

February 2, 2004

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

**Regular Meeting of
February 10, 2004**

SUBJECT: HEARING REGARDING NUISANCE ABATEMENT OF PROPERTY AT 24 8th STREET
PROPERTY OWNER: GEORGE VAN DORN

Recommendation:

Direct as deemed appropriate.

Background:

On January 13, 2003 the City Council set a public hearing to consider abatement actions for the subject property. It was previously reported that over the years, the house, built in 1921, has been the subject of a number of enforcement actions. On January 27, 2004, staff spoke with the property owner, who indicated the property is now in a 45-day escrow and is requesting that the City defer its abatement action for 120 days so that the sale can be completed. (See attached letter from Mr. Van Dorn). Staff has asked for a copy of the escrow papers to confirm the sale. These documents were not yet available as of the staff report deadline.

The following provides a chronology of code enforcement activity regarding the property:

1. The Community Development Department's 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. A discussion with Michael Flaherty, Supervisor, Public Works Department, revealed that the home has been boarded up at least three times in the past three years. The property owner did not respond to previous requests to correct deficiencies.
3. Recent code enforcement efforts include 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.
4. 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.
5. 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 will to install fencing on the north and south sides of the property (walk street 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.
6. On January 13, the City Council set a hearing for February 10 to consider formal abatement action.

The following pictures, taken in October 2003, illustrate the condition of the property:



View from 8th Street (walk street)



*Views from
8th Court
(alley)*



The City Prosecutor has recommended using the procedures outlined in Chapter 8.28 of the Hermosa Beach Municipal Code to address such nuisance abatement issues. The steps involved are:

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 3 of the process, the hearing to consider evidence submitted followed by a decision by the City Council. Council is therefore being asked to conduct the public hearing and consider all relevant evidence, including testimony from owners and other interested parties and staff reports.

Upon the conclusion of the hearing, the Council may determine whether the premises constitute a nuisance or it may determine that additional investigation is required (e.g. that an interior inspection is required to make a final determination). If the Council determines that a nuisance exists, it may order the nuisance abated within a reasonable time. In such case, it will adopt a Resolution of Abatement containing the findings of the Council upon which such determination of nuisance is based, ordering the abatement of the nuisance, describing the needed corrections and/or repair necessary to abate the nuisance, and specifying the time within which the nuisance is to be abated. Alternately, the Council may decide to defer taking further action pending the outcome of the sale of the subject property.

The City Attorney has advised that the City cannot itself demolish the structure simply because it is an eyesore. There must be evidence that it is a threat to the public or to public property (e.g. it presents the danger of imminent collapse.) However, if the property is not an imminent threat to public safety but simply an eyesore, the City can order it secured and cleaned up under the abatement procedures of Chapter 8.28 and then recover associated costs.

Analysis:

The provisions of Chapter 8.28, pertaining to property causing “damage to the use or enjoyment of property” or “detrimental to the property of others”, are especially relevant to the property in question.¹ In addition, a separate chapter of the Municipal Code establishes that any violation of the Code as a public nuisance may be summarily abated.²

From an exterior inspection of the property, staff has identified the following conditions:

1. The property has been left in disrepair for several years.
2. The exterior stairway and landing have been damaged and are unsafe.
3. Property is regularly trashed and vandalized
4. Property is not properly fenced or secured from intruders
5. The building’s paint is peeling and deteriorated
6. The building’s wood sheathing is deteriorated
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.

The property owner contends that the property is not in major disrepair and disputes the above description of the property. He also contends that any problems will be cured with the sale and

subsequent redevelopment of the property.

An interior inspection of the property would be required to determine the full extent of the problems identified and whether there are additional deficiencies. If the City Council decides to proceed with nuisance abatement, an inspection warrant may be required to gain access to the property to make such an inspection.

Based on the above observations, documented in the included photos, the property may constitute a nuisance. Specifically, this is because:

1. The property contains a structure, the house, which is unsightly by reason of its condition and therefore detrimental to the property of others (8.28.28.020B4).
2. The condition of the property, its unsightliness and its attraction to vandals and intruders, interferes with neighbors' enjoyment of their properties (8.28.28.020B3).

If the City Council determines that a nuisance exists on the property, it must adopt a resolution finding the property to be a nuisance and containing an abatement schedule. A draft Resolution of Abatement is attached. The resolution requires that abatement actions may consist of either of the following at the option of the property owner:

- A. Extensive repairs and rehabilitation of the house to correct all of the above-specified nuisance conditions and all Building Code and other code violations, both interior and exterior; or
- B. Demolition of the house.

The abatement schedule requires submission of a list of repairs or declaration of intent to demolish by March 10. Repairs or demolition shall then be completed within 120 days after approval by the Community Development Director of the foregoing list of repairs and issuance of a building permit, or within 120 days after issuance of a demolition permit.³

Upon expiration of the time specified for abatement, Section 8.28.070F provides for the City Attorney to notify the owner of the affected premises by registered or certified mail of such expiration, and inform the owner that abatement must be completed or a further appeal made to the City Council within ten days from the date of mailing.

In addition to the above action, the City Council may also direct the City Attorney to commence a civil action to abate the nuisance or a civil action in conjunction with abatement proceedings, or to proceed with a criminal action against the owner (8.28.110). Consistent with those provisions, the attached resolution provides that if the abatement period expires with no further appeal in response to the above City Attorney's notification and if the Community Development Director determines that the owner is not making a good faith effort to comply with the order of abatement, the Director shall schedule the issue for further City Council review to determine if civil or criminal action should be initiated.

