

RESOLUTION No. 2007-082

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
TO AFFIRM THE ACTIONS OF THE OURAY COUNTY BUILDING OFFICIAL**

WHEREAS, the Board of County Commissioners of Ouray County, Colorado (“Board”) is empowered under C.R.S. §30-28-201 to adopt a building code for the unincorporated areas of Ouray County; and

WHEREAS, pursuant to C.R.S. §30-28-203 the provisions of the building code “shall be made with a reasonable consideration of, and in accordance with, the public health, safety, morals, and general welfare and the safety, protection, and sanitation of such dwellings, buildings, and structures.”; and

WHEREAS, by Resolution 2000-062, the Board did adopt the 1997 edition of the Uniform Building Code, including the Uniform Code for the Abatement of Dangerous Buildings (“Abatement of Dangerous Buildings”); and

WHEREAS, the Board has also adopted the Ouray County Land Use Code (“Code”) which includes language at Section 19.3 that states that “No building permit shall be issued within a Planned Unit Development approved after the date of the adoption of this Code without prior approval of the architectural control committee or other internal enforcement body...”; and

WHEREAS, on or about September 6, 2007 the Ouray County Building Official served a “Notice and Order” on the owners of the property located at 117 Ponderosa Drive, Ridgway, Colorado (“Property”), which Notice and Order was prompted by complaints received from the Fairway Pines Estates Owners Association (“Association”); and

WHEREAS, the Notice and Order required the Property owners to obtain a building permit to correct the deficiencies noted in the Notice and Order within thirty (30) days of service and the Property owners timely submitted an application to obtain a building permit to correct the deficiencies noted in the Notice and Order; and

WHEREAS, pursuant to Section 19.3 of the Code, the Property owners sought approval for the repairs from the Association; however, the Association notified the Property owners by letter dated October 4, 2007 that they were required “to propose an acceptable remedy for existing violations of the Declaration at the Property before the Application may be heard by the ARC.”; and

WHEREAS, the “existing violations” noted by the Association in the October 4, 2007 letter were not items that the Building Official required to be corrected in the Notice and Order; and

WHEREAS, there is a conflict between the provisions of Section 19.3 and the provisions of the Abatement of Dangerous Buildings which provides at Section 202 that “All buildings or portions thereof which are determined after inspection by the building official to be dangerous as defined in this code are hereby declared to be public nuisances and *shall* be abated by repair, rehabilitation...” and

WHEREAS, Section 1.6 of the Code provides that “Whenever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations or resolutions, the more restrictive or that imposing the higher standards shall govern.”; and

WHEREAS, Section 703 of the Abatement of Dangerous Buildings states that “no person shall obstruct, impede or interfere with any officer... of this jurisdiction... whenever such officer, employee, ...or authorized representative of this jurisdiction... is engaged in... performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.”; and

WHEREAS, the Ouray County Building Official has found the property at 117 Ponderosa Drive to be a dangerous building, as such term is defined in the Code of the Abatement of Dangerous Buildings, and has required that the deficiencies noted in the Notice and Order shall be corrected; and

WHEREAS, the actions of the Association in failing to provide the approval under Section 19.3 for the corrections of which it has complained has obstructed the Building Official from taking the actions necessary to ensure that the dangerous building located at 117 Ponderosa Drive is repaired and that the deficiencies noted in the Notice and Order are corrected; and

WHEREAS, the Board has determined that there is a conflict between the provisions of Code Section 19.3 and the provisions of the Abatement of Dangerous Buildings, and in accordance with the provisions of Section 1.6 of the Code, the more restrictive or higher standards contained in the Abatement of Dangerous Buildings that address the health, safety and welfare of the residents of Ouray County should control; and

WHEREAS, the Building Official has issued a building permit to the property owners of the property located at 117 Ponderosa Drive in accordance with the provisions of the Abatement of Dangerous Buildings;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

1. The Board finds that the health, safety and welfare of the residents of Ouray County is paramount and that the provisions of the Abatement of Dangerous Buildings are the more restrictive and shall control.
2. Based upon the conflict between the provisions of Section 19.3 of the Code and the provisions of the Uniform Code for the Abatement of Dangerous Buildings, the action of the Building Official in issuing a building permit to the owners of the property at 117 Ponderosa Drive is affirmed by the Board.

APPROVED THIS 10th DAY OF DECEMBER 2007.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:

Don Batchelder, Chair

Heidi M. Albritton, Vice Chair

Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board

K. Keith Meinert, Commissioner Member