

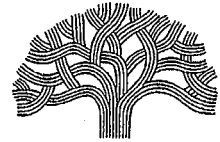
Flynn, Rachel

From: Flynn, Rachel
Sent: Friday, May 29, 2015 4:59 PM
To: 'taylorheanue@yahoo.com'
Cc: Low, Tim; Kawamoto, Edwin
Subject: 3921 Calandria - NOV
Attachments: 3921 Calandria Avenue.pdf

Taylor, Attached please find the letter we discussed today regarding the concrete block wall that abuts your back yard. Thanks, Rachel

Rachel Flynn AIA
Director | Planning & Building Department
City of Oakland
510 . 238 . 2229

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Planning and Building Department
Office of the Director

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

May 29, 2015

Taylor and Mica Heanue
3921 Calandria Avenue
Oakland, CA 94605

Re: Wall on City-Owned Park Land

Dear Mr. and Mrs. Heanue,

This letter is in regards to the cinderblock retaining wall that abuts your rear yard. As you know, this wall was constructed by a previous property owner without permits on City-owned park land. On February 28, 2011, the City issued you a Notice to Abate in reference to this wall (Complaint #1101036). The City directed you to remove the wall and to relocate any new wall within your property boundaries by obtaining proper permits. On March 23, 2011, you responded in a letter to Leonardo Rivera, Senior Construction Inspector, that you understood it was your responsibility to correct the violation. You also indicated that you did not have the financial resources at the time to remove the wall and associated work, i.e., regrading. You estimated that you would have the financial means to correct the violation within three years – and requested an extension to the abatement deadline the City stated in the Notice. On April 20, 2011, Inspector Leonard Rivera responded, by letter, to your extension request and suggested that you contact the Parks and Building Maintenance Manager for the City, Jim Ryugo, to explore options related to a wall on City-owned park land, i.e., an easement. Mr. Ryugo was an employee with Oakland Public Works (OPW) at the time and retired about two years ago. The City granted you an extension until June 27, 2011.

According to e-mail exchanges between you and Jim Ryugo during the months of April, May, and June 2011, Mr. Ryugo indicated that he had City budget issues that he was involved with and did not have the time to research this matter and find a reasonable solution. He told you and Mr. Rivera that he would be in contact. I have no documentation of any follow-up by Mr. Ryugo or Mr. Rivera.

On September 19, 2014, a new Notice of Violation (NOV) was issued to you by Inspector Hugo Barron (Case No. 1402022). The NOV cited failure of the wall and directed you to repair the wall. You indicated to me during our phone conversation on May 18, 2015 that you came to our offices last year to address the NOV. You further indicated that you were told by both planning staff and building staff that you were not permitted to perform work on City-owned land – and


that they directed you to Oakland Parks and Recreation (OPR). You told me that you attempted to contact Mark Hall in OPR, but were unable to reach him. In March 2015, Brian Carthan, Parks Services Manager for Public Works, e-mailed the Director of OPR, Audree Jones-Taylor, seeking her directive on the wall and whether an easement could be granted or if the City could remove the wall. Ms. Jones-Taylor indicated in her response that she needed additional information to make a determination on this case.

On April 28, 2015, Marie Taylor, a manager in Code Enforcement, conducted a site visit and met with you, due to recent citizen complaints received by our Department. After Ms. Taylor's site visit, I became involved in your case, due to continued citizen complaints. I spoke with Planning and Building Department staff, reviewed case records, spoke with you on the phone, and consulted with the City Attorney's Office, Public Works, and Real Estate Services.

As a result of my investigation and the City Attorney's review of your case, we are confirming that you are responsible for removal of the wall. Therefore, we are granting you an additional thirty (30) days from the date of this letter to remove the wall or to submit a compliance plan that explains how you will abate the violation. Please submit any compliance plan to me. The City will confirm whether the plan is acceptable or not, in terms of timeline and work to be performed. If the plan is not acceptable, then the City will proceed with standard fee charges for non-compliance. If you decide to proceed with removal of the wall and related regrading, then you must obtain the proper permits by submitting a permit application and the required documentation. In addition, you must contact our Real Estate Division in order to obtain the required Right of Entry agreement to perform work on City-owned park land. Ed Kawamoto will be your contact in Real Estate. His e-mail is EKawamoto@oaklandnet.com and his phone number is 510-238-6360.

Please feel free to contact me at 510-238-2229 should you have any questions about your case.

Sincerely,



Rachel Flynn, AIA
Director

cc: Tim Low, Acting Building Official, City of Oakland
Ed Kawamoto, Real Estate Agent, Real Estate Services

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Tuesday, June 02, 2015 7:33 AM
To: Flynn, Rachel
Cc: Office of the Mayor; City Administrator's Office; Woo, Winnie; Hunt, Michael; Reid, Larry; Sandercock, Deborah; Labayog, Edward; Low, Tim; Barron, Hugo; Suzy clark; Ramirez, Ivan; Rivera, Leonardo; Smith, Sandra M; Taylor, Marie (Allene)
Subject: Re: disappointed... complaints 1101036 & 1402022

Director Flynn,

Clarification please; 3rd request.

Are you enforcing Notice to Abate 1101036 dated February 28, 2011 and Notice of Violation 1402022 dated September 19, 2014? If yes, does your enforcement include fines, penalties and assessments for non compliance for 52 months and 10 months respectively, as prescribed by the applicable regulations?

Your email of Friday was ambiguous on this point. A timely and clear response would be appreciated.

Regards,
Michael Hector & Suzanne Clark
3539 Calandria
Oakland

On Fri, May 29, 2015 at 5:00 PM, Flynn, Rachel <RFlynn@oaklandnet.com> wrote:

Michael, As promised, I have reviewed these cases and notified Taylor and Mica Heanue today of the City's decision that they are responsible for removal of the concrete block wall that abuts their property.

