

**CITY OF GAUTIER
MEMORANDUM**

To: Samantha Abell, City Manager
From: Joseph Belles, Code Enforcement Officer
Through: Chandra Nicholson, Planning and Economic Development Director
Patty Huffman, Grants and Projects Manager
Date: April 24, 2014
Subject: Abatement of Substandard Property Conditions, 3677 Mackerel Drive
Gautier, Mississippi 39553

REQUEST:

Pursuant to the Mississippi Codes Annotated, 1972 § Title 21, Chapter 19, Section 11: Staff requests that the City Council set a public hearing date for June 3, 2014. The purpose of the hearing is to determine whether property or parcel of land located within a municipality is in such a state of uncleanness as to be a menace to the public health, safety and welfare of the community.

BACKGROUND:

An initial observation by code enforcement in October 2008 cited a non-operational vehicle, a boat, and the vacant property was scattered with trash and debris. A violation notice was left at the property and followed by a letter of violation sent to the owner who resided a few blocks away at 2805 Flounder Circle. The initial violation was closed by code enforcement in December 2008.

A few years later when code enforcement was given the additional responsibility to address dilapidated homes and structures, the case was reopened on this vacant property in February 2011. At this time code enforcement cited, a non-operation vehicle, boat and the dilapidated condition of the home and allowed the owner 30 days to correct the violations. In March 2011, the owner was served with a summons to appear in municipal court on June 6, 2011. She entered a plea of not guilty and was scheduled for trial on July 11, 2011. When she did not appear in municipal court the presiding judge found her guilty in her absence and the fine amount reached a maximum allowed by law at one thousand dollars. After the owner began making payments on the fine, it was learned the owner had applied for a grant to repair the home and code enforcement took no additional action during the application process.

Later, the owner was incarcerated for five years on a felony charge with Mississippi Department of Corrections. After she was paroled another letter of violation was mailed to her in November 2013, citing the previous municipal court finding of guilty and that the property remains in a dilapidated and now unsecured condition. In April 2014, she was again found guilty in municipal court. The municipal judge had provided her nearly three months to make the necessary repairs before setting a daily fine that again reached the maximum allowed for municipal cases of one thousand dollars. The home remains in

a dilapidated condition; with broken windows, decaying wood surfaces and missing the entire back door and frame leaving the home in violation of the International Building Code and declaring the structure unsafe and unsecured and clearly noticeable from the public right-of-way.

Property owners in the vicinity remain concerned with the visible appearance of this overgrown property and are concerned for the health, safety and welfare of their neighborhood with this unsecured and unsafe structure. Code enforcement informed the owner by letter on April 23, 2014, the property would be recommended for an abatement hearing if not in compliance by June 3, 2014.

DISCUSSION:

The primary goal is to clean up the vacant property, maintain the overgrown property condition as necessary and secure the structure in accordance with the International Building Code and Mississippi Code 1972.

RECOMMENDATION:

Staff recommends City Council hold a public hearing on June 3, 2014, in order to determine the property a menace to the public health, safety and welfare of citizens and direct Staff to commence with abatement/clean up of the overgrown property and securing the structure.

ATTACHMENTS 11:

1. Mississippi Codes Annotated, 1972 § Title 21, Chapter 19, Section 11
2. Property tax document
3. Parcel information
4. April 23, 2014, Letter to recommend property clean up
5. Summons to Appear, January 13, 2014
6. November 7, 2013, Letter of Violation
7. Summons to Appear, June 6, 2011
8. February 22, 2011, Letter of Violation
9. November 10, 2008, Letter of Violation
10. October 27, 2008, Violation Notice
11. Current Photos

COPY

Mississippi Code of 1972, Section 21-19-11, provides procedures to municipalities to clean private property determined to be a menace to those in the municipal community thus:

Section 1. Section 21-19-11, Mississippi Code of 1972 is amended as follows:

(1) To determine whether property or parcel of land located within a municipality is in such a state of uncleanliness as to be a menace to the public health, safety and welfare of the community, a governing authority of any municipality shall conduct a hearing, on its own motion, or upon the receipt of a petition signed by a majority of the residents residing within four hundred (400) feet of any property or parcel of land alleged to be in need of the cleaning. Notice shall be provided to the property owner by:

(a) United States mail two (2) weeks before the date of the hearing mailed to the address of the subject property and to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; and

(b) Posting notice for at least two (2) weeks before the date of a hearing on the property or parcel of land alleged to be in need of cleaning and at city hall or another place in the municipality where such notices are posted.

