violation of the Minimum Housing Code. We're ordering that the property be vacated. But you're going to let her go on just to fix things.

Chairman Phelps: Let the owner?

Deputy County Attorney SZambon: The owner just at this point.

TEngel: Does she have to at this point? If the property's going to be vacated in 72 hours she can then go on right after it's vacated.

Deputy County Attorney SZambon: That's what I'm saying, if the property is already vacated, normally people aren't allowed in there but except to fix it.

Chairman Phelps: Right, so after the 72 hours she should have the right to go in there to fix the cited exceptions.

TEngel: Even though there are any dangerous things in there she should have the right to go in there at any time to repair.

Deputy County Attorney SZambon: That's a different thing we're not going to get into. We're only Minimum Housing Code we're not landlord/tenant for the purposes of this board.



TEngel: Thank you.

Chairman Phelps: Does that clarify any?

JLee: I think that's fine. I think that this board can say she has the right to go in to make the repairs but I think it would be pending judicial proceedings that she still can't go on until that proceeding's concluded. But I don't think that what you're saying is inconsistent with that. I just think that both criteria have to be met.

Chairman Phelps: So I don't know if the ruling of this board could be –

Deputy County Attorney SZambon: Judges always trump us.

Chairman Phelps: Anyway you all will have to work that out. You have our permission when the other-

VTaylor: May I ask a question?

Chairman Phelps: Please come up to the microphone.

VTaylor: So that I will understand this completely, on the 72 hour thing, is that, I know it says be vacated but it means we have to leave. What about having time to move our things?

HMarks: I don't believe that's in our-

BYelverton: It's not our business

HMarks: We just deny the appeal.

VTaylor: That's not what I said.

Deputy County Attorney SZambon: All those issues regarding repairs, regarding at what point people can reoccupy the property, and regarding people living in or not residing in the property but removing their things besides the issues with the civil litigation, which is a different thing, which is not for this board will be determined by county staff. Under Ms. Lyda, she will determine those things.

VTaylor: That's what I needed to know.

Deputy County Attorney SZambon: In terms when it becomes habitable.

CLyda: How much longer, how much longer would you need to get your things?

VTaylor: Well, that's a good question.

Deputy County Attorney SZambon: You testified they were all packed up.

VTaylor: Well, most of them, as far as getting people to help move and everything. We can if we have to, we can find a place to go I guess. The Salvation Army can help us, but like I said I'm disabled and it takes me longer to do things than most people.

Deputy County Attorney SZambon: And if the board would like Ms. Lyda and Ms. Taylor can talk about this outside of the confines of this proceeding.

Chairman Phelps: Yes.

VTaylor: Yeah, ok.

Chairman Phelps: Ok. Back to our agenda and I think that was the only other - we took care of our mock order training earlier. Any other business to come before this May meeting of the Zoning Board of Adjustment? Toby, do you have any announcements or anything for us?

Zoning Administrator TLinville: No, sir. I would like to introduce Patrick. He's an intern with the Planning Department this summer. He just, he may attend some more of our meetings while he's here to get a grasp of what all we do.

Chairman Phelps: Patrick, welcome.

Patrick: Thank you.

BYelverton: I make a motion to close.

Chairman Phelps: Motion has been made to close. Second?

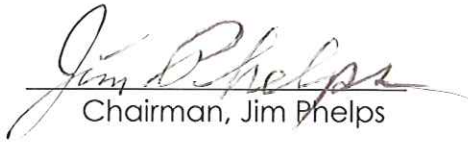
TEngel: Second.

Chairman Phelps: And seconded. All in favor, aye. Unanimous, we are adjourned.

(All board members voted to close the meeting)

Meeting adjourned at 5:55 p.m.



  
Chairman, Jim Phelps

  
Karen Ann Antonucci, Secretary