Thanks, Rachel

Rachel Flynn AIA

Director | Planning & Building Department

City of Oakland

510 . 238 . 2229

From: Michael Hector [mailto:psmhector@gmail.com]

Sent: Friday, May 29, 2015 4:54 PM

To: Flynn, Rachel; Office of the Mayor; City Administrator's Office; City Administrator's Office; Woo, Winnie; Hunt, Michael; Reid, Larry; Sandercock, Deborah; Labayog, Edward; Low, Tim; Barron, Hugo; Suzy clark; Ramirez, Ivan; Rivera, Leonardo; Smith, Sandra M; Taylor, Marie (Allene); michael hector

Subject: disappointed... complaints 1101036 & 1402022

Director Flynn,

I'm shocked, shocked that you once again failed to meet the most basic and simplest of your own deadlines. After one thousand five hundred and eighteen days there is still no explanation why the department that you manage so well has failed to enforce Abatement Order 1101036 issued on February 28, 2011.

What a well managed city administration.

Not so happy taxpayers in Oakland,

Michael Hector & Suzanne Clark

3539 CAlandria

Oakland

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Tuesday, June 02, 2015 2:25 PM
To: Flynn, Rachel; Office of the Mayor; City Administrator's Office; City Administrator's Office; Woo, Winnie; Hunt, Michael; Reid, Larry; Kalb, Dan; Guillen, Abel; McElhaney, Lynette; Campbell Washington, Annie; Gallo, Noel; Brooks, Desley; Kaplan, Rebecca; Ranelletti, Darin; Sandercock, Deborah
Cc: Barron, Hugo; Ramirez, Ivan; Smith, Sandra M; Taylor, Marie (Allene); Suzy clark; michael hector
Subject: 99 communications on ENFORCEMENT of complaint 1101036 - still no clear answer
Attachments: 3521 heanue letter.pdf; PICT1514.JPG; PICT1774.JPG

Director Flynn,

Is the building and planning department going to enforce complaint 1101036, as stated in the Notice To Abate dated February 28, 2011?

This is not a difficult question: The property owners at 3521 Calandria have taken a portion of City land, laid claim to it, marked city land as their private property and walled it off with a 6'+ high masonry retaining wall - all WITHOUT THE REQUIRED PERMITS.

This is our 77th email since April 24, 2015; my 99th communication since February 2011 on enforcement of complaint 1101036. We've been waiting one thousand five hundred and twenty two days - 1,522 days for enforcement! We still have not received a definitive response.

The inability to receive a clear, prompt answer is silly.

Regards,
Michael Hector & Suzanne Clark
3539 Calandria

MICA & TAYLOR HEANUE

3521 CALANDRIA AVENUE, OAKLAND, CA 94605 • (415) 990-2275

City of Oakland
Community and Economic Development Agency
Building Services
250 Frank H Ogawa Plaza 2nd Floor
Oakland, California 94612

Re: Notice to Abate, Complaint# 1101036

Attn: Leonardo Rivera
Senior Construction Inspector

March 23, 2011

Dear Leonardo,

We received a "Notice to Abate" dated February 28, 2011. This Notice to Abate cites a single violation:

"Un-permitted cinder block retaining wall and wood fence located at the back of the property were constructed beyond the property line and into the city parcel. OMC 15.08.200(A)

Remove and relocate the existing cinder block retaining wall and fence inside the private property. Apply for a building permit to construct a new retaining wall. Submit plans with structural calculations and a boundary survey prepared by a licensed land surveyor. CBC Section 105.2(4)"

Based on the evidence you have presented us, including a site plan, we realize that the wall and fence violate the boundary of our property line. We are writing this letter to respond to this notice and to inform you of our plan to address and comply with this notice.

We recognize that it is our responsibility as current owners of the property to correct this situation. However, we want to be clear that we purchased this house less than a year ago and the retaining wall in question was installed in 2003 or possibly before by a previous owner.

We have begun to take steps towards planning this task by contacting surveyors and trying to figure out where the new wall belongs. What we have learned is that because that our property doesn't have a full survey on record, this is a much more involved and expensive job. We were quoted an estimate of \$5,000

After our recent phone discussion on 3/23/2011, we now realize that the current site map on file will be sufficient for the purposes of this construction.

This is a large job. A 50 foot long retaining wall that is 6 feet high with a wooden fence on top and all the earth behind it must be removed and a smaller 2-3 foot retaining wall must be put in place along a new line. Plans must be drawn up by an engineer, permits pulled, site inspections, etc. Based on discussions we have had with contractors, we have put together a cost estimate, which is shown below.

RECEIVED
2011 MAR 24 PM 3:48
CITY OF OAKLAND
COMMUNITY AND ECONOMIC DEVELOPMENT AGENCY
BUILDING SERVICES

MICA & TAYLOR HEANUE

3521 CALANDRIA AVENUE, OAKLAND, CA 94605 • (415) 990-2275

Estimation of costs:

- Planning Phase (\$3,000-7,000)
 - (Boundary Survey not required)
 - Design new wall
 - Structural Calculations
 - Permitting
- Demolition Phase (\$8,000-12,000)
 - Destroy existing wall and fence
 - Excavate yard extension
 - Remove debris and material
- Construction Phase (\$18,000-\$25,000)
 - Build new wall
 - Build new fence
 - Drainage
 - Backfill

Total: \$29,000-\$44,000

Please understand that this whole thing has come as a complete surprise to us. We are new owners at this property and first time home-owners as well. We had not planned for a large expenditure like this and frankly we don't have very much money left in our savings right now. We are at a loss for what to do considering the large entry expense to get even through the planning phase.