Any notice required by this section shall include language that informs the property owner that an adjudication at the hearing that the property or parcel of land is in need of cleaning will authorize the municipality to reenter the property or parcel of land for a period of one (1) year after the hearing without any further hearing if notice is posted on the property or parcel of land and at city hall or another place in the municipality where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this section shall be recorded in the minutes of the governing authority in conjunction with the hearing required by this section.

If, at such hearing, the governing authority shall adjudicate the property or parcel of land in its then condition to be a menace to the public health, safety and welfare of the community, the governing authority, if the owner does not do so himself, shall proceed to clean the land, by the use of municipal employees or by contract, by cutting grass and weeds; filling cisterns; removing rubbish, dilapidated fences, outside toilets, dilapidated buildings, personal property, which removal of personal property shall not be subject to the provisions of Section 21-39-21, and other debris; and draining cesspools and standing water there from. The governing authority may by resolution adjudicate the actual cost of cleaning the property and may also impose a penalty not to exceed One Thousand Five Hundred Dollars (\$1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty may become a civil debt against the property owner, or, at the option of the governing authority, an assessment against the property. The "cost assessed against the property" means either the cost to the municipality of using its own employees to do the work or the cost to the municipality of any contract executed by the municipality to have the work done, and administrative costs and legal costs of the municipality.

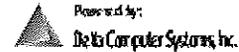
For subsequent cleaning within the one-year period after the date of the hearing at which the property or parcel of land was adjudicated in need of cleaning, upon seven (7) days' notice posted both on the property or parcel of land adjudicated in need of cleaning and at city hall or another place in the municipality where such notices are generally posted, and consistent with the municipality's adjudication as authorized in this subsection (1), a municipality may reenter the property or parcel of land to maintain cleanliness without further notice or hearing no more than six (6) times in any twelve-month period with respect to removing dilapidated buildings, dilapidated fences and outside toilets, and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land, and the expense of cleaning of the property shall not exceed an aggregate amount of Twenty Thousand Dollars (\$20,000.00) per year, or the fair market value of the property subsequent to cleaning, whichever is less. The governing authority may assess the same penalty for each time the property or land is cleaned as otherwise provided in this section. The penalty provided herein shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a municipality clean a parcel owned by the State of Mississippi without first giving notice.

(2) If the governing authority declares, by resolution, that the cost and any penalty shall be collected as a civil debt, the governing authority may authorize the institution of a suit on open account against the owner of the property in a court of competent jurisdiction in the manner provided by law for the cost and any penalty, plus court costs, reasonable attorney's fees and interest from the date that the property was cleaned.

(3) If the governing authority does not declare that the cost and any penalty shall be collected as a civil debt, then the assessment above provided for shall be a lien against the property and may be enrolled in the office of the circuit clerk of the county as other judgments are enrolled, and the tax collector of the municipality shall, upon order of the board of governing authorities, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent municipal taxes.

(4) All decisions rendered under the provisions of this section may be appealed in the same manner as other appeals from municipal boards or courts are taken.

(5) Nothing contained under this section shall prevent any municipality from enacting criminal penalties for failure to maintain property so as not to constitute a menace to public health, safety and welfare.



