



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

RECEIVED

SEP 08 2011

Office of the City Attorney  
300 Sixth Street MAYOR'S OFFICE

Rapid City, South Dakota 57701-2724

Telephone: 605-394-4140

FAX: 605-394-6633

E-mail: [attorney@rcgov.org](mailto:attorney@rcgov.org)

[www.rcgov.org/attorney/attorneyhomepage.htm](http://www.rcgov.org/attorney/attorneyhomepage.htm)

September 7, 2011

Ms. Jennifer Giroux  
3213 Dover Street  
Rapid City, SD 57702

Re: 3213 Dover Street -- Floodplain Issues

Dear Ms. Giroux:

At the request of Alderman Wright and Mayor Kooiker, I am writing to address the floodplain issues with your property at 3213 Dover Street. In addition to myself, Acting Public Works Director and City Engineer Dale Tech, Flood Plain Administrator Mary Bosworth, and Building Official Brad Solon have studied your issue. After reviewing FEMA maps, paperwork you provided, the municipal code, and the building permit file for your property, city staff has determined that there is no easy remedy to the situation. I will attempt to outline the options that city staff thinks are available to you. This is not an exhaustive list, and I would encourage you to consult with your attorney and your engineer to determine if you have other avenues to pursue.

First, there is the option of the status quo. You have a non-conforming use, but you can continue to reside on the property. As you've already learned, there are very stringent rules on what you can do with the house in the way of repairs, maintenance, and alterations. The basement should not be occupied, you would be best served to purchase flood insurance, and you would be required to disclose to any future purchasers that the house is located in the flood plain.

Second, you could make improvements to the property to bring the property into compliance with the municipal code and FEMA regulations. Improvements would include moving the house off of the basement, filling in the basement, or removing the basement and replacing it with a new foundation. These options would require that the main floor of the house would then be placed at least one foot above the base flood elevation. Please note that "flood proofing" a basement is not allowed for a residential structure.

You also have the option to pursue legal and/or equitable remedies through the court system. You had earlier expressed to me your disinclination to file suit to resolve this matter. I

Ms. Jennifer Giroux  
Page 2

cannot give you legal advice as to whether you have an actionable claim, but I would encourage you to discuss your options with your attorney and re-evaluate your options.

Lastly, it was brought up that at some point in the past, following the 1972 flood, the then-owners of the property were approached by the City of Rapid City and given the option of keeping the house to fix up or allowing the City to condemn the property. You could petition the Common Council to request that the City purchase this property, demolish the structure and add the lot to the greenway. I will advise you that the city staff mentioned above will be unanimous in its recommendation that the Council not take that action, but nevertheless, the Council is not bound by staff recommendations and is the ultimate decision maker in appropriating City tax dollars. If you desire to be put on the Council's agenda, please contact me or Maggie Paul, the paralegal in the City Attorney's Office, and we can arrange for the placement of your request on the next Council agenda.

Thank you for your willingness to contact and work with city staff on this issue. I've enjoyed the opportunity to meet you, and I wish you luck in resolving this situation. If you have further questions, please do not hesitate to contact me.

Sincerely,



Wade Nyberg  
Assistant City Attorney

WEN/adg

cc: Mayor Kooiker  
Alderman Wright  
Dale Tech  
Brad Solon  
Mary Bosworth