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CHAPTER 474

AN ACT to amend 66.435 (4) (a); and to repeal and recreate 66.435 (4) (b) of the statutes, relating to workable program, hearings and appeal procedure under the urban renewal act.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.435 (4) (a) of the statutes is amended to read:

66.435 (4) (a) The governing body of the municipality, or such public officer or public body as it * * * *designates*, including a housing authority organized and created under s. 66.40, is * * * authorized to prepare a workable program for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and urban blight and deterioration, to encourage needed urban rehabilitation, to provide for the redevelopment of blighted, deteriorated or slum areas, or to undertake such of the aforesaid activities or other feasible activities as may be suitably employed to achieve the objectives of such a program; and such governing body may by resolution or ordinance provide the specific means by which such workable program can be effectuated and may confer upon its officers and employes the power required to carry out a program of rehabilitation and conservation for the restoration and removal of blighted, deteriorated or deteriorating areas. Whenever any municipality finds that there exists in such municipi-

pality dwellings or other structures which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions, any one of which * * * is sufficient for action, rendering such dwellings or other structures unsafe or insanitary or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of such municipality, power is * * * expressly conferred upon such municipality to enact such resolutions or ordinances deemed appropriate and effectual in order to prevent the conditions herein set forth and to require or cause the repair, closing or demolition or removal of such dwellings * * * or other structures. For the purposes of such resolutions or ordinances a "dwelling" means any building, or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any appurtenances belonging thereto or usually enjoyed therewith. The term "structure" shall also include fences, garages, sheds, and any type of store, commercial, industrial or manufacturing building. Such ordinances or resolutions shall require that whenever there has been a violation, or whenever there are reasonable grounds to believe there has been a violation, of any provision of any such ordinances or resolutions, notice of such violation or alleged violation shall be given to the person or persons responsible therefor by appropriately designated public officers or employes of such municipality. Every such notice shall: 1. Be put in writing; 2. Include a description of the real estate sufficient for identification; 3. Include a statement of the reason or reasons why it is being issued; 4. Specify a time for the performance of any act which it requires; and 5. Be served upon the responsible person or persons. Such notice of violation shall be deemed to be properly served upon such person if a copy thereof is delivered to him personally or, if not found, by leaving a copy thereof at his usual place of abode, in the presence of someone in the family of suitable age and discretion who shall be informed of the contents thereof, or by sending a copy thereof by registered mail or by certified mail with return receipt requested to his last known address, or if the registered or certified letter with the copy of the notice is returned showing the letter has not been delivered to him, by posting a copy thereof in a conspicuous place in or about the dwelling or other structure affected by the notice. Any person affected by any such notice may request and shall be granted a hearing on the matter before a board or commission established by the governing body of such municipality, or before a full-time commissioner of health; and such person shall file in the office of the designated board, commission, or commissioner of health, a written petition requesting such hearing and setting forth a statement of the grounds therefor within 20 days after the day the notice was served. Within 10 days of receipt of such petition the designated board, commission, or commissioner of health, shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show cause why such notice should be modified or withdrawn. The hearing before the designated board, commission, or commissioner of health, shall be commenced not later than 30 days after the date on which the petition was filed. Upon written application of the petitioner to the designated board, commission, or commissioner of health, the date of the hearing may be postponed for a reasonable time beyond such 30-day period, if, in the judgment of the designated board, commission, or commissioner of health, the petitioner has submitted a good and sufficient reason for such postponement. Any notice served pursuant to this section shall become an order if a written petition for a hearing is not filed in the office of the designated board, commission, or commissioner of health, within 20 days after such notice is served. The

designated board, commission, or commissioner of health, has the power to administer oaths and affirmations in connection with the conduction of any hearing held in accordance with this section. After such hearing the designated board, commission, or commissioner of health, shall sustain, modify or cancel the notice, depending upon its findings as to whether the provisions of the resolutions or ordinances enacted by the municipality have been complied with. The designated board, commission, or commissioner of health, may also modify any notice so as to authorize a variance from the provisions of the resolutions or ordinances enacted by the municipality when, because of special conditions, enforcement of the provisions of the enacted resolutions or ordinances will result in practical difficulty or unnecessary hardship; provided, that the intent of the enacted resolutions or ordinances will be observed and public health and welfare secured. If the designated board, commission, or commissioner of health, sustains or modifies such a notice, it shall be deemed to be an order, and the persons affected thereby shall comply with all provisions of such order within a reasonable period of time, as determined by the board, commission, or commissioner of health. The proceedings at such hearing, including the findings and decisions of the board, commission, or commissioner of health, shall be reduced to writing and entered as a matter of public record in the office of the board, commission, or commissioner of health. Such record shall also include a copy of every notice or order issued in connection with the matter. A copy of the written decision of the board, commission, or commissioner of health, shall then be served, in the same manner prescribed for service of notice, on the person who filed the petition for hearing. Whenever the commissioner of health finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding other provisions of this section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith, but upon petition to the commissioner of health shall be afforded a hearing as prescribed in this section. After such hearing, depending upon the findings of the commissioner of health as to whether an emergency still exists, which requires immediate action to protect the public health, the said commissioner of health shall continue such order in effect or modify or revoke it.

SECTION 2. 66.435 (4) (b) of the statutes is repealed and recreated to read:

66.435 (4) (b) Any person feeling himself aggrieved by the determination of any board, or commission, or commissioner of health, following review of an order issued by officers and employes of a municipality under this section may appeal directly to the circuit court of the county in which such dwelling or other structure is located by filing a petition for review with the clerk of the circuit court within 30 days after a copy of the order of such board, commission, or commissioner of health, has been served upon such person. The petition shall state the substance of the order appealed from and the grounds upon which such person believes the order to be improper. A copy of such petition shall be served upon the board, commission, or commissioner of health, whose determination is being appealed. Such copy shall be served personally or by registered or certified mail within the 30-day period herein provided. A reply or answer shall be filed by the board, commission, or commissioner of health, within 15 days from the receipt of such petition. A copy of the written proceedings of the hearing held by the board, commission, or commissioner of health, which led to service of the order being appealed, shall be included

with the reply or answer when filed. If it appears to the court that the petition is filed for purposes of delay, it shall, upon application of the municipality, promptly dismiss such petition. Either party to the proceedings may then petition the court for an immediate hearing on the order. The court shall review the order, the copy of written proceedings of the hearing conducted by the board, commission, or commissioner of health, and shall take such testimony as in its judgment may be appropriate, and following a hearing upon such order without a jury, the court shall make its determination. If the court affirms the determination made by the board, commission, or commissioner of health, it shall fix a time within which the order appealed from shall become operative. Either party may appeal from the determination made by the circuit court to the supreme court within 60 days following the determination of the circuit court, but not thereafter. If the supreme court affirms the order appealed from, the supreme court shall set the time within which such order shall become effective.

Approved September 16, 1959.