Based on a hard look at our budget, we believe we can save \$1000/month towards this effort, which means that we are looking at a timeline of approximately 3 years for us to be able to afford the work that is required. We recognize that this is probably not the response you were hoping for, but this is the financial situation we are in. We hope that you can show some leniency on the project timeline based on the fact that we are new owners and not the ones who created this violation.

We have begun saving towards the cost of the job and we can hope to have enough to complete the planning phase by the end of summer 2011. Additionally, we will send updated progress reports quarterly to keep you informed on progress and revised cost and timeline estimates as we learn more.

Regards,



Mica Heanue

Taylor Heanue & Mica Heanue





Flynn, Rachel

From: Kawamoto, Edwin
Sent: Tuesday, June 02, 2015 4:23 PM
To: Flynn, Rachel
Cc: Low, Tim; Golde, James; taylorheanue@yahoo.com
Subject: RE: 3521 Calandria - NOV (meeting with Taylor Heanue)

To Rachel:

This concerns your letter dated May 29, 2015 to Taylor and Mica Heanue ("Letter") and status report of my meeting with Taylor Heanue on June 1, 2015.

When I met with Taylor Heanue, we discussed the Right of Entry Agreement ("Agreement") and the compliance plan ("Plan"), which are both referenced in your Letter.

With respect to Agreement, I informed Mr. Heanue that the Agreement (among other provisions) will include the Plan. The Plan, which will be attached as an exhibit to the Agreement, should include the following:

1. Scope of work for the encroachment abatement (including the work for the removal of the existing retaining wall, disposal of any soil, and the concrete debris) from Mr. Heanue's contractor.
2. Map showing the following:
 - a. Existing retaining wall (encroachment area) on the City owned property.
 - b. Work area on the City owned property beyond the encroachment area for encroachment abatement.
 - c. Access area (if required for egress and ingress) for equipment and tools, and for the removal of soil and concrete debris.
3. Scope of access use, if required, listing all equipment, tools and vehicles traversing over the access area.
4. Daily time schedule and hours of operation for the encroachment abatement work.
5. Plan for the disposal of any excess soil and concrete debris.
6. Time to complete all encroachment abatement work. (beginning and ending dates of project).
7. Security plan, if needed

I also informed Mr. Heanue that Agreement will require the following:

1. Administrative processing fee of \$1,178.32
2. Security Deposit of \$3,000 (refundable)
3. Certificate of Insurance naming the City as an additional named insured for liability coverage

Since Mr. Heanue is leaving for Japan, he informed me that the 30 day period commencing from the date of your letter is not enough time to complete the project and that he would ask you for time extension.

Again, for me to complete the Agreement, I will need to obtain a copy of the approved Plan. The approved Plan will then be attached as exhibit to the Agreement.

Please let me know whether you have any questions.

Ed

From: Flynn, Rachel
Sent: Friday, May 29, 2015 5:23 PM
To: taylorheanue@yahoo.com
Cc: Low, Tim; Kawamoto, Edwin
Subject: 3521 Calandria - NOV

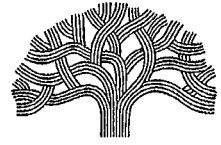
Taylor, I just realized that I had a typo in regards to the address of your property. I incorrectly typed 3921 Calandria Avenue and have corrected that typo to 3521 Calandria Avenue. Please see the attached corrected letter. Thanks, Rachel

From: Flynn, Rachel
Sent: Friday, May 29, 2015 4:59 PM
To: 'taylorheanue@yahoo.com'
Cc: Low, Tim; Kawamoto, Edwin
Subject: 3921 Calandria - NOV

Taylor, Attached please find the letter we discussed today regarding the concrete block wall that abuts your back yard. Thanks, Rachel

Rachel Flynn AIA
Director | Planning & Building Department
City of Oakland
510 . 238 . 2229

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Planning and Building Department
Office of the Director

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

May 29, 2015

Taylor and Mica Heanue
3521 Calandria Avenue
Oakland, CA 94605

Re: Wall on City-Owned Park Land

Dear Mr. and Mrs. Heanue,

This letter is in regards to the cinderblock retaining wall that abuts your rear yard at 3521 Calandria Avenue. As you know, this wall was constructed by a previous property owner without permits on City-owned park land. On February 28, 2011, the City issued you a Notice to Abate in reference to this wall (Complaint #1101036). The City directed you to remove the wall and to relocate any new wall within your property boundaries by obtaining proper permits. On March 23, 2011, you responded in a letter to Leonardo Rivera, Senior Construction Inspector, that you understood it was your responsibility to correct the violation. You also indicated that you did not have the financial resources at the time to remove the wall and associated work, i.e., regrading. You estimated that you would have the financial means to correct the violation within three years – and requested an extension to the abatement deadline the City stated in the Notice. On April 20, 2011, Inspector Leonard Rivera responded, by letter, to your extension request and suggested that you contact the Parks and Building Maintenance Manager for the City, Jim Ryugo, to explore options related to a wall on City-owned park land, i.e., an easement. Mr. Ryugo was an employee with Oakland Public Works (OPW) at the time and retired about two years ago. The City granted you an extension until June 27, 2011.

According to e-mail exchanges between you and Jim Ryugo during the months of April, May, and June 2011, Mr. Ryugo indicated that he had City budget issues that he was involved with and did not have the time to research this matter and find a reasonable solution. He told you and Mr. Rivera that he would be in contact. I have no documentation of any follow-up by Mr. Ryugo or Mr. Rivera.

