

1 _____, CITY ATTORNEY
CITY OF PORT HUENEME

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3 DEPUTY CITY ATTORNEY

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6 Attorneys for Plaintiff, CITY OF PORT HUENEME

7 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF VENTURA**

9
10 IN RE PROPERTY AT
11 2613 Spinnaker Avenue
12 Port Hueneme, CA 93041

CASE NO.

ABATEMENT WARRANT

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17 The People of the State of California, to any Code Compliance Officer of the City
of the City of Port Hueneme:

18 Upon good cause shown to the Court:

19 YOU ARE HEREBY COMMANDED TO CONDUCT an inspection and abate the bottom
20 front condominium of a 4-unit structure located on County Assessor's parcel number
21 189-0-301-315 known as 2613 Spinnaker Avenue, in the City of Port Hueneme, County
22 of Ventura, State of California as authorized by the Order of Abatement issued on July
23 7, 2010 issued pursuant to Port Hueneme Municipal Code § 3404 of the premises.
24 Specifically, the interior of the single-story condominium and detached garage located
at the rear of the building.

25 YOU ARE AUTHORIZED to enter the premises above to inspect the interior of
26 the structure to take photographs of any and all of the above-mentioned areas of
27 inspection, to determine the scope of abatement work required, and to execute the

1 Order to Abate issued by Hearing Officer Steve Bowman on July 7, 2010 submitted to
2 this court and attached to the Declaration of Tamah Figg as Exhibit E.

3 This inspection shall be conducted pursuant to Code of Civil Procedure § 1822.56 in a
4 reasonable manner for the purpose of ensuring compliance with all applicable laws.

5 The court finds that it is reasonably necessary to execute this warrant in the absence of
6 the Owner under the circumstances shown and the requirement of the Owner's
7 presence is hereby waived for the reasons set forth in the accompanying declarations.

8 Law enforcement officers of the Port Hueneme Police Department and biohazardous
9 consultants hired by the City of Port Hueneme may also accompany officials of the Port
10 Hueneme Code Enforcement Department on this inspection and abatement. The court
11 finds that forcible entry is reasonably necessary under the circumstances shown and
12 hereby approves the use of force, including the using of a locksmith to enter upon the
13 premises and the removal of any occupants who are impeding the inspection and
14 abatement activities. Inspection and abatement may be made between the hours of
15 8:00 a.m. and 6:00 p.m. of any day. This warrant will be effective from the date hereof
16 for a period not to exceed fourteen (14) days.

17
18 Dated: _____

19 Judge

1 CITY OF PORT HUENEME

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3 DEPUTY CITY ATTORNEY

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5 Attorneys for Plaintiff, CITY OF PORT HUENEME

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8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF VENTURA**

10
11 IN RE PROPERTY AT
12 2613 Spinnaker Avenue
13 Port Hueneme, CA 93041

CASE NO. ISP-007-10

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17 **EXECUTION AND RETURN OF**
18 **ABATEMENT WARRANT**

19 I, Tamah Figg of the City of Port Hueneme, Community Development Department,
20 certify that I personally executed the attached abatement warrant by removing the public
21 nuisance of the condominium and garage, described therein during the time allowed and in the
22 manner specified by such warrant. The public nuisance has now been abated.

23 Prior to making said abatement, I provided notice of the issuance of said warrant to be
24 given to Clariann McPherson owner/occupant, by posting said warrant on the front door of the
25 condominium.

26 The abatement commenced on September 28, 2010 and was completed on September 30,
27 2010 between the hours of 0800 hours and 1700 hours. The manner of abatement occurred by
28 AAA Crime Scene Cleanup Service being contracted by the City to remove all excess items and
trash from the residence. 3.22 tons of items and trash were removed.

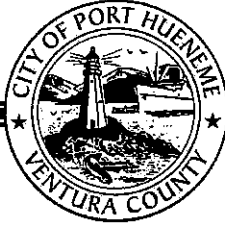
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The abatement warrant was fully executed and is now returned to the Honorable Judge Long.

Executed this ___ day of October, 2010 at _____, California.

