

Staff Report

**CONDITION OF THE PROPERTY AT 4004 PHOENIX STREET**

August 23, 2016

**BACKGROUND:**

The property at 4004 Phoenix was recently brought to the City Council's attention due to the continued deterioration and lack of progress in getting the property sold. The most recent letter to Council, dated August 3, 2016, asked for the City to file a petition under Section 657A of the State Code. This letter, among other complaints, led to Council's request for a staff report regarding the property.

**HISTORY:**

Inspection Division records indicate that complaints have been received regarding this property since May of 2007. Since that time, numerous attempts have been made to bring the property into a compliant condition. (See attached timeline of complaints received and actions taken.) On May 10, 2012, the property was posted as a dangerous building, but the declaration was rescinded after an interior inspection indicated that the structure was in sound condition. Since the property was not considered dangerous, the Inspection Division worked with the owner to bring the property up to the minimum standards. At that time, boarding the house up was sufficient.

The most recent case was opened in July of 2015 after receiving another complaint about the deteriorating home. A 'Notice of Intent' was issued to the property owner indicating that the property would be declared dangerous if significant progress was not made. The owner responded with a plan to sell the property. It was determined that the sale of the property would likely be a quicker resolution, since it was assumed that a new owner would want to either demolish or rehabilitate the property.

On December 9, 2015, the owner accepted an offer on the property. The paperwork for a short sale was submitted and the realtor explained that this process usually takes 60-90 days to be finalized. The Inspection Division was optimistic that, given the timeline, a new owner would be taking out building permits in the spring of 2016. Despite multiple calls to the bank from Inspection staff and neighboring property owners, the sale is still pending.

**STAFF COMMENTS:**

The most recent letter to Council dated August 3, 2016, requested that staff file a petition under Section 657A of the State Code. Staff is not experienced in use of this code section, but since it involves litigation, it will be a process where both the length of time and outcome are not certain. Under this code section, a petition is required to be filed in the District Court and would not be heard until at least 60 days after being filed. The actual time until a hearing is likely to be much longer than that. If the court determines that the property is abandoned and if all affected parties (e.g., bank, lienholders, essentially anyone that is owed monies by the homeowner) agree, or if the parties did not make an effort to comply with the Municipal Code, they can award the title to the City. In addition to the City bearing the cost of the litigation, the City would be responsible for demolishing or repairing the house at its expense.

Staff is most familiar with the Sec. 5.400 of the Ames Municipal Code regarding dangerous buildings. This process is handled administratively and outside of the court system. Any building that meets the definition of a dangerous building may be declared dangerous and be subject to repair or demolition. If City staff determines that demolition is the best option, they will report to the Building Board of Appeals and request permission from the Board to demolish the structure. Once approved by that body, City staff may demolish the structure and assess all costs back to the property. Staff has experience with how long this administrative process may take, and what the result is likely to be.

Although the property is continuing to deteriorate and the neighbors are understandably frustrated at the condition of this property, both the Inspection Division and the City Attorney believe that the sale of the property will have the best outcome. Unfortunately, it is unknown how long it will be until the sale is closed, because any sale process does take time to complete. While time may be an unknown in this situation, the result of that process is known. When the sale goes through, the neighborhood will benefit from a new owner with a desire to make the property habitable. In the alternative, demolition will likely stop the sale and the likely result will be an overgrown lot that the owner may not be willing or able to sell.

Recent photographs of this structure are included with this report.

**Options:**

- 1) The Council can choose to do nothing and wait for the completion of the bank's short sale.
- 2) The Council can choose to proceed with the process under Iowa State Code 657A.10A.
- 3) The Council can choose to pursue the declaration of a dangerous building under section 5.400 of the Ames Municipal Code.