On September 19, 2014, a new Notice of Violation (NOV) was issued to you by Inspector Hugo Barron (Case No. 1402022). The NOV cited failure of the wall and directed you to repair the wall. You indicated to me during our phone conversation on May 18, 2015 that you came to our offices last year to address the NOV. You further indicated that you were told by both planning staff and building staff that you were not permitted to perform work on City-owned land – and

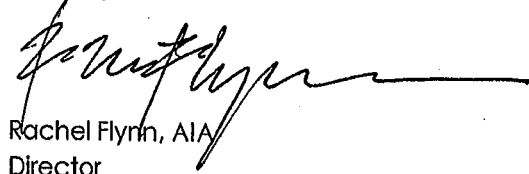
that they directed you to Oakland Parks and Recreation (OPR). You told me that you attempted to contact Mark Hall in OPR, but were unable to reach him. In March 2015, Brian Carthan, Parks Services Manager for Public Works, e-mailed the Director of OPR, Audree Jones-Taylor, seeking her directive on the wall and whether an easement could be granted or if the City could remove the wall. Ms. Jones-Taylor indicated in her response that she needed additional information to make a determination on this case.

On April 28, 2015, Marie Taylor, a manager in Code Enforcement, conducted a site visit and met with you, due to recent citizen complaints received by our Department. After Ms. Taylor's site visit, I became involved in your case, due to continued citizen complaints. I spoke with Planning and Building Department staff, reviewed case records, spoke with you on the phone, and consulted with the City Attorney's Office, Public Works, and Real Estate Services.

As a result of my investigation and the City Attorney's review of your case, we are confirming that you are responsible for removal of the wall. Therefore, we are granting you an additional thirty (30) days from the date of this letter to remove the wall or to submit a compliance plan that explains how you will abate the violation. Please submit any compliance plan to me. The City will confirm whether the plan is acceptable or not, in terms of timeline and work to be performed. If the plan is not acceptable, then the City will proceed with standard fee charges for non-compliance. If you decide to proceed with removal of the wall and related regrading, then you must obtain the proper permits by submitting a permit application and the required documentation. In addition, you must contact our Real Estate Division in order to obtain the required Right of Entry agreement to perform work on City-owned park land. Ed Kawamoto will be your contact in Real Estate. His e-mail is EKawamoto@oaklandnet.com and his phone number is 510-238-6360.

Please feel free to contact me at 510-238-2229 should you have any questions about your case.

Sincerely,



Rachel Flynn, AIA
Director

cc: Tim Low, Acting Building Official, City of Oakland
Ed Kawamoto, Real Estate Agent, Real Estate Services

Flynn, Rachel

From: Flynn, Rachel
Sent: Tuesday, June 02, 2015 6:24 PM
To: Kawamoto, Edwin
Cc: Low, Tim; Golde, James; taylorheanue@yahoo.com
Subject: RE: 3521 Calandria - NOV (meeting with Tayor Heanue)

Thanks for the follow-up, Ed.

Taylor, As stated in the attached letter, if you cannot remove the wall within the 30-day timeframe, then you will need to submit a Compliance Plan within that timeframe for my review and approval. Ed Kawamoto has provided most items needed in the Plan. You should also add items like the hiring of a Civil Engineer to prepare the permit documents and the hiring of a contractor to perform the work. The more specific you can be, the better, so that we are all clear on how and when the wall will be removed.

Thanks, Rachel

From: Kawamoto, Edwin
Sent: Tuesday, June 02, 2015 4:23 PM
To: Flynn, Rachel
Cc: Low, Tim; Golde, James; taylorheanue@yahoo.com
Subject: RE: 3521 Calandria - NOV (meeting with Tayor Heanue)

To Rachel:

This concerns your letter dated May 29, 2015 to Taylor and Mica Heanue ("Letter") and status report of my meeting with Taylor Heanue on June 1, 2015.

When I met with Taylor Heanue, we discussed the Right of Entry Agreement ("Agreement") and the compliance plan ("Plan"), which are both referenced in your Letter.

With respect to Agreement, I informed Mr. Heanue that the Agreement (among other provisions) will include the Plan. The Plan, which will be attached as an exhibit to the Agreement, should include the following:

1. Scope of work for the encroachment abatement (including the work for the removal of the existing retaining wall, disposal of any soil, and the concrete debris) from Mr. Heanue's contractor.
2. Map showing the following:
 - a. Existing retaining wall (encroachment area) on the City owned property.
 - b. Work area on the City owned property beyond the encroachment area for encroachment abatement.
 - c. Access area (if required for egress and ingress) for equipment and tools, and for the removal of soil and concrete debris.
3. Scope of access use, if required, listing all equipment, tools and vehicles traversing over the access area.
4. Daily time schedule and hours of operation for the encroachment abatement work.
5. Plan for the disposal of any excess soil and concrete debris.
6. Time to complete all encroachment abatement work. (beginning and ending dates of project).
7. Security plan, if needed

I also informed Mr. Heanue that Agreement will require the following:

1. Administrative processing fee of \$1,178.32
2. Security Deposit of \$3,000 (refundable)
3. Certificate of Insurance naming the City as an additional named insured for liability coverage

Since Mr. Heanue is leaving for Japan, he informed me that the 30 day period commencing from the date of your letter is not enough time to complete the project and that he would ask you for time extension.

Again, for me to complete the Agreement, I will need to obtain a copy of the approved Plan. The approved Plan will then be attached as exhibit to the Agreement.

Please let me know whether you have any questions.