I certify and declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Tamah Figg
Code Compliance Manager



City of Port Hueneme

COUNCIL AGENDA STAFF REPORT

TO: City Council

FROM: Community Development Director

SUBJECT: HEARING ON THE CITY MANAGER'S REPORT REGARDING THE ITEMIZED STATEMENT OF COSTS FOR THE ABATEMENT OF A PUBLIC NUISANCE AT 2613 SPINNAKER AVENUE AND ADOPTION OF RESOLUTION CONFIRMING SUCH COSTS

DATE: November 1, 2010

RECOMMENDATION:

It is recommended that the City Council hear the City Manager's Report on the Itemized Statement of Costs for the Abatement of a Public Nuisance at 2613 Spinnaker Avenue as well as any objections or protests raised by any of the persons liable to be assessed for the costs; make such revision, correction or modification to such Report as the Council may deem just; and adopt the attached Resolution to establish the cost of abatement of the public nuisance located at 2613 Spinnaker Avenue.

FISCAL IMPACT:

The Council's confirmed cost of abatement (recommended to be \$11,013.16), shall constitute a special assessment against 2613 Spinnaker Avenue, and, after it's recording, shall constitute a lien on the Property. A copy of the confirmed cost of abatement shall be transmitted to the Assessor and Tax Collector for the City, and the Assessor and Tax Collector will add the amounts of such assessment to the next regular bills or taxes levied against 2613 Spinnaker Avenue for municipal purposes. Thereafter such amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure for foreclosure and sale in case of delinquency as provided for ordinary municipal taxes. The Property may be sold after five years by the tax collector for unpaid delinquent assessments that have been recorded as a lien.

ABATEMENT OF PUBLIC NUISANCE

November 1, 2010

Page 2

RELATIONSHIP TO THE STRATEGIC PLAN:

The recommended action helps to fulfill Initiative No. 1 (Balanced Budget) by recovering \$11,013.16 in General Fund expenditures from liable person(s).

BACKGROUND/ANALYSIS:

The property at 2613 Spinnaker Avenue came to staff's attention by way of a complaint that was received on January 13, 2010 by the management company for the homeowners association. The nature of the complaint was that the property was suffering from hoarding conditions causing health and fire concerns. Maintenance workers reported that there were only pathways to maneuver inside the residence and that there were items were being stored outside as well.

Inspection of the property confirmed that the condominium was suffering from hoarding conditions. Personal items and furniture were piled and stacked in the living and dining rooms, hallways, and bathroom. The 2 bedrooms were full of items making inspection of the rooms impossible. The kitchen had items and food stacked on the floor, counter tops, stove and sink. The detached garage is a 2-car garage that is shared by 2 condominiums. The side belonging to this condominium was completely full of more furniture, personal property, boxes and bags.

Over the course of the next 5 months, staff attempted to gain compliance from the owner, Clariann McPherson, in clearing out the hoarding conditions. Staff suggested that the owner contact Adult Protective Services, local religious and community groups or her adult children to assist her. At times it appeared that progress had been made but then it was discovered that all the property removed from one room was actually put into another room. On most occasions, the owner called to cancel the scheduled inspection citing various reasons.

On May 28, 2010, a letter was mailed to the owner from the City Attorney's office in a last ditch attempt to gain cooperative compliance (Exhibit A). The owner failed to contact staff regarding the letter, so a Public Nuisance action was initiated.

On June 18, 2010, a Public Nuisance Hearing was scheduled (Exhibit B) with the hearing held on July 7, 2010. Although the owner failed to be present for

ABATEMENT OF PUBLIC NUISANCE

November 1, 2010

Page 3

the hearing, the City's Hearing Officer determined the property to be a public nuisance and ordered the abatement of the nuisance (Exhibit C).

On August 16, 2010, staff sent one final letter requesting that the owner consent to allow the City to abate the public nuisance as set forth in the Abatement Order (Exhibit D). The owner failed to reply to the request so staff began the abatement warrant process.

