

April 19, 2006

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

**Regular Meeting of
April 25, 2006**

SUBJECT: NUISANCE ABATEMENT OF PROPERTY AT 138 1ST STREET

Recommendation:

Direct as deemed appropriate.

Background:

The City has received complaints regarding the condition of a house at 138 1st Street. In response to complaints by neighbors, the City has inspected the house. The following pictures were taken in June 2005.



View from 1st Court.



Interior photos show rotted framing members propped into place, collapsed ceiling.

A letter notifying the owner of this meeting sent by regular and certified mail on April 4, 2006. The owner has refused to accept mail from the City in the past.

Over the years the house, built as a single-family residence in 1947, was improved upon and was deemed a legal duplex per a court case in 1972. The following is a summary of City records concerning the property:

1. The Community Development Department's master property file contains the following permit records:
 - 1957 – Add 2 bedrooms & den
 - 1966 – Add single garage, bedroom, family room, bathroom & laundry room (It appears that these rooms were later divided from the original house to be a separate unit.)
 - 1970 – A permit to add a new electric service to the rear unit was cancelled, with a note "No rear unit by permit."
 - 1972 – "Property legally a duplex per court case."

2. Other records indicate that:
 - In 1970 and 1971, the City pursued a Code Enforcement effort against the former owner for repeatedly using a garage as a living area.
 - In 1997 the City pursued a Code Enforcement effort to have an abandoned vehicle removed from the property.

3. The current Code Enforcement case is as follows:

In October of 2001, the City followed up on complaints that someone was living in the garage. An inspection later that month determined that the garages were empty and had not been converted to living space. The case was closed.

In March of 2003, the City followed up on another complaint of someone living in the garage and of substandard conditions on the property. An exterior inspection was made, and letters sent to the owner.

On May 20 of 2003, an interior inspection was conducted. The interior contained trash and debris, walls and ceilings were water damaged and collapsed, and exposed structural members were rotted and deteriorated. (Photos attached.)

On May 27, 2003, a permit was issued to demolish/repair deteriorated structural members.

On June 16, 2003, the Senior Building Inspector and the Code Enforcement Officer conducted an interior inspection to determine the extent of damage and inspect steps made to repair. It was determined that the extent of damage was so great that structural plans were required to ensure adequate and safe repair.

On July 2, 2003, the building was posted "Unsafe To Enter or Occupy", along with a "Notice and Order to Repair or Demolish" which was also sent to the owner.

On July 16, 2003, the Senior Building Inspector had the electric and gas supply disconnected from the building.

On July 24, 2003, the current owner, Mr. Stephen Landau, signed a "Statement of Intent" indicating his intent to demolish the house.

Since that time, little progress or communication has occurred. Following renewed neighborhood complaints, the owner was re-contacted in January of 2005, but no progress has been made.

In order to confirm the current condition of the property, an inspection warrant was obtained and executed on June 21, 2005. The condition of the property had not been substantially altered since the inspections two years prior. (Photos attached.)

The City's engineering consultant, Mel Green and Associates, was hired to evaluate the condition of the property. His report, as well as the report of the Code Enforcement officer and photos of the inspection are attached, and indicate that the front structure should be demolished and the rear structure either demolished or repaired to conform with current codes.

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, or repair of the property to a habitable condition.
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 our inspections of the property, the following specific nuisance conditions have been identified:

1. Property has been abandoned and left in disrepair for several years
2. Property is not properly fenced or secured from intruders
3. Peeling paint
4. Deteriorated wood sheathing
5. Deteriorated and missing roofing materials
6. The structure on the property is an eyesore
7. Greater than 75% of the building is in need of repair

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 of extensive repair of the structure or demolition as per Section 8.28.28.020B(4) of the HBMC.

