

Minutes of a Chapter 54 public hearing held by the Town Board of the Town of Riverhead at Town Hall, Howell Avenue, Riverhead, New York on Thursday, August 1, 2002, at 11:15 a.m.

**Present:**

|                        |               |
|------------------------|---------------|
| Robert F. Kozakiewicz, | Supervisor    |
| Edward Densieski,      | Councilman    |
| Barbara Blass,         | Councilperson |

**Also Present:**

|                    |               |
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| Barbara Grattan,   | Town Clerk    |
| Dawn Thomas, Esq., | Town Attorney |

**Absent:**

|               |               |
|---------------|---------------|
| Rose Sanders, | Councilperson |
| James Lull,   | Councilman    |

Supervisor Kozakiewicz called the meeting to order at 11:15 a.m.

Supervisor Kozakiewicz: "All right. We're here, Barbara, well, for the Board, for the residents in attendance for a Chapter 54 hearing involving a property purportedly owned by William Jenkins, I think it's 71- 731 and ½ West Main Street.

If you would, Barbara, the time being 7- 7, sure, 11:22 a.m., would you read the public notice, the affidavit of publishing and posting, please?"

Public Hearing opened: 11:22 a.m.

Barbara Grattan: "I have affidavits of publishing and posting for a public hearing to be held at Wading River- at Riverhead Town Hall at 11:15 on August 1<sup>st</sup> regarding the property owned by William Jenkins, located at 731 and ½ West Main Street, Riverhead."

Supervisor Kozakiewicz: "Thank you. I guess we need to have the first witness- is there anyone here, first and foremost? I know Mr. Downs is here from the Town of Riverhead to testify on behalf of the Town with respect to this Chapter 54. Is there anyone here who is appearing on behalf of the property owner, Mr. Jenkins? All right. Just let the record reflect that no one responded to the inquiry and

that no one is here for the property owner.

With that said, would you have the witness sworn, please?"

Dawn Thomas: "Yes. Mr. Downs, can you raise your right hand? Please state your name for the record."

Richard Downs: "Richard Downs."

Dawn Thomas: "And do you swear that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?"

Richard Downs: "I do."

Dawn Thomas: "Thank you."

Mr. Downs, the property that the Supervisor mentioned is located at 731 and ½ West Main Street, Riverhead, New York and do you have a tax map number for that property?"

Richard Downs: "Yes. It's Suffolk County designated tax map number 124-4-18."

Dawn Thomas: "Okay. And in connection with the Chapter 54 proceeding that was commenced, did you also research further the owner of the property?"

Richard Downs: "Yes, I did."

Dawn Thomas: "And what information did you gather in connection with determining who the actual owner of the property was?"

Richard Downs: "The actual owner of the property listed on the Assessor's files is William Jenkins."

Dawn Thomas: "Okay. And did you obtain further information in connection with that research; possibly either a deed?"

Richard Downs: "I got the latest tax bill information."

Dawn Thomas: "Okay. And the Tax Receiver's Office- the Tax Assessor's Office, did they have in their files a deed on the property?"

Richard Downs: "Yes."

Dawn Thomas: "Okay. And that deed indicated who was the owner?"

Richard Downs: "William Jenkins."

Dawn Thomas: "And did it indicate what his address was?"

Richard Downs: "731 and ½ West Main Street."

Dawn Thomas: "Okay. That is reflected in the Tax Receiver's records as the owner of the property and that the address of the property owner was 731 and ½ Main Street also?"

Richard Downs: "Yes."

Dawn Thomas: "I'm sorry. I'm just checking the tax- the- "

Richard Downs: "The property was purchased from the County of Suffolk."

Dawn Thomas: "By?"

Richard Downs: "Mr. Jenkins."

Dawn Thomas: "And that was- dated October 25 of 2000?"

Richard Downs: "I believe so."

Supervisor Kozakiewicz: "Just for the record. You're referring to a report- before we get to that, Mr. Downs, I'm sorry, would you please describe your position with the Town of Riverhead, how long you've been employed and what your duties and obligations are in that position?"

Richard Downs: "Riverhead Town Ordinance Inspector. I've been employed since May of 2000. My certifications are New York State Certified Code Enforcement Official. Education - I have 150 hours classroom training in New York State Building, Residential and Fire Code. Over 300 classroom hours with the United States Air Force relating to mechanical building and fire safety. Twenty-one hours classroom training with Key Span Energy in electrical behavior and its role in fire cause and origin. I have eight years experience in the United States Air Force dealing with fire safety and general life

safety issues. One year as a Code Enforcement Officer for Brookhaven Town dealing with public safety issues. Two and a half years as Riverhead Town Code Enforcement Officer in which I have conducted hundreds of building and fire safety inspections and enforce public safety within the Town."