On September 23, 2010, Ventura County Superior Court Judge Long signed an abatement warrant authorizing staff to remedy the public nuisance (Exhibit E). The warrant was first executed on September 27, 2010. The owner failed to be present so staff gained entry to the condominium with the assistance of a locksmith. Also present was AAA Crime Scene Cleanup Service in order to assess the work that would be required.

On September 30, 2010, the warrant was fully executed with 3.2 tons of items, trash, furniture, and other items being removed from the condominium and garage. The owner was present.

A City Council Resolution is now required to evidence a review and confirmation of the cost of abatement, together with any objections or protests raised by any of the person(s) liable to be assessed for the cost of abating such nuisance (Municipal Code Section 3410, attached). This matter is now coming before the Council in order to have a Resolution affirmed and sent to the County for the proper placement of the cost of abating the public nuisance.

Exhibit "F" is a breakdown of costs incurred by the City. Failure by Ms. McPherson to pay the costs of abatement within thirty calendar days after adoption of the resolution and invoice for payment will result in the amount being transmitted to the County Assessor and Tax Collector who shall add the total abatement amount to the next regular property tax bill. This amount shall be collected at the same time and manner as ordinary taxes and shall be subjected to the same penalties and procedures for delinquency.

"Before" and "After" photographs of the property are available for review in the Council's office.

Alternatives:

The following alternatives are presented for Council's consideration:

- Approve staff's recommendation;
- Modify staff's recommendation and approve;

ABATEMENT OF PUBLIC NUISANCE

November 1, 2010

Page 4

- Reject Staff's recommendations and/or provide direction to staff.

Attachments:

- PHMC Section 3410
- Exhibit A: City Attorney Letter of May 28, 2010
- Exhibit B: Notice of Hearing To Determine The Existence Of A Public Hearing dated June 18, 2010
- Exhibit C: Order Of Abatement dated July 7, 2010
- Exhibit D: Consent To Abate A Public Nuisance dated August 16, 2010
- Exhibit E: Abatement Warrant
- Exhibit F: Summary of costs

**Accounting of staff time spent on the abatement of a public nuisance at 2613
Spinnaker Avenue**

2613 Spinnaker Avenue
189-0-301-315
Case 10-4202

<u>DATE</u>	<u>ACTIVITY</u>	<u>HOURS</u>
01-13-10	Initial inspection of residence / photos taken	1.00
01-26-10	Reinspection of residence	.50
02-10-10	Reinspection of residence	.50
03-04-10	Reinspection of residence	.50
03-10-10	Reinspection of residence by CCO Self	.50
03-17-10	Reinspection of residence by CCO Self	.50
03-24-10	Reinspection of residence by CCO Self	.50
04-22-10	Reinspection of residence, e-mail to Deputy City Attorney	.50
04-27-10	Phone conference with Deputy City Attorney, send documents	.50
05-17-10	Exchange e-mails with Deputy City Attorney regarding compliance letter	.50
06-14-10	Several phone calls to McPherson over 3 days	.50
06-18-10	Public Nuisance Hearing file started	1.0
07-07-10	Public Nuisance Hearing held	1.0
08-09-10	Attempt to inspect the residence	.50
08-16-10	Phone conference with Deputy City Attorney and preparation of Consent To Abate a Public Nuisance letter	1.0
08-24-10 to 09-21-10	Preparation of abatement warrant and related documents and work with Deputy City Attorney. Coordinate with contracted cleaning crew	6.0
09-23-10	Take warrant to court for Judge's signature	1.5
09-27-10	Warrant and cover letter posted at property	.50
09-28-10	Met with AAA Crime Scene Cleaning, Nason's Locksmith and Police Officer to execute abatement warrant	2.0

Staff Time For Public Nuisance
November 1, 2010
Page 2

09-30-10	Met with AAA Crime Scene and Police Officer to Police Officer at property to complete execution of abatement warrant	7.0
10-05-10	Preparation of Return Warrant	2.0
10-12-10	Filing of Return Warrant at Courthouse	1.5