Sol Blumenfeld, Director
Community Development Department

Concur:

Stephen R. Burrell
City Manager

Attachments:

1. Resolution of Abatement
2. Correspondence

Notes:

1. "The following are expressly declared to be nuisances, and any person maintaining or permitting such nuisances or any of them to be maintained or to exist on his premises whether as owner, lessee or otherwise, shall be guilty of a misdemeanor punishable as hereinafter provided and each and every day in which the nuisance shall be permitted to be continued shall constitute a separate offense: (8.28.28.020)

"...3. Actions Damaging the Use or Enjoyment of Property. Harboring or permitting any premises or permitting individuals or groups using or visiting such premises in a manner which adversely affects the use or enjoyment of surrounding properties or uses thereof (8.28.28.020B3).

"4. Maintaining Premises Detrimental to Property of Others. Maintaining any condition of premises which is 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:

"... d. Any fence, structure or vegetation which is unsightly by reason of its condition or its inappropriate location; (8.28.28.020B4)."

2. "... 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." (Section 1.12.010).

3. "Section 7. The abatement schedule is proposed as follows:

- "A. If the owner intends to repair and rehabilitate the house, submission by the owner by March 10, 2004 of: (1) written authorization for City staff to inspect the interior of the house and (2) a list of proposed repairs to the house; or,
- "B. If the owner intends to demolish the house, submission by the owner of a letter by March 10, 2004 declaring the owner's intention to demolish the house
- "C. Repairs or demolition shall be completed within 120 days after approval by the Community Development Director of the foregoing list of repairs and issuance of a building permit, or within 120 days after issuance of a demolition permit."

This schedule, upon good cause shown, may be extended by the Council.

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RESOLUTION 04-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, FINDING THAT THE PROPERTY AT 24 EIGHTH STREET CONSTITUTES A PUBLIC NUISANCE AND ORDERING ABATEMENT

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 held a public hearing on February 10, 2004 to determine if the above-reference property constituted a public nuisance. The hearing was duly-noticed pursuant to the procedures outlined in Section 8.28.070 of the Hermosa Beach Municipal Code.

Section 5. The City Council hereby finds and determines as follows:

A. Chapter 8.28 of the Hermosa Beach Municipal Code states in part:

“The following are expressly declared to be nuisances, and any person maintaining or permitting such nuisances or any of them to be maintained or to exist on his premises whether as owner, lessee or otherwise, shall be guilty of a misdemeanor punishable as hereinafter provided and each and every day in which the nuisance shall be permitted to be continued shall constitute a separate offense: (8.28.28.020)

“...3. Actions Damaging the Use or Enjoyment of Property. Harboring or permitting any premises or permitting individuals or groups using or visiting such premises in a manner which adversely affects the use or enjoyment of

surrounding properties or uses thereof (8.28.28.020B3).

“4. Maintaining Premises Detrimental to Property of Others. Maintaining any condition of premises which is 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:

“... d. Any fence, structure or vegetation which is unsightly by reason of its condition or its inappropriate location; (8.28.28.020B4).”

B. From an exterior inspection of the property, the following specific nuisance conditions have been identified by City staff:

1. The property has been 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. The building’s paint is peeling and deteriorated
6. The building’s wood sheathing is deteriorated
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.

C. Based on the above observations, documented by photos included in the February 10, 2004 staff report to the City Council, the Council hereby finds that the subject property constitutes a public nuisance; specifically:

1. The property contains a structure, the house, which is unsightly by reason of its condition and therefore detrimental to the property of others (8.28.28.020B4).
2. The condition of the property, its unsightliness and its attraction to vandals and intruders, interferes with neighbors’ enjoyment of their properties (8.28.28.020B3).

Section 6. The City Council hereby orders that the above-described public nuisance be abated. Abatement actions may consist of either of the following at the option of the property owner:

- A. Extensive repairs and rehabilitation of the house to correct all of the above-specified nuisance conditions and all Building Code and other code violations, both interior and exterior; or
- B. Demolition of the house.

1 Section 7. The abatement schedule shall be as follows:

- 2 A. If the owner intends to repair and rehabilitate the house, submission by the owner
3 by March 10, 2004 of: (1) written authorization for City staff to inspect the
4 interior of the house and (2) a list of proposed repairs to the house; or
5 B. If the owner intends to demolish the house, submission by the owner of a letter by
6 March 10, 2004 declaring the owner's intention to demolish the house.
7 C. Repairs or demolition shall be completed within 120 days after approval by the
8 Community Development Director of the foregoing list of repairs and issuance of
9 a building permit, or within 120 days after issuance of a demolition permit.

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11 Section 8. Upon expiration of the time specified for abatement, the City Attorney shall
12 notify the owner of the affected premises, and other persons having an interest therein, by
13 registered or certified mail of such expiration and inform the owner that abatement must be
14 completed or a further appeal made to the City Council within ten days from the date of mailing.
15 If the abatement period expires and no further appeal is made in response to the preceding City
16 Attorney's notification and if the Community Development Director determines that the owner is
17 not making a good faith effort to comply with the order of abatement, the Director shall schedule
18 the issue for further City Council review to determine if civil or criminal action should be
19 initiated.

20 Section 9. Upon showing of good cause by the owner, the City Council may grant time
21 extensions to the preceding schedule.

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23 **PASSED, APPROVED, and ADOPTED** this 10th day of February 2004.

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25 _____
26 PRESIDENT of the City Council and MAYOR of the City of Hermosa Beach, California

27 ATTEST:

27 APPROVED AS TO FORM:

28 _____
29 CITY CLERK

28 _____
29 CITY ATTORNEY