Property Link

JACKSON COUNTY, MS

Current Date **4/14/2014**

Tax Year **2013**
Records Last Updated **4/11/2014**

OWNER	AGUILLARD BARBARA L 3677 MACKERAL DR GAUTIER MS 39553	ACRES : **NA** LAND VALUE : 5930 IMPROVEMENTS : 46240 TOTAL VALUE: 52170 ASSESSED : 5217
PARCEL ADDRESS	86304192.000 3677 MACKERAL	

TAX INFORMATION

YEAR 2013	TAX DUE	PAID	BALANCE
COUNTY	162.99	0.00	167.88
CITY	180.20	0.00	185.61
SCHOOL	137.02	0.00	141.13
TOTAL	480.21	0.00	494.62 3% Penalty

To Pay Online, WWW.MSISTOP.COM

LAST PAYMENT DATE ****NA****

MISCELLANEOUS INFORMATION

EXEMPT CODE	LEGAL LOTS 173,174 & 175 POINT CLEAR
HOMESTEAD CODE REG	RIVIERA S/D SECT I PB 10-24
TAX DISTRICT 3840	DB 1353-757 (357M MAP872.03-01
PPIN 072068)
SECTION 03	
TOWNSHIP 8S	
RANGE 7W	

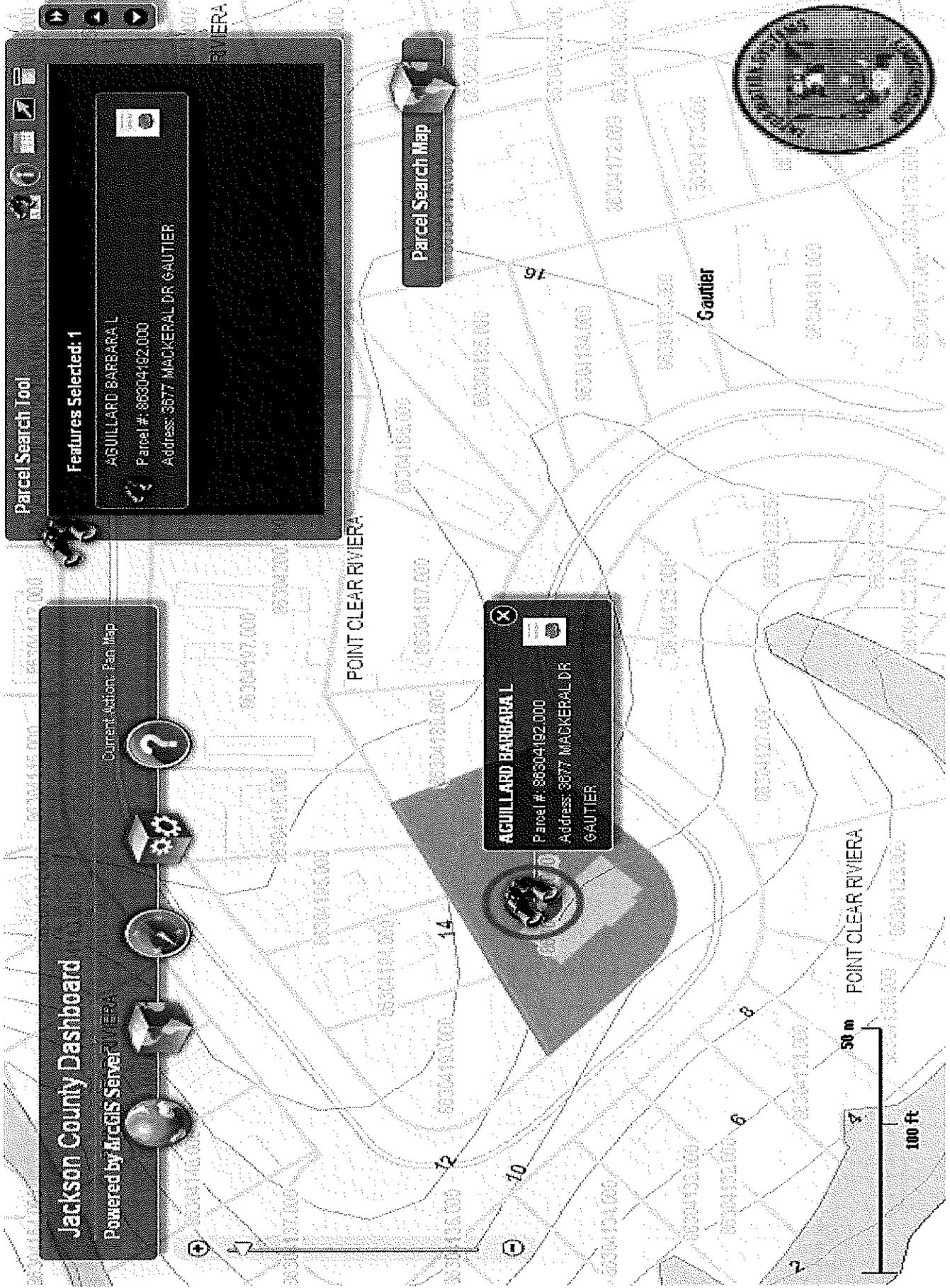
Book **Page**

PURCHASE COUNTY TAX SALE FILES

TAX SALES HISTORY, FOR UNPAID TAXES

<u>Year</u>	<u>Sold To</u>	<u>Redeemed Date/By</u>
2012	GNART LLC	1/21/2014 MOORE MARIA FOR B AGUILLARD
2011	ADAIR ASSET MGMT LLC, /BMO HARRI	1/21/2014 MOORE MARIA FOR B AGUILLARD
2010	MAGNOLIA GROVE RTO LLC	8/29/2013 MOORE MARIA L
2009	ON POINT LLC	8/31/2011 AGUILLARD BARBARA L
2008	GNART LLC	8/31/2011 AGUILLARD BARBARA L
2007	MELVINA TAYLOR	8/25/2010 AGUILLARD BARBARA L
2006	COLLEGE INVESTMENT CO	5/29/2009 AGUILLARD BARBARA L

[Back](#)



Mayor
Gordon F. Gollatt

City of Gautier
Gautier, Mississippi

City Manager
Samantha D. Abell

City Clerk
Cynthia Russell

3330 Highway 90
Gautier, MS 39553
Phone: (228) 497-8000
Fax: (228) 497-8028
Email: gautier@gautier-ms.gov
Website: www.gautier-ms.gov

Council

At Large Mary F. Martin
Ward 1 Johnny Jones
