

VERMONT SUPERIOR COURT
Environmental Division
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Burlington, VT 05401
802-951-1740
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Docket No. 22-ENV-00014

Town of Woodbury,
Plaintiff,

v.

Tanya Daigle,
Respondent.

JUDGEMENT ORDER

This is an enforcement action brought by The Town of Woodbury, Vermont (Town) against Respondent Tanya Daigle (Respondent) alleging certain violations of the Town of Woodbury Zoning Ordinance (the Ordinance) at her property located at 24 Ainsworth Road, Woodbury, Vermont (the Property). The Town is represented by Michael Tarrant, Esq. Respondent is self-represented.

The Court held a merits hearing in this matter on March 13, 2023 via the WebEx platform. Respondent did not appear at the March 13, 2023 hearing. The Town and its lawyer Michael Tarrant, Esq. appeared. After a full opportunity to present evidence, the Court took a brief recess to review the evidence and deliberate. The Court then reconvened the hearing and announced its Finding of Fact, Conclusions of Law and Order on the record. This Judgment Order is a summary of the Court's findings and conclusions made on the record at the hearing and satisfies the Court's obligation under Vermont Rule of Civil Procedure 58

Summary of Finding of Fact

1. Respondent owns the Property located at 24 Ainsworth Road, Woodbury, Vermont.

2. On or about April 28, 2021, the Town served a Notice of Violation on Respondent informing her that the Property was not in compliance with Ordinance § 3.8, Storage of Motor Vehicles and Miscellaneous Junk (the NOV).

3. Section 3.8 states:

In all districts in the Town, any motor vehicle which is not State inspected and all miscellaneous junk must be stored in an enclosed building or placed in a rear yard and screened from view from any public way.

Ordinance, § 3.8.

4. The NOV was sent to Respondent via certified mail on both May 3, 2021 and June 21, 2021, due to receipt issues with the Post Office.

5. Respondent did not cure the violation, nor did she appeal the NOV.

6. On or about January 25, 2022, the Town filed this action.

7. During a July 2022 site visit between the Town and Respondent, there remained several items of noncompliance at the Property including sheet metal, tires and rims behind sheet metal, rusted doodlebug truck, truck cap, sheet metal in a fire pit, an uninspected purple Jeep, a SeaDoo snow mobile, an uninspected green truck visible from the street, and other junk including a basketball hoop, tires, and miscellaneous metal.

8. Since the July 2022 site visit, Respondent has caused improvement at the Property by removing many of these items.

9. There remain, however, a few items that render the Property in noncompliance with the Ordinance § 3.8. This includes metal roofing, a truck cap, a new truck adjacent to the roadway with a bed full of items, along with any other miscellaneous junk that may be obscured from view under snow.

Summary of Conclusions of Law

Based upon the above facts, the Property is noncompliant with Ordinance § 3.8.

This Court orders that Respondent undertake actions to render the Property in compliance with Ordinance § 3.8, including cleaning up all miscellaneous junk and uninspected motor vehicles on or before July 1, 2023.

The Town seeks reimbursement of legal fees and expenses it has incurred relative to this enforcement action. While § 4451 does not expressly authorize a court to award attorney fees and costs, we are authorized to base a continuing fine on the Town's costs of enforcement, provided that the total fine remains under the daily cap required by statute. See Town of Hinesburg v. Dunkling, 167 Vt. 514, 528—29 (1998) (interpreting a prior iteration of § 4451). The Town has provided an affidavit stating that its legal expenses total \$4,661.34. This is reasonable and well below the statutory maximum daily fine of \$200.00 per day. See 24 V.S.A. § 4451. The Court orders that Respondent pay the Town \$4,661.34 on or before July 1, 2023.

This concludes the matter before the Court.

Electronically signed March 20, 2023 pursuant to V.R.E.F. 9(D).

A handwritten signature in black ink that reads "Tom Walsh". The signature is stylized, with the first letters of the first and last names being prominent.

Thomas G. Walsh, Judge
Superior Court, Environmental Division