

SAN JOSE APPEALS HEARING BOARD MINUTES
THURSDAY, AUGUST 14, 2008
6:30 P.M., COUNCIL CHAMBERS

1. The meeting of the San Jose Appeals Hearing Board convened this date at 6:30 p.m., Council Chambers, City Hall, with the following members in attendance: Chairperson Clark Williams, Commissioners Calvin Chu, Sonja Etienne, Jose Hernandez, Troy Overton, Karen Parsons and Susan Ruscigno.

Staff Present: Rosa Tsongtaatarii, Chief Deputy City Attorney
Peggy Rollis, Manager of Code Enforcement
Sandy Bouja, Appeals Hearing Board Secretary
Diane Buchanan, Code Enforcement
Susan Cate, Code Enforcement
Moe Kumre, County Weed Abatement Coordinator
John Hernandez, Code Enforcement
Garry McLeod, Code Enforcement
William Gerry, Code Enforcement
Betty Mitre, Code Enforcement

2. **Opening Remarks and Approval of Minutes**

Chairperson Clark Williams read a statement to the public requesting that speakers identify themselves and state their address. There was a motion by Commissioner Ruscigno, seconded by Commissioner Parsons, to approve the minutes of July 24, 2008.

3. **Request for Excused Absence**

4. **Public Hearings Consent Calendar**

- a. **1514 Cliffwood Drive (468-17-061) Summary Abatement**
(Garry McLeod, Inspector / Marlene & Wendy Lino, Property Owners)

There were no separate discussions on hearing items regarding 1514 Cliffwood Drive. The hearing item is considered to be routine and adopted in one motion.

There was a motion by Commissioner Parsons, seconded by Commissioner Etienne, to order as follows:

To approve the Consent Calendar.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams
NAYS:
ABSENT:

5. Deferred and/or Continued Items

a. 1055 California Avenue (429-18-033) Summary Abatement
(Garry McLeod, Inspector / Marcelo & Silvia Weinberger, Property Owners)

Code Enforcement Inspector Garry McLeod testified and stated that the property is a vacant home and that the front door was opened and un-lockable. Inspector McLeod stated that he telephoned Tucker Construction to secure the rear door of the property. The property owners were not present at the meeting.

There was a motion by Commissioner Parsons, seconded by Commissioner Hernandez, to order as follows:

To uphold the City's abatement action to secure the rear door of the property.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams
NAYS:
ABSENT:

b. Public Hearing to Adopt a Resolution Confirming the Hazardous Vegetation Program Assessment Report of the Director of Planning for the Costs and Expenses Incurred to Abate Weeds and to Direct Placement of the Costs and Expenses as a Special Assessment Against the APN 237-03-044, Oakland Road, Bernard Kotansky as owner of the Property, and listed as #3 in the Hazardous Vegetation Program Assessment Report.

Moe Kumre from the Santa Clara County Hazardous Vegetation Program testified and gave an explanation of the amount listed as #3 in the Hazardous Vegetation Program Assessment Report. Mr. Kumre stated that he researched information as to how they determined the amount of \$9,812.25 concerning APN 237-03-044. Mr. Kumre stated that the property was abated in the year of 2002 at the cost of \$2,908.10, and in the year of 2004, at the cost of \$2242.28. The average number of hours would be 4 hours of mowing and 5 hours of general hand work on the parcel. The cost of mowing is \$369.35 an hour, the hand work is \$109.03 an hour for a total of \$2,022.53 this amount includes the county administrative fees in addition to the actual work cost. Mr. Kumre stated that this issue would have to be moved to next year's assessment hearing. Mr. Kumre stated that he explained this information to the property owner and if the property owner does not agree with this amount, the property owner would have to contest the amount at the next assessment hearing. No action needs to be taken, no vote taken.

6. **Public Hearings**

d. **121 Graham Avenue (434-07-027) Administrative Remedy**
(William Gerry, Inspector / Rob Roham, Trustee of Tulip Trust)

Code Enforcement Inspector William Gerry testified and gave a summary of his inspection of the subject property. Inspector Gerry also presented photos of the unpermitted water heater and a fire extinguisher tag that has an inspection date of 2003. Inspector Gerry stated that in the Compliance Order that was mailed to the Property Owner, Mr. Roham, the property owner needs to obtain a permit and a final inspection from the Building Division at City Hall.

Property owner, Rob Roham, was present. Mr. Roham stated that he felt he was misled and mistreated by Inspector Gerry and that he has been through an inspection at least three or four times and none of the previous inspectors required the water heaters to be up to code. Mr. Roham stated that Inspector Gerry did not give clear instructions and directions on how to fix the water heaters. Mr. Roham stated that he did receive the Compliance Order from Inspector Gerry and that most of the issues are corrected except for the water heaters and the cracked shower tiles.

There was a motion by Commissioner Parsons, seconded by Commissioner Chu, to order as follows:

To uphold the City's recommendation.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

b. **127 Graham Avenue (439-07-028) Administrative Remedy**
(William Gerry, Inspector / Rob Roham, Trustee of Tulip Trust)

Code Enforcement Inspector William Gerry gave a brief summary of his inspection of the subject property and presented photos of the improperly installed water heater and a photo of the fire extinguisher tag dated 2003.

Property Owner, Rob Roham, left during the inspector's testimony. Appeals Hearing Board Secretary, Sandy Bouja went to check the hallway to see if the property owner was still in the building. Appeals Hearing Board Secretary, Sandy Bouja stated that she did not see him.

There was a motion by Commissioner Overton, seconded by Commissioner Hernandez to order as follows:

To uphold the City's recommendation.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

c. 1144 Delynn Way (439-36-0448) Proposed Abatement

(John Hernandez, Inspector / Jerry & Elisabeth Ellis, Property Owners)

Code Inspector John Hernandez testified and presented photos of overgrown vegetation on the subject property.

The property owners were not present.

Mr. Jeff Michaels and Mr. Jerry Duran gave their testimony against the subject property.

There was a motion by Commissioner Parsons, seconded by Commissioner Ruscigno to order as follows:

To uphold the City's recommendation and order the Property Owner to take the required action within 10 calendar days of the date of service of the Board's resolution.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

7. Other Business

8. Oral Communication from the Public

9. Adjournment

There was a motion by Commissioner Parsons, seconded by Commissioner Etienne to adjourn the meeting. Chair Clark Williams adjourned the meeting at 7:50 p.m. The next regular meeting will be held on Thursday, August 28, 2008 at 6:30 p.m., at the City Hall Council Chambers.