



TOWN OF CAPE ELIZABETH

Code Enforcement Office
P. O. Box 6260
320 Ocean House Road
Cape Elizabeth, Maine 04107-0060

Phone: 207-799-1619

Email: benjamin.mcdougal@capeelizabeth.org

TO: Michael McGovern, Town Manager
FROM: Benjamin McDougal, Code Enforcement Officer
DATE: December 20, 2016
RE: 75 Ocean House Road, Map U26 Lot 1

75 Ocean House Road is a dilapidated and unsafe property. On June 30, 2011, acting Code Enforcement Officer Tim Nelson determined that the house was unsafe for habitation and the occupant of the house was moved to a different living situation. Since the 2011 report, the property has continued to decline. It is essentially abandoned. The house is structurally unsafe; unsanitary; is unsuitable to be used as a dwelling; and it constitutes a hazard to health and safety because of inadequate maintenance and dilapidation. In February of 2014, I began contacting agents of the mortgage company responsible for the upkeep of the property. On one occasion they scheduled to meet me at the property and no one showed up. It has been nearly 3 years since I began trying to get this property maintained. It is my recommendation that the Town Council authorize the Town Attorney to pursue the legal means necessary to remedy this situation based on the following state statute:

§2851. Dangerous buildings

Whenever the municipal officers in the case of a municipality, or the county commissioners in the case of the unorganized or deorganized areas in their county, find that a building or structure or any portion thereof or any wharf, pier, pilings or any portion thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or deorganized area, as measured from low water mark, is structurally unsafe; unstable; unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, they may after notice and hearing on this matter adjudge the same to be a nuisance or dangerous and may make and record an order prescribing what disposal must be made of that building or structure. [1997, c. 6, §1 (AMD).]

1. Notice. The notice must be served on the owner and all parties in interest, as defined in Title 14, section 6321, in the same way service of process is made in accordance with the Maine Rules of Civil Procedure.

[1997, c. 6, §1 (AMD) .]

2. Notice; how published. When the name or address of any owner or co-owner is unknown or is not ascertainable with reasonable diligence, then the notice must be published once a week for 3 successive weeks prior to the date of hearing in a newspaper generally circulated in the county, or if none, in the state paper.

[1997, c. 6, §1 (AMD) .]

3. *Order.* The order made by the municipal officers or county commissioners must be recorded by the municipal or county clerk, who shall cause an attested copy to be served upon the owner and all parties in interest in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. If the name or address cannot be ascertained, the clerk shall publish a copy of the order in the same manner as provided for notice in subsection 2.

[1997, c. 6, §1 (AMD) .]

4. *Proceedings in Superior Court.* In addition to proceedings before the municipal officers or the county commissioners, the municipality or the county may seek an order of demolition by filing a complaint in the Superior Court situated in the county where the structure is located. The complaint must identify the location of the property and set forth the reasons why the municipality or the county seeks its removal. Service of the complaint must be made upon the owner and parties-in-interest in accordance with the Maine Rules of Civil Procedure. After hearing before the court sitting without a jury, the court shall issue an appropriate order and, if it requires removal of the structure, it shall award costs as authorized by this subchapter to the municipality or the county. Appeal from a decision of the Superior Court is to the law court in accordance with the Maine Rules of Civil Procedure.