Ed

From: Flynn, Rachel
Sent: Friday, May 29, 2015 5:23 PM
To: taylorheanue@yahoo.com
Cc: Low, Tim; Kawamoto, Edwin
Subject: 3521 Calandria - NOV

Taylor, I just realized that I had a typo in regards to the address of your property. I incorrectly typed 3921 Calandria Avenue and have corrected that typo to 3521 Calandria Avenue. Please see the attached corrected letter. Thanks, Rachel

From: Flynn, Rachel
Sent: Friday, May 29, 2015 4:59 PM
To: 'taylorheanue@yahoo.com'
Cc: Low, Tim; Kawamoto, Edwin
Subject: 3921 Calandria - NOV

Taylor, Attached please find the letter we discussed today regarding the concrete block wall that abuts your back yard. Thanks, Rachel

Rachel Flynn AIA
Director | Planning & Building Department
City of Oakland
510 . 238 . 2229

Flynn, Rachel

From: Flynn, Rachel
Sent: Tuesday, June 02, 2015 6:42 PM
To: 'Michael Hector'
Subject: 3521 Calandria Avenue
Attachments: 3521 Calandria Avenue 05-29-15.pdf

Michael, See attached in regards to next steps on enforcement. Thanks, Rachel

From: Michael Hector [mailto:psmhector@gmail.com]
Sent: Tuesday, June 02, 2015 2:25 PM
To: Flynn, Rachel; Office of the Mayor; City Administrator's Office; City Administrator's Office; Woo, Winnie; Hunt, Michael; Reid, Larry; Kalb, Dan; Guillen, Abel; McElhaney, Lynette; Campbell Washington, Annie; Gallo, Noel; Brooks, Desley; Kaplan, Rebecca; Ranelletti, Darin; Sandercock, Deborah
Cc: Barron, Hugo; Ramirez, Ivan; Smith, Sandra M; Taylor, Marie (Allene); Suzy clark; michael hector
Subject: 99 communications on ENFORCEMENT of complaint 1101036 - still no clear answer

Director Flynn,

Is the building and planning department going to enforce complaint 1101036, as stated in the Notice To Abate dated February 28, 2011?

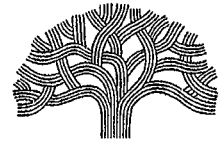
This is not a difficult question: The property owners at 3521 Calandria have taken a portion of City land, laid claim to it, marked city land as their private property and walled it off with a 6'+ high masonry retaining wall - all WITHOUT THE REQUIRED PERMITS.

This is our 77th email since April 24, 2015; my 99th communication since February 2011 on enforcement of complaint 1101036. We've been waiting one thousand five hundred and twenty two days - 1,522 days for enforcement! We still have not received a definitive response.

The inability to receive a clear, prompt answer is silly.

Regards,
Michael Hector & Suzanne Clark
3539 Calandria

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Planning and Building Department
Office of the Director

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

May 29, 2015

Taylor and Mica Heanue
3521 Calandria Avenue
Oakland, CA 94605

Re: Wall on City-Owned Park Land

Dear Mr. and Mrs. Heanue,

This letter is in regards to the cinderblock retaining wall that abuts your rear yard at 3521 Calandria Avenue. As you know, this wall was constructed by a previous property owner without permits on City-owned park land. On February 28, 2011, the City issued you a Notice to Abate in reference to this wall (Complaint #1101036). The City directed you to remove the wall and to relocate any new wall within your property boundaries by obtaining proper permits. On March 23, 2011, you responded in a letter to Leonardo Rivera, Senior Construction Inspector, that you understood it was your responsibility to correct the violation. You also indicated that you did not have the financial resources at the time to remove the wall and associated work, i.e., regrading. You estimated that you would have the financial means to correct the violation within three years – and requested an extension to the abatement deadline the City stated in the Notice. On April 20, 2011, Inspector Leonard Rivera responded, by letter, to your extension request and suggested that you contact the Parks and Building Maintenance Manager for the City, Jim Ryugo, to explore options related to a wall on City-owned park land, i.e., an easement. Mr. Ryugo was an employee with Oakland Public Works (OPW) at the time and retired about two years ago. The City granted you an extension until June 27, 2011.

According to e-mail exchanges between you and Jim Ryugo during the months of April, May, and June 2011, Mr. Ryugo indicated that he had City budget issues that he was involved with and did not have the time to research this matter and find a reasonable solution. He told you and Mr. Rivera that he would be in contact. I have no documentation of any follow-up by Mr. Ryugo or Mr. Rivera.

On September 19, 2014, a new Notice of Violation (NOV) was issued to you by Inspector Hugo Barron (Case No. 1402022). The NOV cited failure of the wall and directed you to repair the wall. You indicated to me during our phone conversation on May 18, 2015 that you came to our offices last year to address the NOV. You further indicated that you were told by both planning staff and building staff that you were not permitted to perform work on City-owned land – and

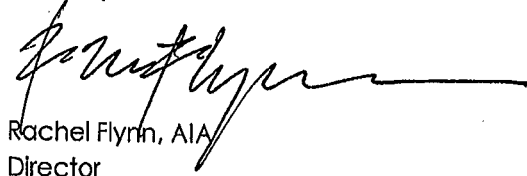
that they directed you to Oakland Parks and Recreation (OPR). You told me that you attempted to contact Mark Hall in OPR, but were unable to reach him. In March 2015, Brian Carthan, Parks Services Manager for Public Works, e-mailed the Director of OPR, Audree Jones-Taylor, seeking her directive on the wall and whether an easement could be granted or if the City could remove the wall. Ms. Jones-Taylor indicated in her response that she needed additional information to make a determination on this case.

On April 28, 2015, Marie Taylor, a manager in Code Enforcement, conducted a site visit and met with you, due to recent citizen complaints received by our Department. After Ms. Taylor's site visit, I became involved in your case, due to continued citizen complaints. I spoke with Planning and Building Department staff, reviewed case records, spoke with you on the phone, and consulted with the City Attorney's Office, Public Works, and Real Estate Services.

As a result of my investigation and the City Attorney's review of your case, we are confirming that you are responsible for removal of the wall. Therefore, we are granting you an additional thirty (30) days from the date of this letter to remove the wall or to submit a compliance plan that explains how you will abate the violation. Please submit any compliance plan to me. The City will confirm whether the plan is acceptable or not, in terms of timeline and work to be performed. If the plan is not acceptable, then the City will proceed with standard fee charges for non-compliance. If you decide to proceed with removal of the wall and related regrading, then you must obtain the proper permits by submitting a permit application and the required documentation. In addition, you must contact our Real Estate Division in order to obtain the required Right of Entry agreement to perform work on City-owned park land. Ed Kawamoto will be your contact in Real Estate. His e-mail is EKawamoto@oaklandnet.com and his phone number is 510-238-6360.

