

**Murray Code Enforcement Board Minutes**  
**February 5, 2013**

The Murray Code Enforcement Board met in regular session on February 5, 2013 at 5:00 p.m. in the council chambers of City Hall located at 104 North 5<sup>th</sup> Street.

**Board Members Present:** Sam Underwood, Mitzi Key and Thomas Rottinghaus

**Others Present:** Jennifer Tolley, David Roberts, Officer Greenfield and general audience.

Chairman Thomas Rottinghaus called the meeting to order and an attendance roll call was then taken.

**Approval of January 8, 2012 Minutes:** Motion made by Mitzi Key to accept and seconded by Sam Underwood.

**Public Hearing – Steven Birgbauer:** Chairman Rottinghaus called the public hearing to order and Jennifer Tolley read the case information. Chairman asked the board if they had any direct or indirect financial or personal interest in any matter to be decided by the Board. All Board members answered no. Officer Greenfield came forward at this time and was sworn in. Officer Greenfield stated that a numerous of calls were received by dispatch about barking dogs on South 13<sup>th</sup> Street. Officer Greenfield state that when he arrived at 505 S. 13<sup>th</sup> there was a small dog outside barking and no one was home at the resident for him to issue a warning to. Chairman Rottinghaus asked if that was the address that the complaint was about. Officer Greenfield replied that there are a couple of houses with dogs that they receive complaints about from the Murray Plaza. Officer Greenfield stated that on the date that the citation was issued, he first issued him a warning about the dog, but Mr. Birgbauer got aggressive, stating that he was lying, and derogatory statements regarding the people at Murray Plaza. Officer Greenfield stated that at this time he issued Mr. Birgbauer a citation. Chairman Rottinghaus asked what the dates were of complaints received regarding this particular dog. Officer Greenfield answered December 19, 2012 at 14:30 and the date of the citation. Officer Greenfield stated he was able to hear the dog barking from the front of the residence at 505 S. 13<sup>th</sup> when he pulled up. Chairman Rottinghaus asked the Board if they had any questions and they all answered no. At this time the Respondent, Steven Birgbauer came forward and was sworn in. Mr. Birgbauer stated that he was outside in the back yard with his dog working when the officer came up to his fence. Mr. Birgbauer said he asked the officer what was the problem, the Officer stated that his dog was barking and he replied to the officer that he was not. Mr. Birgbauer stated that when the lady at the Murray Plaza Court came outside to clean out trash cans and the dog at 507 S. 13<sup>th</sup> began barking at her. Mr. Birgbauer stated that his dog is an inside dog 80% of the time but he does leave him outside on occasion. Mr. Birgbauer added that there was an ongoing issue between the Murray Plaza and the neighbor's dogs along South 13<sup>th</sup> Street. He stated they have made attempts to resolve the issue with the owners of the Murray Plaza Court but they showed no interest in communicating with them. Chairman Rottinghaus asked the Board if they had any questions and they all answered no. The witness for the respondent, Paul Gann came forward and was sworn in. Mr. Gann, whose address is 507 South 13<sup>th</sup>, stated that Mr. Birgbauer was with him on the day the officer came by and Mr. Birgbauer's dog was inside prior to the arrival of the officer. Mr. Gann stated that his dogs came outside with him and the neighbor's dog at

507 South 13<sup>th</sup> was outside as well. Mr. Gann went on to say that all three dogs were barking and so he put his dogs back inside the house. Mr. Gann stated that the neighbor's dog continued barking at the lady that was coming outside at the Murray Plaza Court. Chairman Rottinghaus asked the Board if they had any questions and they all answered no. Chairman Rottinghaus asked Officer Greenfield if he had anything to add. Officer Greenfield said he wanted to clarify a couple of things. Officer Greenfield stated that he has spoken with the owners of Murray Plaza and they seem not to want to work anything out with the residence of 13<sup>th</sup> Street regarding the dogs. Officer stated that Mr. Birgbauer's dog may not have been the one barking when the complaint was called in but when the officer arrived the dog was barking. Mr. Birgbauer came forward and Mitzi Key asked him how many warnings he had been issued previous to this date. Mr. Birgbauer stated this was the first time. Chairman Rottinghaus asked the Board if they had any questions and they all answered no. The Board deliberated. **Sam Underwood made a motion that the Respondent, Steven Birgbauer was not in violation of said citation due to inadequate amount of warnings given previously to the issuance of citation and shall be dismissed of all said fines. Mitzi Key seconded and it carried by a 3-0 roll call vote.**

Being no further business, Chairman Rottinghaus made a motion to adjourn.

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Chairman, Thomas Rottinghaus

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Recording Secretary, Jennifer Tolley