

December 16, 2003

**Honorable Mayor and Members of the
Hermosa Beach City Council**

**Regular Meeting of
January 13, 2004**

SUBJECT: NUISANCE ABATEMENT OF PROPERTY AT 24 8th STREET

Recommendation:

Direct as deemed appropriate.

Background:

The City has received complaints regarding the condition of a house at 24 8th Street. In response to complaints by neighbors, the City has boarded up the house. The following pictures were taken in October 2003.

**View
from
8th
Street
(walk
street)**



**Views from
8th Court
(alley)**



Over the years the house, built in 1921, has been the subject of a number of enforcement actions. The following is a summary:

1. The Community Development Department's master property file contains correction notices on the property from 1968, 1969, 1977, and 1985. The letters from 1985 indicate that the building was in disrepair at that time, including leaky roof, holes in wood floors, broken and missing windows, and handrail and stairway in an unsafe condition.
2. The most recent code enforcement effort included a letter, dated March 4, 2002, sent to the owner, Mr. George Van Dorn. The letter was sent in response to neighborhood complaints that the exterior stairway and landing were unstable and that the house was a nuisance. A few weeks after the letter was sent, the City Public Works Department boarded up the house and secured the stairway. As the property had been secured, no further code enforcement was pursued.
3. A discussion with Michael Flaherty, Supervisor, Public Works Department, revealed that the home has been boarded up the at least three times in the past three years.
4. The property owner has not responded to previous requests to correct deficiencies and secure the property.
5. On December 18, 2003, staff issued a letter to the owner requesting that he take steps to correct the nuisance related problems as the matter will be considered for nuisance abatement by the City Council.
6. On January 5, 2004, staff called the owner to inquire what steps would be taken to correct the nuisance problems. The owner indicated that he is willing to install fencing on the north and south sides of the property (walkstreet and alley respectively), but that he feels the owners to the east and west should be responsible for constructing their own fencing which will effectively secure the site. There is otherwise no improvement being proposed for the property or the building.

Analysis:

The City Prosecutor has advised using the Nuisance Abatement procedures outlined in Chapter 8.28 of the Hermosa Beach Municipal Code (HBMC), as summarized as below:

1. Precise identification of violations and solutions.
2. Setting the matter for public hearing by the City Council.
3. Conducting the hearing, consideration of evidence submitted, and decision by Council.
4. Implementation of the Council decision, e.g. demolition and clearing of the site.
5. Recovery of City costs to abate the nuisance. (Including all staff time and out of pocket expenses.)

We are presently at Step 2 of the process, determining if a City Council hearing is to be set to abate a nuisance. From an exterior inspection of the property, the following specific nuisance conditions have been identified:

1. Property has been abandoned and left in disrepair for several years
2. The exterior stairway and landing are damaged, unstable, and unsafe
3. Property is regularly trashed and vandalized
4. Property is not properly fenced or secured from intruders
5. Peeling paint
6. Deteriorated wood sheathing
7. Property is overgrown with untended vegetation and weeds
8. The structure on the property is an eyesore
9. Greater than 75% of the building is in need of repair.

It should be emphasized that the above are only the problems noted from an exterior inspection of the property. Given the deteriorated state of the exterior, it is possible that additional deficiencies will be discovered if the interior and roof of the house are inspected.

If the violations are so extensive and of such a nature that they constitute a threat to the health and safety of residents or the public is substantially endangered, the property may be declared to be a nuisance. Staff recommends that City Council consider formal action to abate the nuisance since there does not appear to be interest by the owner in doing more than partially securing it. Abatement consists either more thoroughly securing the structure, extensive repair of the structure or demolition as per Section 8.28.28.020B(4) of the HBMC. Staff will make recommendations regarding abatement after a thorough interior inspection which will require an inspection warrant without the owner's consent. In considering abatement, the City Council will need to find that the premises are being maintained in a condition detrimental to the property of others, including, but not limited to, keeping or depositing on the premises, or scattering over the premises, any of the following:

- a. Lumber, junk, trash, debris or an accumulation of substantial quantities of loose earth, rocks or pieces of concrete;
- b. Abandoned, discarded, unused or deteriorating materials, objects or equipment, such as furniture, bedding, machinery, packing boxes, cans or containers;
- c. Stagnant water, untilled excavations, any earth or sand which has eroded and sloughs onto an adjoining sidewalk or street;
- d. Any fence, structure or vegetation which is unsightly by reason of its condition or its inappropriate location;
- e. Abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, including automobiles, trucks, motorcycles, bicycles, boats, trailers or similar vehicles; or
- f. Barbed-wire fences or limbs of trees, shrubs, hedges or vegetable growth so situated or located as to endanger persons traversing streets or sidewalks in the immediate area thereof."