Ward 2 Hurley Ray Guillotte
Ward 3 Casey C. Vaughan
Ward 4 Charles "Rusty" Anderson
Ward 5 Adam D. Colledge



April 23, 2014

Barbara L Aguillard
2805 Flounder Circle
Gautier, Mississippi 39553

Reference: 3677 Mackerel Drive Gautier, MS 39553

Ms. Aguillard,

This letter is to inform you the City of Gautier; Planning and Economic Development Department will recommend to the governing authority the property at 3677 Mackerel Drive Gautier, Mississippi is a menace to the public health, safety, and welfare of the community. Code Enforcement will request the mayor and city council review the history of the code violations on this property during a scheduled May 2014 council meeting. If the mayor and council determine the property, meets the criteria for private property clean up they will set a public hearing for a scheduled June 2014 council meeting. The purpose of the hearing is to listen to testimony and determine if the property meets the requirements outlined in Mississippi Code Annotated 1972 § Title 21, Chapter 19, Section 11.

Code enforcement is requesting the property be in compliance by June 3, 2014. If you have any questions you can contact the City of Gautier, Code Enforcement Office, Monday – Thursday, 8:00 AM - 5:00 PM at (228) 497-1878 ext 318, or cell number (228) 219-7035.

Sincerely,


Joseph Belles
Code Enforcement Officer

COPY

mailed 4-23-14
JB

SUMMONS TO APPEAR

STATE OF MISSISSIPPI
COUNTY OF JACKSON
CITY OF GAULTIER

No. 01750

IN THE MUNICIPAL COURT OF THE CITY OF GAULTIER THE AFFIANT
HEREIN BEING DULY SWORN, UPON OATH DEPOSES AND
SAYS AT THE FOLLOWING LOCATION, TIME AND DATE:

