
DRAFT REGULAR MEETING MINUTES
August 8, 2024

1. CALL TO ORDER & ORDERS OF THE DAY

ROLL CALL

PRESENT: Chair Karen Parsons, Commissioner Jon Budas, Commissioner Timothy Kenny and Commissioner Brett Williamson.

ABSENT: Vice Chair Ron Cabanayan and Commissioner David Hook

STAFF: Board Secretary Regina Lizaola, Senior Supervisor Administration Maria Diaz-Perez, Code Enforcement Inspector Wayne Cirone, Code Enforcement Inspector Manuel Duarte, Division Manager Joseph Hatfield and Deputy City Attorney Leanne Bolano.

CALL TO ORDER

Chair Parsons convened the Appeals Hearing Board at 6:37p.m. in the City Council Chambers of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

2. OPENING REMARKS AND APPROVAL OF MINUTES

APPROVAL OF MINUTES

Documents Filed: Draft Meeting Minutes from Appeals Hearing Board Regular Meeting on July 25, 2024.

Action: Upon motion by Commissioner Kenny, seconded by Commissioner Williamson the minutes for July 25, 2024 was approved. (5-2-0).

3. REQUEST FOR DEFERRALS

There was no request for deferrals.

4. CONSENT CALENDAR

- a. **146 & 152 N 4th ST (467-20-24 and 467-20-022)- SUMMARY ABATEMENT**
(Wayne Cirone, Code Enforcement Inspector/ RPRO152N3 LLC C/O Brent Lee, Property Owner)

Documents Filed: Summary Abatement Order and Notice of Public Hearing dated July 23, 2024.

Action: Item pulled from the Consent Calendar. Code Enforcement Inspector Wayne Cirone provided a summary of the property and advised an inspection conducted on August 8, 2024 revealed that the conditions remain the same.

Property Owner Brent Lee spoke, stating he has owned the property since 2013, and has had to adjust to homeless people occupying the property. He expressed a desire to better understand what he must do to come into compliance.

Code Enforcement Acting Division Manager Joseph Hatfield stated that all the instructions are in the paperwork that was mailed and offered to discuss after the meeting.

Upon a motion by Commissioner Kenny, seconded by Chair Parsons and carried (4-2-0) unanimously to adopt a resolution that the San José Appeals Hearing Board uphold the abatement actions taken on: 1) July 1, 2022 by the City of San José to secure the subject properties by boarding up the structure with plywood over two openings; and 2) the abatement actions taken on March 30, 2024 by the City of San José to secure the subject properties with temporary fencing, partial abatement of fire-damaged debris, resealing fencing around all attached properties, and invoice the property owner the costs of all abatement actions, including the total cost of the actions taken, any administrative costs and any allowable inspection fees.

5. DEFERRED AND/OR CONTINUED ITEMS

There was no deferred and/or continued items.

6. PUBLIC HEARINGS

a. 1091 O'BRIEN CT (230-16-066) ADMINISTRATIVE REMEDY

(Manual Duarte Code Enforcement Inspector/David A Henschel, Property Owner)

Documents Filed: Administrative Remedy and Notice of Public Hearing dated July 22, 2024

Action: Code Enforcement Inspector Manuel Duarte provided a summary and confirmed that per an inspection completed on August 8, 2024 at 3:35pm, the building remains onsite at the same location.

Property Owner David Henschel was present and chose not to speak.

Upon a motion by Commissioner Kenny, second by Commissioner Williamson and carried (4-2-0) motion to adopt a resolution.

1. Order to Correct

The Property Owner shall remove the accessory building (shed) located in the front setback of the subject property **on or before September 9, 2024.**

2. Administrative Costs

On or before September 9, 2024, the Property Owner shall pay

Administrative Costs to the City of San José in the amount of **\$1,918.00**.

3. Administrative Penalties

On or before September 9, 2024, the Property Owner shall pay Administrative Penalties to the City of San José, pursuant to San José Municipal Code Section 1.14.090, in the amount of **\$3,000.00**. **If full compliance with the Board's Order is not achieved by September 9, 2024**, as described in the order to correct, Code Enforcement staff recommends the imposition of additional Administrative Penalties in the amount of **\$150.00** per day starting with **September 10, 2024, for non-compliance with the September 9, 2024, deadline** until the date of compliance with the Board's Order, up to a maximum of \$100,000.00. If the Administrative Penalties are not paid and are recorded as a lien on the real property pursuant to San José Municipal Code Sections 1.14.160 and 1.14.180, as may be amended, an interest rate of ten percent (10%) per annum shall be charged on the principal amount of the administrative lien, from the date the lien is first recorded until the date that payment is received by the City, consistent with California Code of Civil Procedure Section 685.010, as may be amended.

- b. 69 E SAN FERNANDO ST (467-22-056) ADMINISTRATIVE REMEDY**
(Wayne Cirone, Code Enforcement Inspector/Eagles Hills Property LLC, GTL Investments LLC, José Anthonio Castillo, Property Owners)

Documents Filed: Administrative Remedy and Notice of Public Hearing dated July 23, 2024

Action: Code Enforcement Inspector Wayne Cirone provided a summary and several updates update from an inspection conducted on August 8, 2024, stating the rear alley and frontage have been successfully cleared of debris and litter, signage has been installed to indicate sidewalk closure, graffiti removal has been performed regularly to help midigate blight, and the Property Owners have been in contact with Public Works regarding a covered sidewalk. Inspector Cirone also provided corrections to the staff report dated July 23, 2024 to confirm Administrative penalties date of August 18, 2024.