The City Council must find that many of the above conditions apply to the subject property in addition to the deterioration of the house itself. If the City Council orders initiation of abatement proceedings, the following is a summary of the procedures required under Chapter 8.28:

1. Resolution of Intent to Conduct Hearing. The City Council may, by resolution, declare its intent to conduct a public hearing to determine whether a public nuisance exists on the property. A draft resolution setting such a hearing for February 10, 2004 is attached should the Council determine that a hearing is warranted.

2. Posting of Notice of Hearing. At least 15 days prior to the date set for the public hearing, the Director of Community Development shall cause a certified copy of the above resolution; and at least two notices of the time and place of hearing before the council to be posted on the premises. The above documents would also be sent directly to the property owner's address of record via certified mail.
3. Hearing by City Council. Unless the nuisance has already been abated, the City Council will consider all relevant evidence, including, but not limited to, testimony from owners, witnesses, parties interested and staff reports relative to the matter. Upon the conclusion of the hearing, the Council may determine whether the premises constitutes a nuisance. If the Council determines that the premises constitutes a nuisance, it may order the nuisance abated within a reasonable time.
4. Resolution of Abatement. The City Council's decision shall be by resolution containing the informal findings of the Council upon which such determination of nuisance is based, shall order the abatement of the nuisance, shall describe the needed corrections and/or repair necessary to abate the nuisance, and shall contain the time within which the nuisance is to be abated. Any property owner shall have the right to have the nuisance, as declared, abated, provided the same is completed prior to the expiration of the period of time set forth in said resolution. The time set for abatement, upon good cause shown, may be extended for a reasonable time by the Council. City Council will also need to make findings that, per Section 1.12.010 of the HBMC: "any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance and may be summarily abated by the city, and each day such condition continues shall be regarded as a new and separate offense."
5. Final Notice. Upon expiration of the time specified for abatement, the City Attorney shall notify the owner of the affected premises, by registered or certified mail, of such expiration and inform the owner that such abatement must be completed or a further appeal made to the City Council within ten days from the date of mailing.
6. City Abatement. If the nuisance is not abated within the time set forth in the resolution ordering abatement, or such later date as may be determined by the City Council, the City Attorney shall notify the Director of Community Development that the abatement proceedings were legally conducted and are concluded, whereupon the Director is empowered to cause the nuisance to be abated by city forces or private contract. Upon obtaining an abatement warrant, the Director of Community Development is expressly authorized under this Chapter to enter upon the premises for the purpose of abating such nuisance in the manner herein provided.
7. Recovery of City Costs. The Chapter goes on to detail the procedures for recovering the City's costs for abating the nuisance, including a special assessment and nuisance abatement lien against the property. The Public Works Superintendent has estimated the cost of demolition to be approximately \$10,000. This provision will enable the City to both lien the property to recover expenditures upon the sale of the property and to add the cost as a special tax assessment to the regular tax bill for the property, subject to the same penalties and procedures under foreclosure and sale in case of delinquency.

Furthermore, pursuant to Section 8.28.110, the City Council may also direct the City Attorney to commence a civil action to abate a nuisance as an alternative or in conjunction with the abatement proceedings or to proceed with a criminal action against the responsible party for the maintenance of a nuisance.

The Public Works Department estimates the cost for demolition of the structure is \$10,000 and an annual cost to install fencing is \$1500.

Sol Blumenfeld, Director
Community Development Department

Concur:

Stephen R. Burrell
City Manager

Attachments:

1. Resolution to Set Public Hearing
2. E-Mail Complaint from Neighbors
3. Service Request to Inspect House

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RESOLUTION 04-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA
BEACH, SETTING A PUBLIC HEARING TO DETERMINE IF THE
PROPERTY AT 24 EIGHTH STREET CONSTITUTES A PUBLIC
NUISANCE**

The City Council of the City of Hermosa Beach does hereby resolve as follows:

Section 1. State and City statutes provide for the abatement of structures and properties determined to be a public nuisance.

Section 2. Chapter 8.28 of the Hermosa Beach Municipal Code contains provisions allowing the City Council to conduct a public hearing to determine whether a public nuisance exists on a property and whether proceedings to abate the nuisance should be initiated.

Section 3. The City Council has reviewed written and photographic evidence of substandard conditions on the property at 24 8th Street, Hermosa Beach, and determined that there is sufficient evidence of a public nuisance on the property to set a public hearing to determine if abatement proceedings should be initiated.

Section 4. Based on the foregoing, the City Council hereby sets a public hearing for February 10, 2004 to determine if the above-reference property constitutes a public nuisance, and directs the City Clerk to advertise the hearing and to notify thereof the property owner and all owners within 300 feet of the subject property, pursuant to the abatement procedures outlined in Section 8.28.070 of the Hermosa Beach Municipal Code.

PASSED, APPROVED, and ADOPTED this 13th day of January, 2004.

PRESIDENT of the City Council and MAYOR of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

CITY ATTORNEY