

Jace Gullic – Mayor
City Council
City of Shidler

Re: Notice of Public Nuisance

To Whom It May Concern,

I would like to take this opportunity to go on record and address several concerns regarding the City of Shidler’s current efforts to implement code enforcement within the city limits.

First, I want to acknowledge that I agree multiple properties within the corporate limits of the City of Shidler are in violation of city ordinances, the laws of the State of Oklahoma, and in some cases federal law. This includes properties owned or controlled by the City of Shidler itself.

However, it appears the current approach to enforcement has not been fully thought through and may ultimately create a significant financial burden for both the community and the City.

The City does have the legal authority to declare a property a public nuisance and to begin the process of abatement. However, in doing so the City assumes the financial responsibility for the initial cost of abatement, with the expectation that the property owner will reimburse those costs. If the property owner fails to do so, the City may place a lien on the property. In many cases, however, the likelihood of the City recovering the full cost of abatement through liens is low.

In my opinion, the approximately \$9,000.00 per year currently being spent on code enforcement would be better utilized by providing citizens with resources or assistance programs that help them clean up their properties.

Additionally, it does not appear that City officials have fully considered the liability issues associated with this initiative. While the City has stated that Mr. Hughes is an independent contractor, he is nevertheless acting as an agent of the City while performing code enforcement duties under contract with the City of Shidler. As such, the City may still bear responsibility for his actions while performing those duties.

It also appears that in implementing code enforcement the City may have put “the cart before the horse.” Initial letters state that the City is still in the process of establishing a court system to handle these matters. Furthermore, a review of the City of Shidler’s Code of Ordinances reveals that many ordinances are outdated, internally contradictory, or potentially unenforceable due to court rulings. These ordinances should be reviewed and updated before active enforcement is pursued.

For example, the City relies on the “owner of record” when addressing property violations. Within the City of Shidler, this presents a problem because several properties still list deceased individuals as the owner of record while another party actually controls the property. Courts have recognized that it is common for individuals to attempt to shield themselves from liability by failing to file a deed while continuing to pay property taxes. In many cases, courts have determined that the party paying the taxes and exercising control over the property is the responsible party.

City officials are aware that the property located at 223 East Broadway was sold to Ronda Hill. Ms. Hill has personally spoken with city officials regarding the property; however, the deed has not yet been filed. A review of the publicly available tax records would show that Ms. Hill has been paying the property taxes. This situation creates potential liability if enforcement actions are directed toward an individual who is not responsible for the property. Such actions could expose the City to civil claims, including failure to properly train individuals performing enforcement duties.

As an agent acting on behalf of the City, it is the City’s responsibility to ensure that Mr. Hughes is properly informed of applicable laws and relevant case law that affect the performance of his duties.

It should also be noted that Mr. Hughes has attempted to exercise authority over property located outside the corporate limits of the City of Shidler, where he has no jurisdiction. While 50 O.S. §16 provides limited authority for municipalities to abate certain public nuisances outside their corporate limits, the notice provided to that property does not appear to rely on that statute, nor does the condition of the property appear to meet the statutory standard required under that law.

It is possible that Mr. Hughes has not been provided the proper tools necessary to perform his duties, including an accurate map identifying the corporate limits of the City of Shidler.

I respectfully urge the City to reconsider its current approach to code enforcement and to ensure that the legal framework, ordinances, procedures, and training necessary for fair and lawful enforcement are properly established before moving forward.

Respectfully,

Terry York