

ORDINANCE

AN ORDINANCE ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AND ACCESSORY BUILDINGS AT 326 KIRBY DRIVE PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 19, PART 6, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA, SAID BUILDING BEING THE PROPERTY OF KNOWN AND UNKNOWN HEIRS OF BILLIE JO NICHOLSON 326 KIRBY DRIVE, CHARLOTTE, NC 28214

WHEREAS the dwelling and accessory buildings located at 326 Kirby Drive in the City of Charlotte has been found by the Code Enforcement Official of the City of Charlotte to be in violation of the Housing Code of the City of Charlotte and the owners thereof have been ordered to demolish and remove said dwelling and accessory buildings; and

WHEREAS, said owner(s) have failed to comply in a timely fashion.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that the Code Enforcement Official of the City of Charlotte is hereby ordered to cause the demolition and removal of the dwelling and accessory buildings located at 326 Kirby Drive in the City of Charlotte in accordance with the Housing Code of the City of Charlotte. This Ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:

Senior Assistant City Attorney

IN REM ACTION REQUEST

PROPERTY INFORMATION	
Property Address	326 Kirby Drive
Parcel Identification Number	05504112
Council District	3
Owner(s)	Known and Unknown Heirs of Billie Jo Nicholson
Owner Address as listed in public records	326 Kirby Drive Charlotte, NC 28214
Historic Designation	No
Structure Type re: In Rem Request	Single Family Residential Dwelling (and two small accessory buildings)
Structure Age	96 years
Structure Square Feet	630 (dwelling)
Structure Occupied?	Yes - Occupants will be relocated prior to demolition.
Tax Value of In-Rem Structure(s):	\$41,800 (dwelling unit) \$400 (accessory buildings)

ACTION REQUEST	
Type of In Rem Requested	Demolition
Estimated Demolition Cost	\$5,000
Lien	Lien will be placed on the property for the cost of demolition
Council Priority Area	Great Neighborhoods; Safe Communities

CODE ENFORCEMENT	
Reason for Inspection	Field Observation
Date of Initial Inspection	12/11/2023
Violations	Structural, plumbing heating and electrical violations. Interior walls and ceiling covering consist of holes/cracks and moisture damage. Holes in subflooring. Damaged and inoperable plumbing fixtures. Missing smoke and carbon monoxide detectors. Windows are not reasonably weathertight. Floor covering damaged and unclean. Damaged roof covering. Decayed roof sheathing. The electrical breaker box is not securely mounted and lacks a protective cover. Heating equipment not operational.
Title Search	11/15/2023
Title Search updated:	2/10/2024 & 1/24/2025
Parties of Interest revealed by Title Search?	Title search did not reveal any parties in interest. Note: Two people believed to be staying on the property claim to be heirs (see above re: relocation of occupants).
Owner(s) and parties in interest notified of Complaint and Notice of Hearing (advertisement and certified mail):	<u>2024</u> : 2/28/2024 (Randy William Pickett); 3/5/2024 (Known and unknown heirs of Billie Jo Nicholson) <u>2025</u> : 3/4/2025 (Darrell Wayne Pickett)
Hearing Date for Owner(s) and parties in interest:	<u>2024</u> : 3/19/2024 (Known and unknown heirs of Billie Jo Nicholson); 3/19/2024 (Randy William Pickett) <u>2025</u> : 4/1/2025 (Darrell Wayne Pickett)
Owner(s) and parties interest attendance at hearing:	no
Owner(s) and parties interest ordered to demolish structure by:	<u>2024</u> : 4/29/2024 (Known and unknown heirs of Billie Jo Nicholson) ; 4/29/2024 (Randy William Pickett) <u>2025</u> : 5/5/2025 (Darrell Wayne Pickett; no subsequent appeal received re: this 2025 order)
Received appeal from party in interest:	7/31/2024 (Darrell Wayne Pickett)
Appeal hearing:	10/8/2024; Housing Appeals Board upheld the order to demolish.
Lis Pendens – Complaint Notice of Hearing/Findings of Fact and Order:	12/12/2024
Repair or compliance with order to demolish:	No
Notifications	Owner and parties of interest (if any) have been advised that failure to comply with the Order to Demolish will result in City Council Request for Action to approve demolition by the City and a lien being placed on the property for city's costs.

STAFF RECOMMENDATION

- In Rem Demolition

Recommendation Rationale

- This property has a history of city-contracted nuisance abatement (e.g., tall weeds and grass and debris clean-up).
- The structure is dilapidated, unsafe and unfit for human habitation, evidencing a prolonged lack of essential property upkeep and failure to maintain minimum standards of fitness.
- The owner(s) and all parties of interest have had more than one year since the 10/8/2024 Housing Appeals Board ruling to begin work and bring the property into compliance or comply with the order to demolish. No work has been performed, and no building or demolition permits have been issued.
- The property remains out of compliance, as no action has been taken to repair or demolish in accordance with the order.
- City repair cost is conservatively estimated to be \$45,150 (approximately \$71.66 per square foot), which is 108% of the structure's assessed tax value.
- Action is recommended to address the health and safety issues and other blighted conditions of the structures. A lien will be placed on the property for the city expenses.

Definitions:

Dilapidated: Dilapidated, as it applies to dwellings and rooming houses, means that a dwelling or rooming house is unsafe or unfit for human habitation and cannot be repaired, altered or improved to comply with the minimum standards of fitness at a cost not in excess of 65% of its physical value or 50% of a non-dwelling structure or lodging establishment, as determined by a finding of the inspector, and as set forth in the City of Charlotte Minimum Housing Code (Chapter 11) and Buildings and Building Regulations (Chapter 5)

Lis Pendens. Lis pendens is an official notice to the public that a lawsuit involving a claim on a property has been filed.

Parties in Interest. Parties in interest are parties other than property owners that are identified in the Title Search as having an interest in the property. Examples include mortgage holders, banks, and other lien holders.

Reason for Inspection. There are several ways a property inspection can be initiated:

- a tenant can file a complaint if they believe there are violations in their unit.
- a petition signed by five individuals can be submitted to the city.
- a public agency referral can be received (e.g., from CMPD, CFD, CMS, DSS, Mecklenburg County Health, etc.); or
- a field observation by Code Enforcement Staff can occur.

Title Search. A title search is the process of examining public records to determine and confirm a property's legal ownership and identify any claims or liens against it.

326 Kirby Drive



326 Kirby Drive



Crawl Space (missing heating equipment)



Roof covering



Rear entrance



Front entrance



Interior



Interior

Reference – In Rem Process Following City Council Approval

The following overview is intended to provide further explanation for the process of In Rem actions that are approved by City Council.

- Following In Rem approval by City Council, Housing and Neighborhood Services Code Enforcement Staff initiate Enforcement of the approved action.
- Quotes for contractor services are requested from pre-approved firms chosen through a Request for Proposals (RFP), based on qualification, experience, cost and responsiveness to RFP requirements.
- Upon receiving quotes for the approved In Rem services, staff authorize the selected firm to proceed with the approved work. Note that if the structure is occupied, relocation of occupants occurs prior to demolition.
- Once the contractors have completed the In Rem services, they submit an invoice to the city and city processes the payment,
- A lien is placed on the property for the city's expenses related to the approved activities, and the lien is filed in the public records.