Supervisor Kozakiewicz: "So if I just add it up quickly it's nearly- what is it- 11 years of experience with respect to housing, code enforcement, and fire safety issues?"

Richard Downs: "That's correct."

Supervisor Kozakiewicz: "Okay. And next question was as a Code Enforcement Officer with the Town of Riverhead, what are your general duties and obligations and then we'll get to the specifics with respect to this particular matter."

Richard Downs: "My general duties are to enforce the public safety within the Town."

Supervisor Kozakiewicz: "Okay. And part of those duties are to conduct and prepare proceedings with respect to Chapter 54 of the Code of the Town of Riverhead. Is that correct?"

Richard Downs: "Yes, sir."

Supervisor Kozakiewicz: "Okay. And the particular property that's noted as tax map number 126-4-18 or alternatively 731 and ½ West Main Street, how did it come to your attention or how was it that you were called to this particular location? And then I'm going to ask you to describe more particularly where it's located."

Richard Downs: "Okay. I was contacted by Riverhead Police Department who was contacted by a neighbor who reported that the house was being utilized by various vagrants other than the owner. Upon entering the property, it was observed that the rear door to the dwelling was completely ajar. One vagrant was found to be living in the dwelling on June 14, 2002 by Riverhead Police Department and myself. Said vagrant was observed and appeared to be intoxicated, holding a beer, and alleged cigarette. The vagrant stated to officers that he was not the owner and when questioned if he knew who the owner was, he had no knowledge of."

Supervisor Kozakiewicz: "All right. I know the Town Attorney has some questions with respect to service. 731 and ½ West Main

Street is located on what side of Main Street?"

Richard Downs: "That would be on the south side of Main Street."

Supervisor Kozakiewicz: "Okay. And are there any landmarks or locations nearby that you could give us an idea of where we are? I assume we're going through, past the Suffolk- the Riverhead Free Library or west of that?"

Richard Downs: "Yes."

Supervisor Kozakiewicz: "Okay."

Richard Downs: "It's west of Riverhead Dodge, across from Raynor Avenue."

Supervisor Kozakiewicz: "Very good. Thank you."

Dawn Thomas: "Mr. Downs, in connection with the commencement of this Chapter 54 proceeding, did you serve and post- serve the property owner and post the violation notice on the property?"

Richard Downs: "The property was posted. We made every attempt to mail certified letters to Mr. Jenkins, but he left no return address, no forwarding address upon leaving the premises at 731 and ½ West Main Street."

Dawn Thomas: "And when was the property posted?"

Richard Downs: "The property was posted on June 21<sup>st</sup>."

Dawn Thomas: "And how long was it posted for?"

Richard Downs: "It's posted to date."

Dawn Thomas: "Okay. And mailing- the certified mailing that you conducted in accordance with the Chapter 54 was made to what address?"

Richard Downs: "731 and ½ West Main Street."

Dawn Thomas: "And where did you obtain that address from?"

Richard Downs: "I obtained that from the Assessor- the Tax

Assessor's-- "

Dawn Thomas: "Okay."

Richard Downs: "Office."

Dawn Thomas: "Okay. Good. So in your Chapter 54 application or petition, you indicated that several issues with relation to safety and health and you just went over some of those with respect to the individuals that are occupying the property. In connection with that occupancy, what do you see as hazardous and then you can go forward with the other maintenance issues."

Richard Downs: "Okay. The building itself is, you know, exposed to the elements. Due to the fact that there are no utilities to the subject premises, the vagrants who have taken up residence in same have left the windows open for a prolonged period of time causing water damage to the interior windowsills as well as the floors and walls around the same.

The building is not provided with adequate egress due to the fact that the vagrants residing in have locked the front door. The only means of rapid egress would be through a two and a half foot wide doorway, down a narrow steep set of stairs, through a non-illuminated basement littered with copious amounts of debris, exiting into a backyard riddled with holes and a trench running from the rear of the structure to the southern edge of the property.

It's inadequately maintained in the fact that the interior has been scattered with debris, food covered in mold, various amounts of garbage is scattered on the inside of the dwelling."

Dawn Thomas: "And, when you were in the dwelling, did you note any hazardous materials located in there?"

Richard Downs: "We found a can of- well, actually, a five gallon can of gasoline."

Dawn Thomas: "Okay. And I think you indicated earlier that the individuals that were occupying the house appeared to be intoxicated and were also smoking?"

Richard Downs: "Yes, they were."

Dawn Thomas: "Okay."

Supervisor Kozakiewicz: "I just have one question. This is all an inspection that took place, just so I'm clear, on June 14<sup>th</sup> with a Riverhead Town police officer?"