Please feel free to contact me at 510-238-2229 should you have any questions about your case.

Sincerely,



Rachel Flynn, AIA
Director

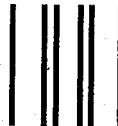
cc: Tim Low, Acting Building Official, City of Oakland
Ed Kawamoto, Real Estate Agent, Real Estate Services

UNITED STATES POSTAL SERVICE

OAKLAND
CA 946

18 JUN '15

PM 5 L



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

- Sender: Please print your name, address, and ZIP+4® in this box•

RACHEL FLYNN, DIRECTOR
PLANNING + BLDG DEPT. #3315
250 FRANK OGAWA PLAZA
OAKLAND, CA 94612-2032

USPS TRACKING#



9590 9401 0000 5071 3819 03

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

TAYLOR + MICA HEANUE
3521 CALANDRIA AVE.
OAKLAND, CA 94605



9590 9401 0000 5071 3819 03

2. Article Number (Transfer from service label)

7015 0640 0000 0781 4757

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Mica Heanue

☐ Agent

☐ Addressee

B. Received by (Printed Name)

MICA HEANUE

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

2015

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Registered Mail Restricted Delivery (500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Flynn, Rachel

From: Flynn, Rachel
Sent: Tuesday, June 02, 2015 8:27 PM
To: taylorheanue@yahoo.com
Cc: Low, Tim; Kawamoto, Edwin; Golde, James
Subject: 3521 Calandria Avenue

Taylor, Thanks for your prompt response and your willingness to work closely with the City on addressing the removal of the wall.

We look forward to seeing your Compliance Plan later this month after your return. Have a great trip! Rachel

Rachel Flynn AIA
Director | Planning & Building Department
City of Oakland
510 . 238 . 2229

From: Taylor [mailto:taylorheanue@yahoo.com]
Sent: Tuesday, June 02, 2015 7:06 PM
To: Flynn, Rachel; Kawamoto, Edwin
Cc: Low, Tim; Golde, James
Subject: Re: 3521 Calandria - NOV (meeting with Taylor Heanue)

Hi Rachel -

Yes I am leaving for Japan in a few hours. I'll be back on 6/17. It's my plan to get a framework of a plan together and rough schedule before your deadline, but I really won't be able to work on anything until I get back on the 17th.

Some other things came out of the meeting with Ed which I had hoped to go into in a bit more detail, but I am swamped getting out the door for this trip so I'll try to summarize:

Many of the details that Ed is requesting for the "compliance plan" are very specific (i.e., what tools are to be used, how many workers, what hours, etc) and will not be known until after a contractor is identified/vetted and the project is very planned out. This level of detail will not be possible in the 30 day time frame, but I plan to identify the various parts of the project and give a scope and time estimate for each and an overall time frame within the requested 30 days.

Also, there are multiple reasons why we intend to build a replacement wall as part of the same project, including: (1) needing the same access in order to build the replacement wall, and (2) Ed's stated desire that we retain all existing fill material behind the wall at 3521 Calandria and not in the park to be used for grading because it is unknown fill which has not been tested for toxicity. This just means it's not a simple knock down and re-grade.

We have been honest and open throughout this process and are glad to see this coming towards closure, but there is still much work to be done. As I have stated throughout this process, it is our desire to continue to move forward in the most correct way possible, follow all required rules, and work in compliance with the city at all stages. We don't want to fight this; we want to resolve it. It is also our hope to wrap this up in the most expedient manner possible. To whit: on the first business day after receiving your letter, I have already met in person with Ed about the compliance plan.

We have attempted to generate goodwill at all stages of this process, and we are hoping that Oakland can be reasonable when we present a time frame for this project. Please expect our compliance plan estimate, and some progress on the planning steps, inside of your 30 day timeframe (i.e. by Friday June 26). Once I get back from Japan, I will do the very best I can to gather all the information I can between 6/18-6/25 and make the best presentation possible when your deadline hits on June 26.

Thanks again for helping us get all the required parties together finally so we can resolve this issue once and for all.

regards,

taylor

From: "Flynn, Rachel" <RFlynn@oaklandnet.com>

To: "Kawamoto, Edwin" <EKawamoto@oaklandnet.com>

Cc: "Low, Tim" <TLow@oaklandnet.com>; "Golde, James" <JGolde@oaklandnet.com>; "taylorheanue@yahoo.com" <taylorheanue@yahoo.com>

Sent: Tuesday, June 2, 2015 6:23 PM

Subject: RE: 3521 Calandria - NOV (meeting with Tayor Heanue)

Thanks for the follow-up, Ed.

Taylor, As stated in the attached letter, if you cannot remove the wall within the 30-day timeframe, then you will need to submit a Compliance Plan within that timeframe for my review and approval. Ed Kawamoto has provided most items needed in the Plan. You should also add items like the hiring of a Civil Engineer to prepare the permit documents and the hiring of a contractor to perform the work. The more specific you can be, the better, so that we are all clear on how and when the wall will be removed.

Thanks, Rachel

From: Kawamoto, Edwin

Sent: Tuesday, June 02, 2015 4:23 PM

To: Flynn, Rachel

Cc: Low, Tim; Golde, James; taylorheanue@yahoo.com

Subject: RE: 3521 Calandria - NOV (meeting with Tayor Heanue)

To Rachel:

This concerns your letter dated May 29, 2015 to Taylor and Mica Heanue ("Letter") and status report of my meeting with Taylor Heanue on June 1, 2015.

