

SAN JOSE APPEALS HEARING BOARD MINUTES
THURSDAY, OCTOBER 23, 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 Sonja Etienne, Jose Hernandez, Troy Overton, and Susan Ruscigno. Vice Chair Karen Parsons was absent.

Staff Present: Evet Loewen, Chief Deputy City Attorney
Michael Hannon, Code Enforcement Official
Sandy Bouja, Appeals Hearing Board Secretary
Eusebio Espitia, Code Enforcement Supervisor
Luis Arevalo, Code Enforcement
Garry McLeod, Code Enforcement
William Gerry, Code Enforcement
Margaret Lafferty, Code Enforcement
Nacho Preciado, Building Department
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 Parsons, seconded by Commissioner Etienne, to approve the minutes of September 25, 2008.

3. **Request for Excused Absence**

4. **Public Hearings Consent Calendar**

- a. **2382 Summer Street (484-40-013) Summary Abatement**
(Garry McLeod, Inspector / Leo & Mercedes Cuevas, Property Owner)
- b. **837 Delmas Avenue (264-41-021) Summary Abatement**
(Garry McLeod, Inspector / Piper L. Cook, Property Owner)
- c. **486 N 8th Street (249-49-055) Summary Abatement**
(Garry McLeod, Inspector / Terry Lancaster, Property Owner)
- d. **807 Gilchrist WW, Unit 2 (254-21-102) Summary Abatement**
(Garry McLeod, Inspector / Misael V. Morales, Property Owner)

There were no separate discussions on hearing items regarding 2382 Summer Street, 837 Delmas Avenue, 486 N 8th Street and 807 Gilchrist WW, Unit 2. The hearing items were considered to be routine and were adopted in one motion.

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

To approve the Consent Calendar.

AYES: Etienne, Hernandez, Overton, Ruscigno, Williams

NAYS:

ABSENT: Parsons

5. Deferred and/or Continued Items

6. Public Hearings

a. 118 Rainier Street (261-31-033) Administrative Remedy
(William Gerry, Inspector / Lester Gora, Property Owner)

Code Enforcement Inspector William Gerry testified and presented photos of the substandard housing conditions of the subject property. Inspector Gerry stated that the property owner was sent several compliance orders stating that the property owner obtain services of a professional exterminator to eliminate the cockroach infestation and contact the Building Division to inspect the exterior stairs and make the necessary changes in Unit 6. Inspector Gerry stated that as of today, the violations have not been addressed. Inspector Gerry also stated that the property owner failed to meet as requested and the property owner has not provided documentation showing that the violations have been corrected.

Property Owner, Lester Gora, testified and stated that he used a high tech module (Ridex) and fumigation to address the cockroach problem. Mr. Gora presented three service invoices from Pacific Coast Termite Inc. and provided a letter with signatures from the tenants stating that the pest problem had been resolved.

CEO Michael Hannon testified and stated that the property owner, Lester Gora, had been before the Board for another property at 1033 Luther Avenue and had entered into a stipulated agreement and has not complied with the Board's Order and has resulted in the amount of \$100,000.00 lien on his property. Mr. Hannon requested that the Board consider Mr. Gora's previous comments and previous non-compliance in determining the administrative penalties.

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

To accept the City's recommendation.

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

b. 965 Delmas Avenue (264-46-062) Administrative Remedy
(Luis Arevalo, Inspector / Karen L. & Mark Sanchez, Property Owners)

Code Enforcement Inspector Luis Arevalo testified and stated that the single-family residence had been converted into five rental units and that the structure has only one gas meter and one electrical meter on the subject property. Inspector Arevalo stated that the subject property does not meet the requirements for a multiple family use.

Property Owner, Karen Sanchez, testified and stated that she wants to revert the property back to a single-family residence and that she would need more time to comply.

Building Inspector, Nacho Preciado, testified that it should take the property owner one or two months to complete the application. CEO Michael Hannon testified and stated that this is not the first time the City has dealt with the Sanchez's on this issue. The property owner has other properties in San Jose and has converted single-family dwellings into rooming houses.

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

To adopt the City's recommendation with the administrative cost in the amount of \$1124.61, due on or before November 24, 2008. The administrative penalties in the amount of \$1030.00 will be held in abeyance until April 30, 2009, if the property owner is not in compliance, there will be additional penalties of \$200.00 a day starting May 1, 2009.

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

c. 2094 Treewood Lane (092-21-066) Proposed Abatement
(Margaret Lafferty, Inspector / Joan McCamment, Property Owner)

Code Enforcement Inspector Margaret Lafferty testified and requested a change on the Notice of Hearing to indicate that the City is not abating the structure or restricting entrance to the structure. Inspector Lafferty stated that there had been six prior cases at this property and seven citations have been issued and not paid by the property

owner. Inspector Lafferty presented photos of the overgrown vegetation on the subject property and stated that she was not able to contact the property owner.

David Jenkins, a neighbor, spoke against the property and in support of anything the city can do to rectify this problem that has been going on too long.

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

To abate the vegetation on the property within 10 days.

AYES: Etienne, Hernandez, Overton, Ruscigno, Williams

NAYS:

ABSENT: Parsons

7. **Other Business**

8. **Oral Communication from the Public**

9. **Adjournment**

There was a motion by Commissioner Ruscigno, seconded by Commissioner Hernandez to adjourn the meeting. Chair Clark Williams adjourned the meeting at 7:50 p.m. The next regular meeting will be held on Thursday, November 13, 2008 at 6:30 p.m., at the City Hall Council Chambers.