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:

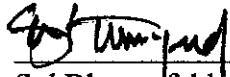
- a. Lumber, junk, trash, debris or an accumulation of substantial quantities of loose earth, rocks or pieces of concrete;
- b. Abandoned, discarded, unused or deteriorating materials, objects or equipment, such as furniture, bedding, machinery, packing boxes, cans or containers;
- c. Stagnant water, 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 May 23, 2006 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 constitute a nuisance. If the Council determines that the premises constitute 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. Temporary fencing, if needed would cost about \$600.00 to install, more if it is rented. 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.



Sol Blumenfeld, Director
Community Development Department

Concur:



Stephen R. Burrell
City Manager

Attachments:

1. Resolution to Set Public Hearing
2. Photos
3. Engineers Report
4. Code Enforcement Report

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RESOLUTION 06-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA
BEACH, SETTING A PUBLIC HEARING TO DETERMINE IF THE
PROPERTY AT 138 1ST 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 138 1st 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 May 23, 2006 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 25th day of April, 2006.

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

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

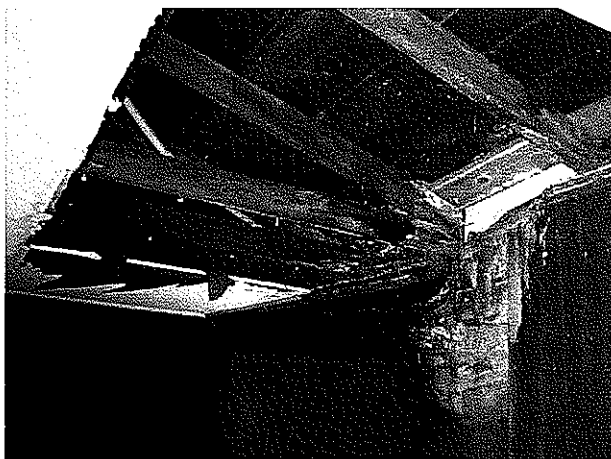
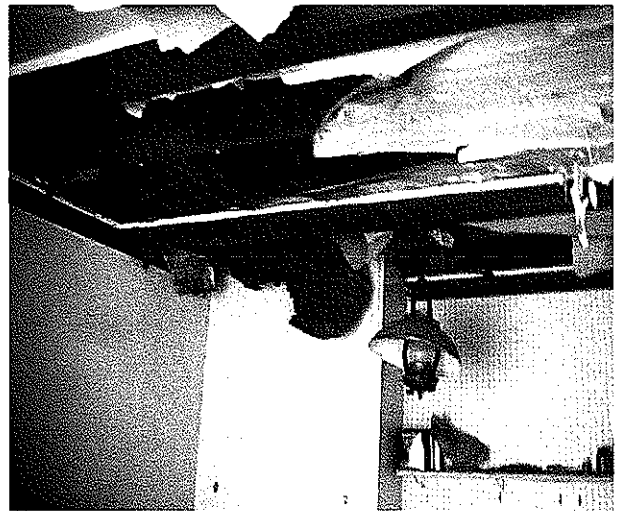
CITY ATTORNEY



May 20, 2003 138 1st St. Roof repair and water damage on walls of rear unit, junk and debris.

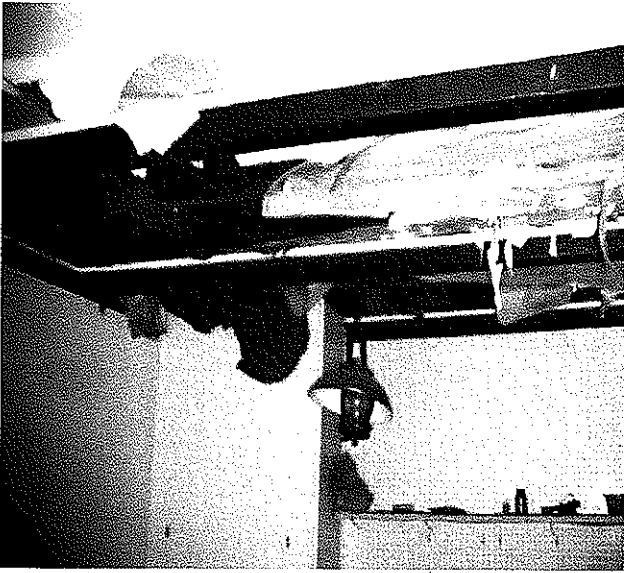


May 20, 2003 138 1st St. Kitchen of front unit, wall and ceiling damage, junk and debris.