When I met with Taylor Heanue, we discussed the Right of Entry Agreement ("Agreement") and the compliance plan ("Plan"), which are both referenced in your Letter.

With respect to Agreement, I informed Mr. Heanue that the Agreement (among other provisions) will include the Plan. The Plan, which will be attached as an exhibit to the Agreement, should include the following:

1. Scope of work for the encroachment abatement (including the work for the removal of the existing retaining wall, disposal of any soil, and the concrete debris) from Mr. Heanue's contractor.
2. Map showing the following:
 - a. Existing retaining wall (encroachment area) on the City owned property.
 - b. Work area on the City owned property beyond the encroachment area for encroachment abatement.
 - c. Access area (if required for egress and ingress) for equipment and tools, and for the removal of soil and concrete debris.
3. Scope of access use, if required, listing all equipment, tools and vehicles traversing over the access area.
4. Daily time schedule and hours of operation for the encroachment abatement work.
5. Plan for the disposal of any excess soil and concrete debris.
6. Time to complete all encroachment abatement work. (beginning and ending dates of project).
7. Security plan, if needed

I also informed Mr. Heanue that Agreement will require the following:

1. Administrative processing fee of \$1,178.32
2. Security Deposit of \$3,000 (refundable)
3. Certificate of Insurance naming the City as an additional named insured for liability coverage

Since Mr. Heanue is leaving for Japan, he informed me that the 30 day period commencing from the date of your letter is not enough time to complete the project and that he would ask you for time extension.

Again, for me to complete the Agreement, I will need to obtain a copy of the approved Plan. The approved Plan will then be attached as exhibit to the Agreement.

Please let me know whether you have any questions.

Ed

From: Flynn, Rachel

Sent: Friday, May 29, 2015 5:23 PM

To: taylorheanue@yahoo.com

Cc: Low, Tim; Kawamoto, Edwin

Subject: 3521 Calandria - NOV

Taylor, I just realized that I had a typo in regards to the address of your property. I incorrectly typed 3921 Calandria Avenue and have corrected that typo to 3521 Calandria Avenue. Please see the attached corrected letter. Thanks, Rachel

From: Flynn, Rachel

Sent: Friday, May 29, 2015 4:59 PM

To: 'taylorheanue@yahoo.com'

Cc: Low, Tim; Kawamoto, Edwin

Subject: 3921 Calandria - NOV

Taylor, Attached please find the letter we discussed today regarding the concrete block wall that abuts your back yard. Thanks, Rachel

Rachel Flynn AIA

Director | Planning & Building Department City of Oakland

510 . 238 . 2229

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Tuesday, June 02, 2015 9:07 PM
To: Flynn, Rachel
Subject: Re: 3521 Calandria Avenue

Director Flynn,

Finally, after 99 requests for enforcement, we finally receive clear, specific; city plans enforcement. Better late than never.

Thank you,

Michael Hector & Suzanne Clark
3539 Calandria

On Tue, Jun 2, 2015 at 6:42 PM, Flynn, Rachel <RFlynn@oaklandnet.com> wrote:

Michael, See attached in regards to next steps on enforcement. Thanks, Rachel

From: Michael Hector [mailto:psmhector@gmail.com]
Sent: Tuesday, June 02, 2015 2:25 PM
To: Flynn, Rachel; Office of the Mayor; City Administrator's Office; City Administrator's Office; Woo, Winnie; Hunt, Michael; Reid, Larry; Kalb, Dan; Guillen, Abel; McElhaney, Lynette; Campbell Washington, Annie; Gallo, Noel; Brooks, Desley; Kaplan, Rebecca; Ranelletti, Darin; Sandercock, Deborah
Cc: Barron, Hugo; Ramirez, Ivan; Smith, Sandra M; Taylor, Marie (Allene); Suzy clark; michael hector
Subject: 99 communications on ENFORCEMENT of complaint 1101036 - still no clear answer

Director Flynn,

Is the building and planning department going to enforce complaint 1101036, as stated in the Notice To Abate dated February 28, 2011?

This is not a difficult question: The property owners at 3521 Calandria have taken a portion of City land, laid claim to it, marked city land as their private property and walled it off with a 6'+ high masonry retaining wall - all WITHOUT THE REQUIRED PERMITS.

This is our **77th** email since April 24, 2015; my 99th communication since February 2011 on enforcement of complaint 1101036. We've been waiting one thousand five hundred and twenty two days - 1 , 5 2 2 days for enforcement! We still have not received a definitive response.

The inability to receive a clear, prompt answer is silly.

Regards,

Michael Hector & Suzanne Clark

3539 Calandria

Flynn, Rachel

From: Flynn, Rachel
Sent: Tuesday, June 02, 2015 9:23 PM
To: Smith, Sandra M
Subject: fees

Hi Sandi – Please hold on any fees related to this case. Thanks, Rachel

From: Smith, Sandra M
Sent: Monday, June 01, 2015 9:06 AM
To: Flynn, Rachel
Cc: Low, Tim
Subject: FW: disappointed... complaints 1101036 & 1402022

Good Morning Rachel,

I just want to let you know that we do not provide information on fees charged to property owners until we are certain they have received their notice. Typically, we allow five days for the property owner to receive their notice that lists possible fees. Citizens can request a copy of the Notice of Violation as a public records request. The property owner will receive an invoice from our office within 1-10 days depending on how soon the Billing Request is prepared, approved and sent to accounting for further processing.

