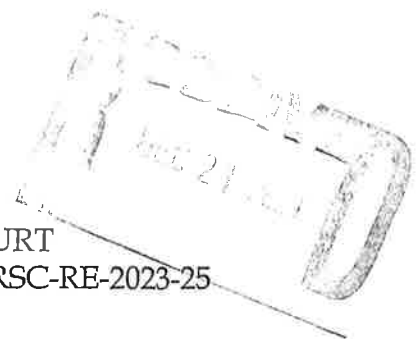


STATE OF MAINE
AROOSTOOK, ss.

SUPERIOR COURT
Docket No. CARSC-RE-2023-25



Inhabitants of the City of Caribou)
)
 Plaintiff)
 v.)
)
 John Barretto)
)
 Defendant)

ORDER OF DISPOSAL

This matter involves a complaint for demolition of a dangerous building pursuant to 17 M.R.S. §2851(4). The court has ordered the disposal of the remaining portions of the residential structure. In the event the Defendant has failed to properly dispose of all of the remnants of the residential structure situated at 15 Prospect Street by July 1, 2024, the Plaintiff is authorized hereby to enter the property and remove and dispose of all of the remnants of the residential structure situated at 15 Prospect Street.

The Defendant shall repay to the City of Caribou all expenses pursuant to 17 M.R.S. §2853.

In the event the City of Caribou proceeds with the removal and disposal consistent with this order, the City shall first follow any applicable procedures and requirements as set forth in 30-A M.R.S. §3106 regarding any "covered property" that may be included in the material currently situated at 15 Prospect Street.

Dated: 12/18/2023


Justice, Maine Superior Court

ENTERED ON THE DOCKET 12/19/2023

STATE OF MAINE
AROOSTOOK, ss.

SUPERIOR COURT
Docket No. CARSC-RE-2023-25

Inhabitants of the City of Caribou)
)
 Plaintiff)
 v.)
)
 John Barretto)
)
 Defendant)

JUDGMENT

Plaintiff has filed a complaint for demolition of a dangerous building pursuant to 17 M.R.S. §2851(4). The matter was set for trial on December 1, 2023. Present at the trial were Plaintiff, represented by Richard Solman, Esq. and Defendant, representing himself, with limited legal assistance provided by Hilary Fernald, Esq. The court received testimony from Penny Thompson, the City Manager and Code Enforcement Officer for the City of Caribou, and the Defendant. The court received Plaintiff's Exhibits 1, 2, 3, 4, 5, 6-A, 6-B, 6-C, 6-D, 6-E, and 7, all without objection.

After due consideration to the evidence presented, the court makes the following findings of fact, conclusions of law, and resulting order:

The Defendant owns a parcel of real estate situated at 15 Prospect Street in the City of Caribou as described in the Quitclaim Deed for Kerry J. Simoneau to John H. Barretto dated April 28, 2014 and recorded in the Southern Aroostook County Registry of Deeds at Book 5301, Page 201. At the time of the commencement of this action, the property consisted of a large residential structure and a garage. The residential structure included 2 stories and a concrete basement. On September 3, 2023, the residential structure was

involved in a fire and was demolished by an excavator in concert with the firefighting efforts. What remained at the time of the hearing was a pile of rubble and debris, including substantial portions of the structure and the basement.

The Defendant has put in considerable effort to try to clean up the property and dispose of the waste material, while at the same time preserving material that he deemed suitable to be reused or repurposed. However, there remains significant debris and portions of the building on the lot.

For purposes of this action, "'building' means a building or structure or any portion of a building or structure." 17 M.R.S. §2851. In order to adjudge a building to be a nuisance or dangerous, the Plaintiff must show that the building is "structurally unsafe, unstable or 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." *Id. at subsection 2.*

In this matter, the building is no longer standing at all. However, there are portions of the building or structure still on the property. There was no evidence that the remains of the structure constitute a current fire hazard. Since the building has been demolished and it is now a compressed pile of debris, the building remnants are not *structurally* unstable. The debris pile is not being put to any use, save for Defendant's efforts to salvage usable material from the pile. Therefore, the Plaintiff must show that the debris is (1) unsanitary, or (2) constitutes a hazard to health or safety because of the

dilapidation, or (3) is otherwise dangerous to life or property. Plaintiff contends that the foundation, while stable, constitutes a fall hazard and was unsanitary.

The court finds that the Plaintiff has produced sufficient credible evidence to support a finding that the pile of material is unsafe. In addition to the nails and sharp material protruding from the debris pile, there is a partial open foundation on the property and the evidence reflected that it is certainly a hazard. There is also a hazard to health due to the substantial risk of vermin. This is not merely a pile of boards but includes all of the material of the structure and contents of the residence or residences that existed at the time of the demolition.

Pursuant to 17 M.R.S. §2851(4): “[a]fter hearing before the court sitting without a jury, the court shall issue an appropriate order and, if it requires removal of the building, it shall award costs as authorized by this subchapter to the municipality or the county.” The court finds that an order of removal of the remaining portions of the structure to be appropriate. The court further orders Defendant to repay to the City of Caribou all expenses pursuant to 17 M.R.S. §§2851 and 2853.

In this matter, since the date of the fire, the owner has demonstrated a willingness to satisfactorily remedy the problems. The Defendant has painstakingly removed and disposed of shingles and other material. He has also neatly stacked material that can be reused. Given his current set of circumstances, the progress has been impressive. That being said, his proposed timeline is inadequate to address the health and safety risks. Therefore, the court orders a delay of the disposal to July 1, 2024. In the event the Defendant has failed to properly dispose of all of the remnants of the residential structure

situated at 15 Prospect Street by July 1, 2024, the Plaintiff is authorized pursuant to the attached Order, which shall be recorded, to enter the property and remove and dispose of all of the remnants of the residential structure situated at 15 Prospect Street.

The Clerk is directed to incorporate this Judgment and attached Order by reference on the docket for the case pursuant to Maine Rule of Civ. Proc. 79(a).

Dated: 12/18/2023



Justice, Maine Superior Court

ENTERED ON THE DOCKET 12/19/2023