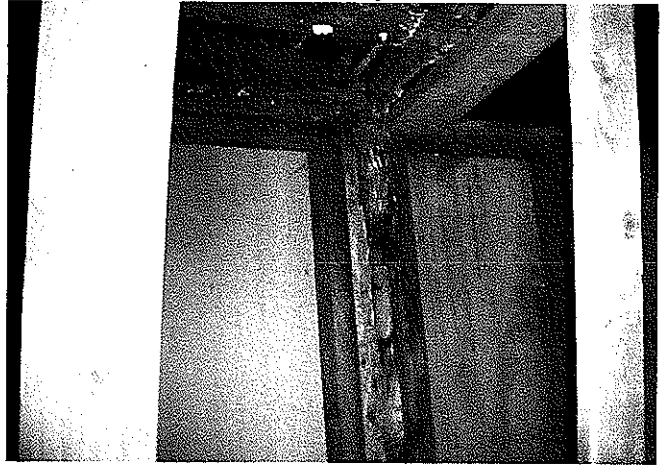


May 20, 2003 138 1st St. – detail of structural damage in living room, front unit.

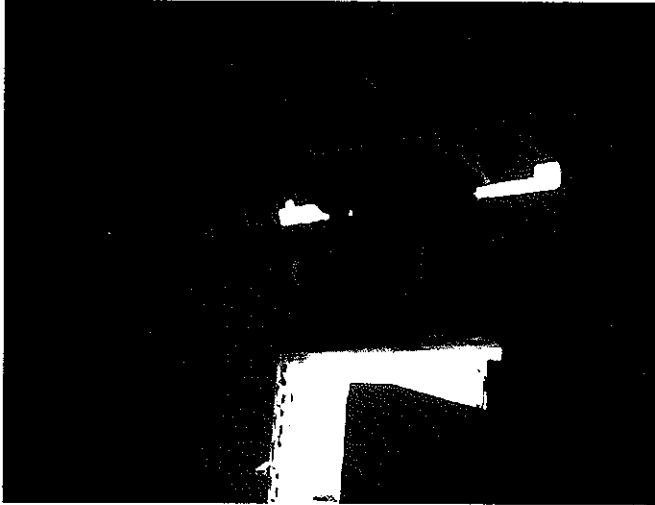


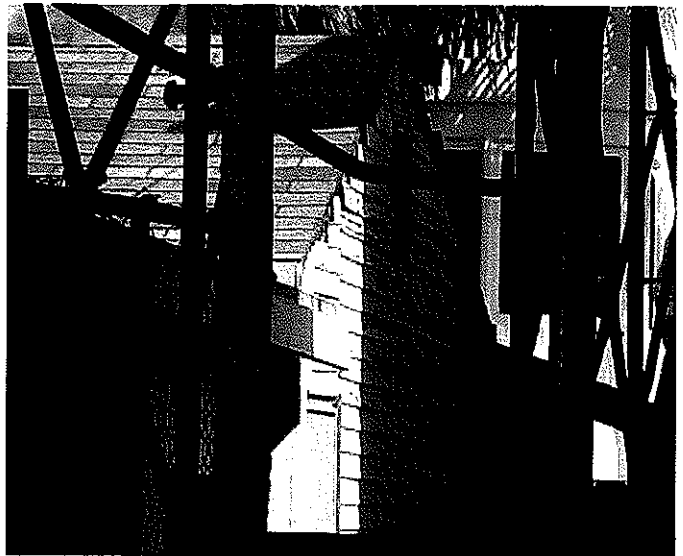


June 21, 2005 – interior of 136 1st Street, ceilings have collapsed, floor, rafters and joists are rotted.