Code Compliance Manager	$28.5 \times \$158.08 = \$ 4,505.28$
Code Compliance Officer	$1.5 \times \$100.28 = \$ 150.42$
Police Officer	$3.0 \times \$130.46 = \$ 391.38$

TOTAL \$ 5,047.08

SUMMARY OF COSTS

Staff	\$5,047.08
City Attorney	\$1,740.00
City Solid Waste	\$ 332.02
Nason's Lock & Safe	\$ 237.50
Hearing Officer	\$ 72.00
AAA Crime Scene Cleanup Service	\$3,585.00

TOTAL COST	\$11,013.60
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RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF PORT HUENEME TO
ESTABLISH THE COST OF ABATEMENT OF
A PUBLIC NUISANCE LOCATED AT 2613
SPINNAKER AVENUE**

WHEREAS, the Property located at 2613 Spinnaker Avenue, Port Hueneme, California 93041, Assessors Parcel 189-0-301-315 ("the Property") has required the attention of the Code Compliance Division due to a health and safety hazard; and

WHEREAS, the Property was determined to be a public nuisance on July 7, 2010 by the City's Hearing Officer and an Order to Abate was posted at the Property and mailed first class; and

WHEREAS, the Property owner failed to abate the public nuisance; therefore an abatement warrant was signed by Ventura County Superior Court Judge Long on September 23, 2010, ordering abatement of the public nuisance; and

WHEREAS, the City of Port Hueneme incurred the following expenses in abating the public nuisance and now requires reimbursement for same: City Staff time, \$5,047.08; City solid waste removal; \$332.02; Hearing Officer \$72.00; City Attorney's time \$1,740.00; Nason's Lock & Safe \$237.50; and AAA Crime Scene Cleanup Service \$3,585.00; for a total of \$11,013.16; and

WHEREAS, pursuant to Government Code Sections 38773, 38773.1, and 38773.5, persons failing to abate public nuisances as ordered are obligated to pay all city expenses of abating the nuisance and all administrative costs associated therewith.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Port Hueneme finds the amount of \$11,013.60 is confirmed as the cost of abatement of the public nuisance on the Property and shall be payable to the City of Port Hueneme by the recorded owner, Clariann McPherson, 2613 Spinnaker Avenue, Port Hueneme, California 93041, within thirty (30) days from the date of adoption of this Resolution:

BE IT FURTHER RESOLVED, that upon failure of payment by the recorded owner/agent within thirty days of the adoption of this Resolution, the City Council of the City of Port Hueneme hereby directs staff to transmit a copy of the confirmed costs of abatement to the Assessor and Tax Collector for the City to be added to the next regular bill or taxes levied against the Property for municipal purposes.

PASSED, APPROVED, AND ADOPTED this 1st day of November 2010

**NORMAN GRIFFAW
MAYOR**

ATTEST:

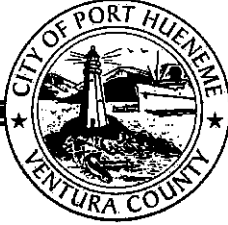
**MICHELLE ASCENCION
DEPUTY CITY CLERK**

APPROVED AS TO FORM:

**MARK D. HENSLEY
CITY ATTORNEY**

APPROVED AS TO CONTENT:

**DAVID J. NORMAN
CITY MANAGER**



City of Port Hueneme

April 28, 2011

County of Ventura, Auditor's Office
Attn: Tony Hernandez
800 S. Victoria Avenue
Ventura, CA 93009-1540

RE: Placement of Special Assessment (SA)
2613 Spinnaker Ave., Port Hueneme, CA 93041
APN # 189-0-301-315
District 07
Zone 05
Amount \$11,013.60

Mr. Hernandez,

Enclosed please find a certified copy of Resolution 3971 for the placement of a special assessment for the 2011/2012 tax roll. Please forward a copy of the placement to the City of Port Hueneme, attention Tamah Figg, Code Compliance Manager when complete.

Thank you for your assistance. Should you require further information, please phone me at (805) 986-6513.

Sincerely,

TAMAH FIGG
Code Compliance Manager

Attachment:

Certified Resolution No. 3971