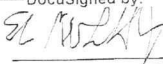




Application for Appeal

- 1. Applicant: Bryce T. Sealock
- 2. Property Owner (if not applicant): Eulen C. Whitten Jr.
- 3. Property Owner's Address: 43487 Road 745, Smithfield, NE 68976
- 4. Telephone Number: 3082350045 E-Mail Address: ecwhittenjr@gmail.com
- 5. Address or Legal Description of Property
104 W. 7th Street, Lexington, NE 68850
- 6. Reason for appeal of judgment:
Applicant incorporates the attached letter from Attorney Bryce Sealock, "Exhibit A," outlining the reasons for the appeal of this judgment.

DocuSigned by:

 Signature of Owner


 Signature of Applicant

Administrative Use Only		
Date Received _____	Fee <u>\$75.00</u>	B.O.A. Case Number _____
Hearing Date _____		[] Approved [] Denied
Date of Appeal: _____		

Bryce T. Sealock
bsealock@jacobsenorr.com

May 31, 2024

VIA EMAIL, FAX & OVERNIGHT MAIL

bbrecks@cityoflex.com

Board of Adjustments-City of Lexington, Nebraska
406 E 7th Street
PO Box 70
Lexington, NE 68850

RE: Application for Appeal of demolition of 104 W. 7th Street, Lexington, NE 68850

To whom it may concern,

This firm has been retained by Eulen C. Whitten Jr. (hereinafter Appellant) in regard to the above referenced matter. The Appellant is the record owner of certain property located at 104 W. 7th Street, Lexington, NE 68850. On or about May 15, 2024, Appellant received a letter informing him that his property located at 104 W. 7th Street, Lexington, NE 68850 would need to be demolished pursuant to Section 110.1 of the 2009 International Property Maintenance Code (hereinafter 2009 IMPC) as adopted by the City of Lexington. This letter is attached hereto as Exhibit A. **As outlined by such letter, Appellant respectfully requests an appeal of such determination to the Board of Adjustments**

In support of such appeal, Appellant argues that the true intent of the code, or the rules there under have been incorrectly interpreted. Appellant also notes potential procedural and/or substantive deficiencies in the notices provided to him. First, Appellant disputes that the property located at 104 W. 7th Street, Lexington, NE 68850 has become “so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy” to require demolition pursuant to 2009 IMPC Section 110.1. Second, Appellant contends that the structure, even if it is determined to be dangerous, is capable of being made safe by repairs and that Appellant should be allowed to make such repairs as provided for in 2009 IMPC Section 110.1. Third, the Appellant argues that the letter provided to him on or about February 13, 2024 failed to state the specific violations giving rise to the notice being issued as required by 2009 IMPC Section 107.2. This letter dated February 13, 2024 is attached hereto as Exhibit B. Appellant notes a similar deficiency with the letter dated May 13, 2024. Fourth, the Appellant argues that the letter provided to him on or about February 13, 2024 failed to provide the Appellant reasonable time to make the repairs and improvements required to bring the property into compliance with the provisions of the code as required by 2009 IMPC Section 107.2.

For the foregoing reasons, Appellant respectfully requests an appeal of such determination of demolition to the Board of Adjustments.



Very truly yours,

JACOBSEN, ORR, LINDSTROM
& HOLBROOK, P.C., L.L.O.
Attorneys at Law

A handwritten signature in black ink, appearing to read "Bryce T. Sealock". The signature is fluid and cursive, with a prominent initial "B" and a long, sweeping tail.

Bryce T. Sealock
BTS:rkr



308-324-2341 ♦ Fax: 308-324-4590 ♦ www.cityoflex.com
406 East 7th Street ♦ P.O. Box 70 ♦ Lexington, Nebraska 68850-0070

May 13, 2024

WHITTEN JR, EULEN C ETAL
43487 ROAD 745
SMITHFIELD, NE 68976

RE: 104 W. 7th Street

Mr. Whitten,

An inspection of your property located at 104 W. 7th Street, on 5/10/2024 shows that the structure is so old, dilapidated, or has become so out of repair that it is unreasonable to repair the structure. Pursuant to 2009 IPMC 110.1 it is hereby ordered that the structure must be demolished and removed by the close of business, 6/20/2024. Any action taken by the City of Lexington may be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

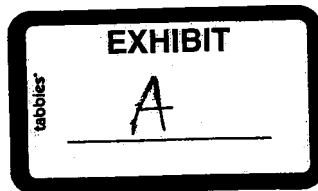
You have a right to appeal this notice and order by filing a written application for appeal with the Board of Adjustments. The application for appeal must be filed within twenty (20) days after the day this notice is served upon you. The appeal shall be based on a claim that the true intent of the code or the rules legally adopted there under have been incorrectly interpreted, the provisions of the code do not fully apply, or the requirements of the code are adequately satisfied by other means.

Please feel free to contact me to discuss this matter further.