Richard Downs: "Yes."

Supervisor Kozakiewicz: "Okay."

Dawn Thomas: "And that was in connection with an investigation- "

Richard Downs: "Pertaining to a call that was made by a neighbor."

Supervisor Kozakiewicz: "Okay. For the record, do you have for us the name of the Riverhead Town police officer who accompanied you?"

Richard Downs: "That would be Officer Oliver."

Supervisor Kozakiewicz: "Okay. Thank you."

Dawn Thomas: "And, I think, you indicated that the interior of the premises was- had a large amount of debris. Can you give a description of where and about how much debris was in the house? I also know you have some pictures and we can put them into the record also."

Richard Downs: "Yes. I took pictures of the house prior to going there. There's numerous amounts of household garbage, mattresses, things of that source scattered all through the front of the property. Additionally, there's two unregistered vehicles also located on the property."

Dawn Thomas: "And was that debris located in an area that would preclude egress and ingress- ingress and egress?"

Richard Downs: "Yes. It was."

Dawn Thomas: "Do you have photographs that you took on that date?"

Richard Downs: "Yes, I do."

Dawn Thomas: "Can you just describe what they are (inaudible)?"

Richard Downs: "The first photograph shows the front of the dwelling, just to the west of the front door, all the scattered garbage and mattresses."

Supervisor Kozakiewicz: "Is that photograph labeled number 1, just so that when we- for the record, we can also have photographs in evidence so we know what they're referring to?"

Dawn Thomas: "Okay. I'm going to- "

Supervisor Kozakiewicz: "So photograph number 1 is showing the debris."

Dawn Thomas: "I'm just going to mark it- "

Supervisor Kozakiewicz: "Well, we'll make that Town's evidence number 1?"

Dawn Thomas: "Exhibit 1."

Supervisor Kozakiewicz: "Exhibit 1. Good okay."

Dawn Thomas: "And I'll hand that to you, Mr. Supervisor. You can- "

Richard Downs: "The second photograph is just a close-up of the same."

Dawn Thomas: "And that we're going to mark Exhibit 2."

Richard Downs: "The third photograph is the picture of the two unregistered vehicles on the property located in the front of the dwelling. These two vehicles I have written summons on. I just have not been able to serve because we cannot locate the owner of the property."

Dawn Thomas: "Photograph of the vehicles, we're going to mark Exhibit 3."

Richard Downs: "The fourth photograph is the small stairwell, the only way out of the building since the front door is locked."

Dawn Thomas: "And this we're going to mark Exhibit 4."

Richard Downs: "The fifth photograph I have is the actual

posting that was done on July 21<sup>st</sup>- June 21<sup>st</sup>, correction, I'm sorry."

Dawn Thomas: "We'll mark Exhibit 5. And where was that posted on the property?"

Richard Downs: "That was posted at the front door of the dwelling."

Dawn Thomas: "Okay."

Supervisor Kozakiewicz: "Front door meaning the doorway that's facing Main Street?"

Richard Downs: "Yes. Correct."

Supervisor Kozakiewicz: "Okay."

Dawn Thomas: "And this is the door that's the ingress and egress or no?"

Richard Downs: "No. The door that's ingress and egress is on the inside of the building. It's down through a stairway, down to the basement."

Dawn Thomas: "I'm just looking at the photograph- "

Supervisor Kozakiewicz: "And that would be on the south side of the building, if I understand you correctly- "

Richard Downs: "Correct."

Supervisor Kozakiewicz: "-- from your prior testimony."

Richard Downs: "Correct."

Supervisor Kozakiewicz: "Okay."

Dawn Thomas: "And this door- because this door is open. At the time when you posted this, that door was just wide open?"

Richard Downs: "We had already been in and inspected the building, the Riverhead PD."

Dawn Thomas: "Okay."

Richard Downs: "So, the door- the front door was opened by us."

Dawn Thomas: "Okay."

Richard Downs: "And it was re-secured when we left."

Dawn Thomas: "Okay."

Richard Downs: "The sixth photograph I have is the inside of the dwelling, pictures of various garbage pots and unsanitary items."

Dawn Thomas: "Where was that- where was this garbage?"

Richard Downs: "That was located in the kitchen of the dwelling."

Dawn Thomas: "Okay. And this would be Exhibit 6. Was that in the center of the room? Or it looks like it's in a doorway."

Richard Downs: "It was in the doorway, heading into the kitchen. This is the sixth photograph I have- "

Dawn Thomas: "Seventh."

Richard Downs: "Seventh-- of a five gallon can of- half full gasoline."

Dawn Thomas: "And where in the dwelling was this gasoline?"

Richard Downs: "This was in the foyer of the dwelling."