The Board confirmed with staff that the recommended dates as proposed in the staff report are realistic for the Property Owners to achieve.

Property Owners José Castillo and Kevin Louie testified, stating they visit the property and have people come out to clean the graffiti. They are working on rebuilding the property and currently have a demolition permit for the interior. They confirmed they are in contact with City staff and are motivated to come into compliance.

Upon a motion by Commissioner Kenny, second by Commissioner Williamson and carried (4-2-0) motion to adopt a resolution. .

1. Order to Correct

- A. On or before September 9, 2024**, Eagle Hills Property I LLC, GTL

Investments LLC, and José Anthonio Castillo shall complete the following corrective actions:

1. Ensure the building is maintained and security standards are met in accordance with San José Municipal Code Chapter 17.38 – Maintenance and Rehabilitation of Neglected Vacant or Abandoned Buildings as follows:
 - a) Maintain minimum standards per 17.38.210, 17.38. 230, and 17.38.240
 - b) Post appropriate responsible party signage with 24-hour contact information
 - c) Install exterior lighting and ensure it is continuously lit from dusk to dawn.
 - d) Secure and maintain all openings and fencing to prevent unauthorized entry.
 - e) Remove and maintain the building free of graffiti.
 - f) Ensure all unfinished (without paint, stucco, siding, etc.) boarded openings- windows and doors- are covered with sufficient paint, siding, stucco or other finish to weatherproof the building and to create a sufficient appearance of repair to deter unauthorized occupation.
 - g) Conduct inspection of the property a minimum of once every two weeks and maintain a log of those inspections pursuant to 17.38.330. Provide the log to the City of San José Code Enforcement Division.
2. Obtain an approved encroachment permit from the City of San José Public Works Department and Development Services to install a covered pedestrian walkway or similar feature to restore pedestrian use and access of the public right of way/sidewalk.

- B. On or before September 30, 2024**, Eagle Hills Property I LLC, GTL Investments LLC, and José Anthonio Castillo shall complete the following corrective actions:

Ensure compliance with 17.38.200 by demonstrating with evidence that:

- a) Construction, alteration, improvements, rehabilitation, or repair is in progress pursuant to a valid, unexpired building permit with inspections occurring at least every six (6) months; or
- b) The property has been rehabilitated for use or occupancy; or

- c) The property meets one of the below criteria for exemptions:
1. The building or structure is subject to an active building permit for construction, alteration, modification, rehabilitation, or repair and the owner is progressing diligently to complete the construction, alteration, modification, rehabilitation, or repair within the time frame set forth in the building permit.
 2. The building or structure complies with all codes, ordinances, or laws adopted by the city, does not otherwise constitute a public nuisance, is ready for use or occupancy, and is actively being offered for sale, lease, or rent.
 3. The building or structure, including the property on which it is located, does not otherwise constitute a public nuisance and is unlikely to become a public nuisance because the property is actively maintained and monitored. Actively maintained and monitored shall mean the condition of the property complies with the minimum standards set forth in Part 2 of this chapter and any other applicable provisions of this Municipal Code.

2. Administrative Costs

On or before September 9, 2024, Eagle Hills Property I LLC, GTL Investments LLC, and José Anthonio Castillo shall pay Administrative Costs to the City of San José in the amount of \$2,529.00.

3. Administrative Penalties

On or before September 9, 2024, the Property Owners shall pay Administrative Penalties to the City of San José, pursuant to San José Municipal Code Section 1.14.090, in the amount of **\$5,000.00**, if full compliance with correction actions as listed in Part A. 1 and 2 of the Board's Order to Correct is achieved by September 9, 2024; **if not** achieved by **September 9, 2024, then Property Owners shall pay \$ 10,000.00**. Code Enforcement staff recommends the imposition of additional Administrative Penalties in the amount of **\$1,000.00 per day** starting on September 10, 2024 until the date of compliance; and

If full compliance with corrective actions as listed in Part B. of the Board's Order to Correct is not achieved by **September 30, 2024**, Code Enforcement staff recommends the imposition of additional Administrative Penalties in the amount of **\$250.00 per day for a total of \$1,250.00 per day** starting on **October 1, 2024**, until the date of compliance up to a maximum of \$100,000.00. If the Administrative Penalties are not paid and are recorded as a lien on the real property pursuant to San José Municipal Code Sections 1.14.160 and 1.14.180, as may be amended, an interest rate of ten percent (10%) per annum shall be

charged on the principal amount of the administrative lien, from the date the lien is first recorded until the date that payment is received by the City, consistent with California Code of Civil Procedure Section 685.010, as may be amended.

7. REQUEST FOR EXCUSED ABSENCE

There was no request for excused absence.

8. OTHER BUSINESS

There was no other business.

9. PUBLIC COMMENT

There was no public testimony on the floor.

10. ADJOURNMENT

Upon a motion by Commissioner Williamson, seconded by Chair Parsons, and carried unanimously, the Hearing was adjourned at 7:29 p.m.