Gaps in roof, water damage and mold under windows.





April 20, 2006 – Conditions remain the same at 138 1st Street.



Code Enforcement Inspection
138 1st Street, Hermosa Beach

Date of Inspection: June 21, 2005

Personnel: Melvyn Green, SE
Loretta Duvall, PE
Elizabeth Green, Bldg Code Tech

Code Basis: 1997 Uniform Housing Code

Chapter 10 – Substandard Buildings

1001.1 – Substandard Generally

1001.2 – Inadequate Sanitation

No kitchen sink

Lack of hot water

Lack of heating – questionable heating and venting/vent pipe and flue

Dampness due to roof leak

General dilapidation

1001.3 Structural

Deteriorated flooring, floors sheathing and floor supports

Deteriorated ceiling joists and roof rafters. Temporary shoring in place.

Possibly no beam over opening where shoring is in place.

1001.5 Electrical – Electrical panel damaged

1001.8 – Faulty Weather Protection

Loose and deteriorated plaster

Damaged waterproofing on exterior walls and roof

Deteriorated, broken, rotted wall and roof coverings

1001.9 – Fire Hazard

Combustibles, mounds of clothing, etc. on top of furniture

Lack of solid core door with closer between garage and dwelling unit 2

1001.11 – Hazardous, unsanitary conditions

1001.13- Fire Protection

Lack of smoke detectors

Recommendation

The extent of the termite and water damage to the front building is significant. To repair the structure almost one-half of the roof and floor would have to be removed and reconstructed. An entire new electrical system is required. The cost for such work would be more than rebuilding. It is recommended that the structure be removed.

The rear building is in a condition that may permit rehabilitation. There is deterioration in the structure including termite damage, electrical system needs and a new roof. It is recommended that the building be demolished or repaired in conformance to the standards of the Housing Code.

INSPECTION REPORT FOR 138 1ST STREET, HERMOSA BEACH
June 28, 2005

Date time and personnel:

On June 21, 2005, an inspection warrant was executed at 138 1st Street after due notification to the owner, Mr. Stephen Landau. Present at the inspection were Bob Rollins, Code Enforcement Officer, Mel Green, Loretta Duvall and Elizabeth Green, from Mel Green and Associates Engineering, an officer of the Hermosa Beach Police Department, and two personnel from Hermosa Beach Public Works Department.

Staff arrived at the site at approximately 9:00 a.m., and was met there by the owner, Mr. Landau, who granted entrance to the property.

Purpose of Inspection:

The purpose of the inspection was to examine the physical condition of the property, which had been neglected for several years, to determine if it met the criteria for nuisance abatement. Mr. Rollins photographed the property (copies attached), while Mel Green and Associates inspected the structural aspects (copy of the report attached).

Conditions noted:

The property was in much the same condition as it had been on the previous inspection, which was conducted on March 20, 2003 (photos attached). Ceilings and walls were water stained and mildewed, with portions of the ceilings having collapsed to the floor below. Where ceiling materials were missing, rotted structural members and daylight coming through the roofing materials were noted in various locations.

Old furniture, clothing, books, papers and other debris, some combustible were strewn or heaped about in various locations.

Exterior weather protection, including roofing and siding materials, paint, and window weatherproofing were missing, damaged and in a general state of neglect and disrepair. Rafter tails and fascia boards were rotted and weather damaged.

Conclusion:

By virtue of the conditions found on the property, the building meets several conditions that establish it as a substandard building per the 1997 Uniform Building Code, Chapter 10, "Substandard Buildings," and the Hermosa Beach Municipal Code Chapter 8.28 "Nuisances".

Recommendation:

That a Nuisance Abatement procedure be undertaken through the methods described in Hermosa Beach Municipal Code Section 8.28.070.