DAY: THUR DATE: 12-18-13 TIME: 9:00 AM

LOCATION: 3677 MCKERIAL DRIVE

NAME IF KNOWN: BARBARA A. HOUTLAND

ADDRESS: 2805 FOUNDER CIRCLE

CITY: GAULTIER STATE: MS ZIP: 39453

PHONE: () FAX: ()

DOB: 5-29-61 SEX: [REDACTED]

RACE: W HGT: 5'11" WT: 155

THAT THE AFORESAID PERSON DID WILLFULLY AND
UNLAWFULLY VIOLATE

State Statute

Local Ordinance: City of Gaultier

TO WIT: Unlaid Develoiped Ordinance

ART XII SEC 16.6 CARE OF

PROPERTY & PREMISES

FURTHER AFFIANT STATED THAT HE OR SHE HAS PROBABLE
CAUSE TO BELIEVE AND DOES BELIEVE THE PERSON NAMED
ABOVE COMMITTED THE OFFENSE WHEN SET FORTH
CONTRARY TO LAW AND AGAINST THE PEACE AND SANITY OF
THE STATE OF MISSISSIPPI AND THE CITY OF GAULTIER.

AFFIANT/OFFICER SIGNATURE: [Signature]

SWORN TO BEFORE ME THIS THE _____ DAY OF _____

_____ 2013

COURT CLERK/DEPUTY CLERK

YOU ARE HEREBY NOTIFIED TO APPEAR OR CONTACT THE
MUNICIPAL COURT CLERK, BILLY THOMPSON, ON OR BEFORE

THE 13 DAY OF JANUARY 2014

AT 3:30 PM IN GAULTIER, MS SEE MY SIGNATURE

CASE # _____ PAGE # _____ DOC # _____

OFFICER

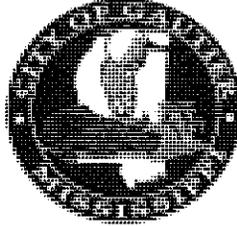
Mayor
Gordon F. Gallott

City of Gautier
Gautier, Mississippi

City Manager
Samantha D. Abell

City Clerk
Cindy Russell

Council
At Large Mary F. Martin
Ward 1 Johnny Jones
Ward 2 Hurley Ray Guillotte
Ward 3 Casey C. Vaughan
Ward 4 Charles "Rusty" Anderson
Ward 5 Adam D. Colledge



3330 Highway 90
Gautier, MS 39553
Phone: (228) 497-8000
Fax: (228) 497-8028
Email: gautier@gautier-ms.gov
Website: www.gautier-ms.gov

November 7, 2013

Barbara Aguillard
2805 Flounder Circle
Gautier, Mississippi 39553

COPY
marked 11-07-13
JB

Reference: 3677 Mackerel Drive Gautier, Mississippi 39553

Ms. Aguillard,

The property address referenced above remains in violation of the City of Gautier, zoning ordinances after previously sending you two letters of violation and referring the violations to the City of Gautier, Municipal Court. On May 11, 2013, you were found guilty in your absence and fined one thousand dollars. The dilapidated property still does not comply with the city ordinance and is not secured and a blight to the neighborhood. You need to contact the City of Gautier, Building Administrator for a complete review and determination of the necessary repairs to comply with the city ordinance. The City of Gautier Unified Development Ordinance, Article XVI, Section 16.1, Maintenance and Appearance Standards States:

16.1.1 Scope The provisions of this Article shall apply to all existing residential, commercial and industrial properties and premises and constitute minimum requirements and standards for premises, structures, and facilities for the health, safety, and welfare of the community. The owner or tenant of all real property within the City shall maintain the property and premises in such a manner as to conform to this Article as well as other codes and ordinances in order to avoid blighting influences on neighboring properties and causing depreciation of property values.

16.1.2 Intent This article shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare as far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be repaired or maintenance performed to provide a minimum level of compliance of this article.

A summons to appear in court will be issued if the violations are not corrected by December 9, 2013. You may contact the City of Gautier, Code Enforcement Office, Monday – Thursday, 8:00 AM - 5:00 PM at (228) 497-1878, if you have any questions. Code enforcement gratefully appreciates your cooperation in this matter.