Dawn Thomas: "Did you see any evidence that any individuals that were occupying the dwelling were attempting to create fires to warm themselves at all?"

Richard Downs: "Not on that time and date. The eighth picture we have some-- a picture of one of the bedrooms on the west side, just a picture of the dresser, various shampoos and lotions of one of the vagrants that was living in there."

Dawn Thomas: "This is, I think, number 8."

Richard Downs: "Ninth picture is a picture of a closet in the same bedroom with her clothing."

Dawn Thomas: "This is Exhibit 9."

Richard Downs: "Tenth picture we have is a picture of the kitchen floor scattered with household garbage and- which was littered with bugs and roaches."

Dawn Thomas: "This is Exhibit 10. Was that last picture sort of a representative picture of the condition of the rest of the premises in terms of garbage and debris- "

Richard Downs: "Yes."

Dawn Thomas: "That you described earlier?"

Richard Downs: "Yes."

Dawn Thomas: "And did you have any indication- I know you said there was an individual there and he indicated that he was not- he did not know who the owner was and were there any other individuals present at that time?"

Richard Downs: "No."

Dawn Thomas: "Did he indicate to you how long he had been living there?"

Richard Downs: "He was fairly intoxicated at the time."

Supervisor Kozakiewicz: "I assume you want these admitted into evidence?"

Dawn Thomas: "Yes."

Supervisor Kozakiewicz: "And these fairly and accurately depict the conditions of the date you were there, June 14, 2002?"

Richard Downs: "Yes, they do."

Supervisor Kozakiewicz: "I have no- they're admitted. There's no objection, obviously, from anybody here, so admit them into evidence."

Dawn Thomas: "I don't have any further questions."

Supervisor Kozakiewicz: "All right. We're also going to, I

guess, I assume you are going to want to admit his violation notice and report into evidence as well?"

Dawn Thomas: "Yes."

Supervisor Kozakiewicz: "All right. No objection. Exhibit 11 admitted into evidence for purposes of the hearing. All right.

Any questions from the Board?"

Councilman Densieski: "No. I would just like to point out that from my personal view of that property and from my personal knowledge of people in the community, there's been ongoing problems there for years."

Dawn Thomas: "I'm sorry. I don't think I asked you, Mr. Downs, what your recommendations are with respect to the actions that the Board should authorize pursuant to Chapter 54."

Richard Downs: "I feel that the structure is sound but, however, I do request that the house be boarded up and secured so that no further vagrants can occupy it and to prevent any possible fire hazards from the neighborhood."

Councilman Densieski: "Would that include clean up of the premises?"

Richard Downs: "Prior to this Chapter 54, I personally did a Chapter 96 resolution which was adopted and the property has been cleaned up to date, that I know of."

Councilman Densieski: "Right. Okay. Does that include the inside of the premises or just the exterior?"

Richard Downs: "No. It does not. It's only the outside."

Councilman Densieski: "Okay. So is there a mechanism to have the inside cleaned? I mean if we leave it in that condition, isn't that going to continue to breed cockroaches and other vermin?"

Richard Downs: "Yes. I would recommend that we have the inside of the dwelling cleaned from all household garbage."

Supervisor Kozakiewicz: "And as you pointed out, in your opinion it's structurally safe. It just needs to be secured, boarded

up so that it cannot be entered and used in the meantime?"

Richard Downs: "Correct."

Supervisor Kozakiewicz: "Okay. I have nothing else at this point. At this point, I think that based upon the testimony we heard, once again, I'm going to ask since Officer Downs has concluded his testimony, I assume there's no other testimony that the Town would want to put on with respect to this Chapter 54, is that accurate?"

Dawn Thomas: "That's correct."

Supervisor Kozakiewicz: "That would be the Town's case. I'm going to, once again, just for the record, ask if anyone is here on behalf of Mr. William Jenkins, the owner of 731 and ½ West Main Street? And, once again, I'm going to ask the record to note that there was nobody who answered or indicated that they were here for Mr. Jenkins and I'm going to close this public hearing at this particular time, the time being 11:43.

I think at this point, unless there's objection from the Board, what I would ask is that we actually prepare a resolution for Tuesday night's meeting, August 6<sup>th</sup>, in order to do exactly what Officer Downs is asking us this Town Board to do, which is to have an order to secure the premises and to clean the interior of same so that it cannot be entered and so that access is denied to anyone who is looking to use this structure.

Any objection from the Board? All right. So we'll have a resolution. You'll do that, Dawn?"

Dawn Thomas: "Yes, I will."

Supervisor Kozakiewicz: "Thank you."

Public Hearing closed: 11:43 a.m.

*Barbara Guttan*  
Town Clerk