

3333 Ridgeland
Highland, 46322

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**FINDINGS OF FACT AND DECISION
REGARDING ORDER OF ENFORCEMENT**

SUBJECT MATTER: In the Matter of Joseph F. Dijak

This matter is before the Town of Highland, Highland Plan Commission, Lake County, Indiana, pursuant to an Order Requiring Action Relative to Unsafe Premises pertaining to the property located at 8810 Kleinman Avenue, Highland, Indiana.

This matter is before the Board for hearing pursuant to Indiana Code Section 36-7-9-7 on this 5th day of June, 1991. Pursuant to said statute, an Order Requiring Action Relative to Unsafe Premises was issued by Kenneth J. Mika, Building Inspector for the Town of Highland, as "Enforcement Authority" under Ordinance No. 919, such order being issued to Joseph F. Dijak. The date of said Order is May 9, 1991 and said Order Requiring Action Relative to Unsafe Premises was personally served upon Joseph F. Dijak pursuant to Affidavit of Service dated May 9, 1991.

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Present for said hearing are Attorney R. Brian Woodward, Kenneth Mika, John Bach and Joseph F. Dijak, the owner of a substantial property interest in the premises which the Order Requiring Action pertains, and presented evidence and other information regarding the Order Requiring Action Relative to Unsafe Premises. The Enforcement Authority moves to introduce Exhibits 1-15 into evidence and said Exhibits 1-15 are admitted without objection. Based upon the representations, evidence, documentation and other information presented, the Town of Highland Plan Commission, as "Hearing Authority", now establishes the factual basis as follows:

1. That the area affected by the Order Requiring Action Relative to Unsafe Premises is commonly known as 8810 Kleinman Avenue, Highland, Indiana.
2. That the Order was issued to Joseph F. Dijak, the owner of a substantial property interest in the afore-described premises.
3. That on May 9, 1991, Kenneth J. Mika, the Building Inspector for the Town of Highland and Enforcement Authority therefor, issued an Order Requiring Action Relative to Unsafe Premises in relation to the above-described premises at 8810 Kleinman Avenue and further issued a copy of the Order Requiring Action upon Joseph F. Dijak by personal delivery.
4. That the Town of Highland, Indiana, has in full force and effect an Ordinance No. 919 passed and adopted September 23, 1985.



STATE OF INDIANA/S.S.IND.
LAKE COUNTY
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5. That the Town of Highland Unsafe Building Ordinance provides under Section 2.D., paragraphs 3, 4, 5, 6, 7, 8, 10, 11, 12, 14, 15 and 16 and Section 3 as follows:

D. The definitions of an "Unsafe Building" contained in I.C. 37-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in the Town by adding the following to said definition: Any building or structure which has any or all of the conditions or defects herein described shall be deemed to be an "Unsafe Building" provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered.

3. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose or location.

4. Whenever any portion, member, or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property.

5. Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability; or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half (1/2) of that specified for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted for such buildings.

6. Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

7. Whenever the building or structure, or any portion thereof, because of: dilapidation, deterioration, or decay; faulty construction; the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay, or inadequacy of its foundation; or any other cause is likely to partially or completely collapse.

8. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

. . .

10. Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

11. Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated as to become: an attractive nuisance to children, or freely accessible to persons for the purpose of committing unlawful acts.

12. Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of the Town, or of any law or ordinance of this state or town relating to the condition, location, or structure of buildings.

14. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the Building Inspector to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.

15. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the Building Inspector to be a fire hazard.

16. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

Section 3. Unsafe Buildings a Nuisance. All buildings or portions thereof within the Town which are determined, after inspection by the Building Inspector, to be unsafe as defined in this subchapter, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified in the Town of Highland Unsafe Building Law.

6. That there is further in force and effect, Indiana Code 36-7-9-5(a):

(1) Vacating of an unsafe building;

(2) Sealing an unsafe building against intrusion by unauthorized persons in accordance with a uniform standard established by ordinance;

(4) Removal of trash, debris, or fire hazardous material in and about the unsafe premises;

(5) Repair of an unsafe building to bring it into compliance with standards for building condition or maintenance prescribed by law;

(6) Removal of part of an unsafe building;

(7) Removal of an unsafe building.

7. That the property located at 8810 Kleinman Avenue, Highland, Indiana 46322, and owned by Joseph F. Dijak, is in violation of the aforementioned ordinance and statute and the structure located on the property was and is in an impaired structural condition that makes it unsafe to a person or property, constitutes a fire hazard, is a hazard to the public health, and is a public nuisance. That the structural strength or stability thereof makes it unsafe to a person or property and is less than the minimum requirements for new buildings or similar structures.

8. That the structural portions and members of the structure are likely to fail or to become detached and dislodged and collapse and thereby injure persons or damage property.

9. That the structure is manifestly unsafe for the purpose for which it is being or intended to be used.

10. That the building and structure shows greater than thirty-three percent (33%) damage or deterioration to its supporting members and greater than fifty percent (50%) damage or deterioration to its non-supporting members and enclosures and walls.

11. That the building has become so dilapidated so as to become an attractive nuisance to the children and freely accessible to persons for the purposes of committing unlawful acts.

12. That the building has become dilapidated and has not been adequately maintained so as to become unsanitary and unfit for human habitation and is likely to cause sickness or disease.

13. That said structure due to its dilapidated condition has been determined by the Building Inspector to be a fire hazard.

14. That said building has been abandoned for a period in excess of six (6) months so as to constitute an attractive nuisance or hazard to the public.

15. That the structure has been permitted to remain in an unsafe condition and has not been brought into compliance with the standard for a building as prescribed by law nor has it been removed from the premises so as to extinguish its unsafe condition.

NOW, THEREFORE, BE IT ORDAINED AND DECIDED by the Plan Commission as follows:

1. That Joseph F. Dijak, the owner of a substantial property interest in the premises at 8810 Kleinman Avenue, Highland, Indiana, has until June 19, 1991 to repair the residence to such an extent that it is no longer considered an unsafe building and to clean the premises to such an extent that said premises are no longer considered an unsafe premises pursuant to the definitions of I.C. 36-7-9-2, or in the alternative, Joseph F. Dijak has until June 19, 1991, to demolish the residence located at 8810 Kleinman Avenue, Highland, Indiana in accordance with Town of Highland Ordinance No. 959.

2. That in the event Joseph F. Dijak does not comply with the conditions set forth in the proceeding paragraph on or before June 19, 1991, that the Town of Highland, through its enforcement authority, Kenneth J. Mika, Building Inspector, shall take whatever action is reasonably necessary and required to be performed by a contractor in order to remove and demolish the structure located at 8810 Kleinman Avenue, Highland, Indiana in accordance with the statutory provisions of I.C. 36-7-9-1 et. seq. and Town of Highland Ordinance No. 959.

3. That the Order dated May 9, 1991 by Kenneth J. Mika in the above-referenced matter is in all respects affirmed.

DULY ENTERED this 5th day of June, 1991.

TOWN OF HIGHLAND, INDIANA
PLAN COMMISSION

Lance E. Ryskamp
LANCE RYSKAMP, Chairman

Attest:

Barbara Knight
BARBARA KNIGHT,
Recording Secretary