Yours truly,


Joseph Belles
Code Enforcement Officer

SUMMONS TO APPEAR

STATE OF MISSISSIPPI
COUNTY OF JACKSON
CITY OF GAULTIER

No. 03989

IN THE MUNICIPAL COURT OF THE CITY OF GAULTIER THE AFFIANT
HEREIN, BEING DULY SWORN, UPON OATH DOES DEPOSE AND
SAY: AT THE FOLLOWING LOCATION, TIME AND DATE:

DAY: TUES DATE: 3-27-2011 TIME: 3:00PM

LOCATION: 3677 MACLEAL

NAME (F, M, L): BROWN L. AQUILANO

ADDRESS: 2845 FLEMING CIRCLE

CITY: GAULTIER STATE: MS ZIP: 39553

PHONE () : 1 EXT:

DOB: 5-29-61 SSN: [REDACTED]

RACE: W SEX: F HT: 5'2" WT: 155

THAT THE AFORESAID PERSON DID WILLFULLY AND
UNLAWFULLY VIOLATE

State Statute

Local Ordinance: City of Gaultier

TO WIT: UNLAWFUL OBSTRUCTION

ART 18, SECTION 13.31 Code of Ordinances
4 PREMISES

FURTHER, AFFIANT STATES THAT HE OR SHE HAS PROBABLE
CAUSE TO BELIEVE, AND DOES BELIEVE, THE PERSON NAMED
ABOVE COMMITTED THE OFFENSE HEREIN SET FORTH
CONTRARY TO LAW AND AGAINST THE PEACE AND TRINITY OF
THE STATE OF MISSISSIPPI AND THE CITY OF GAULTIER

AFFIANT/OFFICER SIGNATURE: [Signature]

SWORN TO BEFORE ME, THIS THE _____ DAY OF _____

18 _____

COURT CLERK/DEPUTY CLERK

YOU ARE HEREBY NOTIFIED TO APPEAR OR CONTACT THE
MUNICIPAL COURT CLERK, BILLIE D. SIMPSON, ON OR BEFORE

THE 6 DAY OF JUNE 2011
CITY OF GAULTIER, MS 39553-5004 1:30 PM

CASE # _____ PAGE # _____ DOC # _____

OFFICER

Mayor
Tammy Fortenberry

City of Gautier
Gautier, Mississippi

City Manager
Sidney M. Runnels

City Clerk
Wendy S. McClain

Council
At Large Mary Martin
Ward 1 Johnny Jones
Ward 2 Hawley Ray Guillotte
Ward 3 Gordon F. Gallott
Ward 4 Scott D. Macfarland
Ward 5 Adam D. Colledge



3330 Highway 90
Gautier, MS 39553
Phone: (228) 497-8000
Fax: (228) 497-8028
Email: gautier@gautier-ms.gov
Website: www.gautier-ms.gov

February 22, 2011

COPY

mailed 2-22-11
JB

Barbara Aguillard
2805 Flounder Circle
Gautier, Mississippi 39553

Reference: 3677 Mackerel Drive Gautier, Mississippi 39553

Ms Aguillard,

On February 18, 2011, a Code Enforcement Officer for the City of Gautier received a telephone complaint regarding a code of ordinance violation at your property address referenced above. This letter will serve as my notice of violation and you have thirty (30) days to correct the problems or notify the code enforcement office if you cannot meet this suspense. Your property has a home that has been vacant more than sixty (60) days and must conform to the City's existing code requirements. There is a dilapidated boat, non-operational vehicle and the home is in a state of disrepair. At this time, we would like to discuss our observations to maintain an amicable appearance with other property owners in this area. The City of Gautier, Unified Development Ordinance, Article XIII, Section 13.3.1, Termination of Nonconforming Use states:

A nonconforming building, structure, dwelling, or land use or portion thereof, existing at the time of adoption of these regulations, which is, or hereafter becomes vacant for any reason, for a period in excess of sixty (60) consecutive days any subsequent use shall conform to the regulations of this Ordinance for the district in which it is located.