Sincerely,

Bill Brecks
Development Services Department

bbrecks@cityoflex.com



PLATTE VALLEY EXCAVATING

43575 Highway 30
Lexington, NE 68850
+13083243906



Estimate

ADDRESS

Eulen Whitten
43487 Road 745
Smithfield, NE 68976

ESTIMATE # 1222

DATE 04/01/2024

ACTIVITY	QTY	RATE	AMOUNT
Machine Hire: Demolish Office Demolish office and export debris to LASWA, landfill fee is included in bid. Bid does not include removal of the concrete floor and footings, please note that we cannot guarantee the concrete floor won't sustain damage due to the nature of the work being done and equipment being used on it. Owner is responsible for asbestos inspection and abatement. Following are a list of contacts that provide these services: Rod Schall - B2 Environmental (308)440-3142 Mike Chavana - Great Plains Asbestos Removal (308)440-0855 Brian Gibson - ABC Abatement (402)510-8802	1	45,000.00	45,000.00
Machine Hire: Remove canopy at office near I80 Interchange. Platte Valley Excavating will retain proceeds from salvage iron.	1	2,500.00	2,500.00

SUBTOTAL	47,500.00
TAX	0.00
TOTAL	\$47,500.00

Accepted By

Accepted Date



Application for Appeal

- 1. Applicant: Eulen C Whitten Jr
- 2. Property Owner (if not applicant): _____
- 3. Property Owner's Address: 43487 Rd. 745 Smithfield Ne.
- 4. Telephone Number: 308-324-5948 E-Mail Address: ceochiro@atcjet.net
- 5. Address or Legal Description of Property
104 W 7th St Lexington Ne.
- 6. Reason for appeal of judgment:

With regard to your letter dated February 14, 2024 I have employed Neeman and Sons Inc A Lincoln Nebraska licensed contractor to install a new roof. I have also employed service master of Lexington Nebraska to engage in cleanup. After discussions with Service master I was advised that cleanup should be conducted after the new roof has been installed therefore; the April 1st 2024 deadline will not be met. I have been assured that repairs will be made as soon as practice however; the dates have not been set as of this appeal.

The public will not be allowed into the building until repairs are made and maintenance code 108.15 has been met. I look forward to your response.

Red handwritten text: Denied to File Check Submitted

[Signature]
Signature of Owner

03-18-2024

Signature of Applicant

Administrative Use Only		
Date Received _____	Fee \$75.00 _____	B.O.A. Case Number _____
Hearing Date _____	[] Approved [] Denied	
Date of Appeal: _____		

May 17, 2018

Bill Brecks
Development Services Director
Development Services Department
City of Lexington

RE: 104 W. 7th Street

Mr. Brecks,

Thank you for bringing this matter to my attention. I have taken immediate actions to correct this situation. I have had professionals inspect the building and I am awaiting bids at this time. Once the necessary repairs have been made, I will be happy to have the city inspect the work. I would appreciate the cities patience in this matter, as this is a busy time for our farming operation.

Sincerely,

A handwritten signature in black ink, appearing to read "Dr. Eulen C. Whitten Jr.", written in a cursive style.

Dr. Eulen C. Whitten Jr.



308-324-2341 ♦ Fax: 308-324-4590 ♦ www.cityoflex.com
406 East 7th Street ♦ P.O. Box 70 ♦ Lexington, Nebraska 68850-0070

May 3, 2018

Whitten Jr, Eulen C ETAL
43487 Road 745
Smithfield, NE 68976

RE: 104 W. 7th Street

Mr. Whitten,

This is a notice informing you the City of Lexington has received a complaint that your property known as 104 W. 7th Street may be in violation of the City's property maintenance code. The City enforces the 2009 International Property Maintenance Code.

In order for the Building Inspector to make a formal evaluation of the property, please schedule an inspection by 5/10/2018. If violations are found, you will receive a letter outlining the violations that need to be corrected and a deadline for having them corrected. If no violations are found, the city will issue you a letter to that effect.

To schedule an inspection, please contact the Developmental Services Department at (308) 324-2341, between 8:00 AM and 5:00 PM, Monday through Friday. Your prompt attention to this matter is greatly appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Brecks", with a long horizontal flourish extending to the right.

Bill Brecks
Development Services Director
Development Services Department
City of Lexington
bbrecks@cityoflex.com



August 1, 2016

Courtesy Notice

Whitten Jr., Eulen C.
43487 Road 745
Smithfield, NE 68976

RE: 104 W. 7th Street

Eulen C. Whitten Jr.,

In an attempt to keep our community free of potential health and safety hazards the City of Lexington periodically does inspections in your neighborhood. This is a courtesy notice informing you that your property located, at 104 W. 7th Street, has maintenance items that need to be addressed. The attached Property Maintenance Guidelines sheet outlines those items.

Please contact me to discuss a plan to remedy these items. I can be reached at (308) 324-2341 or you can come into our office located at 406 E. 7th Street. Our office is open between 8:00 AM and 5:00 PM Monday through Friday.

Sincerely,



Nick Hoendervoogt
Compliance Technician
Development Services Department

nhoendervoogt@cityoflex.com

Property Maintenance Guidelines

Maintenance Items

302.4 WEEDS- All premises and exterior property shall be maintained free from weeds and or plant growth is excess of 12 inches at all times. All noxious weeds shall be prohibited. **This includes all voluntary trees and tree branches.**

Comment: The weeds and trees along the Eastside of the building needs to be cut and removed.

Note for 104 W 7th, Lexington Chiropractic Center, Eulen Whitten, 4-5-2013

Mr. Whitten came out of a room to the east and met me at the reception window. I returned the Board of Adjustment application he had filled out. I also returned his money for that application. I told him his appeal was to the city manager and it was denied. The letter from Joe Peplitsch informing him of this was taped to the side of the receptionist window. I told him if he wished to go further his appeal now would have to go through the courts.

While waiting for someone to come to the reception window I noticed exposed wiring at 2 outlets and 2 switches in the reception area (open to the public). When talking to Mr. Whitten I told him this issue had to be taken care of immediately. He said he would get them covered. Mark