You can contact the City of Gautier, Code Enforcement Office, Monday – Thursday, 8:00 AM - 5:00 PM at (228) 497-8802/1878. I will be happy to assist you with any questions you may have. We gratefully appreciated your cooperation in this matter.

Sincerely,

Joseph Belles
Code Enforcement Officer

mailed
11-10-08
JB

November 10, 2008

Barbara L Aguillard
2805 Flounder Circle
Gautier, Mississippi 39553

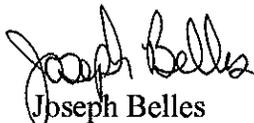
Reference: 3677 Mackerel Drive Gautier, Mississippi 39553

Ms. Aguillard,

On October 27, 2008, a Code Enforcement Officer for the City of Gautier while patrolling Riviera Sub-division detected several codes of ordinance violations at your property address referenced above. A copy of the code violation notice was left hanging on your front door and you were given 14 days to correct the problems or notify the code enforcement office if you could not meet this suspense. On November 10, 2008 the property was re-inspected and nothing appeared to have been corrected and there hasn't been any contact from you. At this time we would like to discuss the property concerns observed at this location to maintain an amicable appearance with other property owners in this area.

You are requested to contact the City of Gautier, Code Enforcement Office, Monday -- Friday, 8:00 AM - 5:00 PM at (228) 497-8802, within 14 days of this letter. I will be happy to assist you with any questions that you may have. Your cooperation in this matter will be greatly appreciated.

Sincerely,



Joseph Belles
Code Enforcement Officer

Cc: File

2805 Flounder

CITY OF GAUTIER
Planning Department
"CODE OF ENFORCEMENT"

Date Oct 27, 2008

Owner/Occupant: _____

Address: 3677 MACKERAL

In the interest of protecting the welfare of the neighborhood and the quality of life in the City of Gautier, YOU are advised that this property is found to be in violation of City Ordinance(s) for the following Reason(s):

____ Failure to have required street numbers prominently displayed on house or building

____ Over grown grass and unkept property

Accumulation of trash and debris

____ Open garbage and/or garbage in front yard or on Public Right of Way

Abandoned, derelict, inoperable or otherwise unsightly vehicle(s) in yard or driveway

____ Vehicle(s) parked in yard, not on hard surface(s)

Other NON OPERATIONAL BOAT & VEHICLE

City Ordinance No. 24 Section 14:6

IT SHALL BE UNLAWFUL FOR THE OWNER OR OCCUPANT OF A BUILDING, STRUCTURE, OR PROPERTY TO UTILIZE THE PREMISES OF SUCH PROPERTY FOR THE OPEN STORAGE OF ANY ABANDONED MOTOR VEHICLE, OR PARTS THEREOF, ICE BOX, REFRIGERATOR, STOVE, BUILDING MATERIAL, RUBBISH OR SIMILAR ITEMS. IT SHALL BE THE DUTY AND RESPONSIBILITY OF EVERY SUCH OWNER OR OCCUPANT TO KEEP THE PREMISES OF SUCH PROPERTY CLEAN AND TO REMOVE FROM THE PREMISES ALL SUCH ABANDONED ITEMS LISTED ABOVE. FURTHERMORE, THE GENERAL SITE AND/OR PREMISES SHALL BE MAINTAINED IN GENERAL WITH PARTICULAR REFERENCE TO INSURING THAT APPEARANCE WILL BE AND REMAIN COMPATIBLE, AND HARMONIOUS WITH PROPERTIES IN THE GENERAL AREA AND WILL NOT BE SO AT VARIANCE WITH OTHER PROPERTIES IN THE GENERAL AREA AS TO CAUSE A SUBSTANTIAL DEPRECIATION OF SUCH PROPERTY VALUES.

JOE @ 4978802

Owner/Occupant: YOU will have 14 days from the date of this notice in which to correct the above checked violation(s). If you have any difficulty in complying with the above City Ordinance in the allotted time please call me at 228-497-1878. If you fail to contact me or comply with the City Ordinance, a citation can be issued for you to appear in court regarding this matter.

Code Enforcement
City of Gautier