From: Michael Hector [<mailto:psmhector@gmail.com>]
Sent: Friday, May 29, 2015 5:11 PM
To: Flynn, Rachel
Cc: Office of the Mayor; City Administrator's Office; Woo, Winnie; Hunt, Michael; Reid, Larry; Sandercock, Deborah; Labayog, Edward; Low, Tim; Barron, Hugo; Suzy clark; Ramirez, Ivan; Rivera, Leonardo; Smith, Sandra M; Taylor, Marie (Allene)
Subject: Re: disappointed... complaints 1101036 & 1402022

Director Flynn,

Thank you. What about fines and levies (per the violation notices) for non compliance for four years? I hope I can receive a prompt answer.

That concludes my email barrage on complaints 1101036 & 1402022.

All the best to everyone.

Michael Hector & Suzanne Clark
3539 Calandria
Oakland

On Fri, May 29, 2015 at 5:00 PM, Flynn, Rachel <RFlynn@oaklandnet.com> wrote:

Michael, As promised, I have reviewed these cases and notified Taylor and Mica Heanue today of the City's decision that they are responsible for removal of the concrete block wall that abuts their property.

Thanks, Rachel

Rachel Flynn AIA

Director | Planning & Building Department

City of Oakland

510 . 238 . 2229

From: Michael Hector [<mailto:psmhector@gmail.com>]

Sent: Friday, May 29, 2015 4:54 PM

To: Flynn, Rachel; Office of the Mayor; City Administrator's Office; City Administrator's Office; Woo, Winnie; Hunt, Michael; Reid, Larry; Sandercock, Deborah; Labayog, Edward; Low, Tim; Barron, Hugo; Suzy clark; Ramirez, Ivan; Rivera, Leonardo; Smith, Sandra M; Taylor, Marie (Allene); michael hector

Subject: disappointed... complaints 1101036 & 1402022

Director Flynn,

I'm shocked, shocked that you once again failed to meet the most basic and simplest of your own deadlines. After one thousand five hundred and eighteen days there is still no explanation why the department that you manage so well has failed to enforce Abatement Order 1101036 issued on February 28, 2011.

What a well managed city administration.

Not so happy taxpayers in Oakland,

Michael Hector & Suzanne Clark

3539 CAlandria

Oakland

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Sunday, June 21, 2015 7:20 PM
To: Flynn, Rachel
Subject: Re: 3521 Calandria Avenue

Director Flynn,

Your generous time extension on the Notice to Abate #1101036, from February 2011 is about to expire. No correction in complaint #1101036 is visible, and no indication the owners of 3521 Calandria are planning to comply by removing the offending wall.

Removal of the offending wall is only a one day job with equipment; 5 days at most by hand. We have removed almost 200 feet of wall at the request of city officials, so we have some experience.

Abatement order 1101036 is about 1580 old. For comparison, construction of the Golden Gate bridge took 1,603 days. Foundation work commenced on January 5, 1933 and the Bridge was open to vehicular traffic on May 28, 1937.

Enforcing an abatement order on 50' feet of retaining wall is taking longer than it did to build the Golden Gate Bridge?

Sincerely,
Michael & Suzanne
3539 Calandria

On Tue, Jun 2, 2015 at 6:42 PM, Flynn, Rachel <RFlynn@oaklandnet.com> wrote:

Michael, See attached in regards to next steps on enforcement. Thanks, Rachel

From: Michael Hector [<mailto:psmhector@gmail.com>]
Sent: Tuesday, June 02, 2015 2:25 PM
To: Flynn, Rachel; Office of the Mayor; City Administrator's Office; City Administrator's Office; Woo, Winnie; Hunt, Michael; Reid, Larry; Kalb, Dan; Guillen, Abel; McElhaney, Lynette; Campbell Washington, Annie; Gallo, Noel; Brooks, Desley; Kaplan, Rebecca; Ranelletti, Darin; Sandercock, Deborah
Cc: Barron, Hugo; Ramirez, Ivan; Smith, Sandra M; Taylor, Marie (Allene); Suzy clark; michael hector
Subject: 99 communications on ENFORCEMENT of complaint 1101036 - still no clear answer

Director Flynn,

Is the building and planning department going to enforce complaint 1101036, as stated in the Notice To Abate dated February 28, 2011?

This is not a difficult question: The property owners at 3521 Calandria have taken a portion of City land, laid claim to it, marked city land as their private property and walled it off with a 6'+ high masonry retaining wall - all WITHOUT THE REQUIRED PERMITS.

This is our 77th email since April 24, 2015; my 99th communication since February 2011 on enforcement of complaint 1101036. We've been waiting one thousand five hundred and twenty two days - 1 , 5 2 2 days for enforcement! We still have not received a definitive response.

The inability to receive a clear, prompt answer is silly.

Regards,

Michael Hector & Suzanne Clark

3539 Calandria

Flynn, Rachel

From: Flynn, Rachel
Sent: Sunday, June 21, 2015 7:40 PM
To: 'Michael Hector'
Subject: RE: 3521 Calandria Avenue

Michael, As you may recall from my letter, dated May 29, 2015, the Heanues have 30 days to abate the violation OR to submit a Compliance Plan that explains how they will abate the violation.

The Heanues were out of the country between June 2nd and 18th. Taylor Heanue told me about their travel plans and their intent to address the City's requirements within the 30-day deadline. They have one more week.

From: Michael Hector [<mailto:psmhector@gmail.com>]
Sent: Sunday, June 21, 2015 7:20 PM
To: Flynn, Rachel
Subject: Re: 3521 Calandria Avenue

Director Flynn,

Your generous time extension on the Notice to Abate #1101036, from February 2011 is about to expire. No correction in complaint #1101036 is visible, and no indication the owners of 3521 Calandria are planning to comply by removing the offending wall.

Removal of the offending wall is only a one day job with equipment; 5 days at most by hand. We have removed almost 200 feet of wall at the request of city officials, so we have some experience.

Abatement order 1101036 is about 1580 old. For comparison, construction of the Golden Gate bridge took 1,603 days. Foundation work commenced on January 5, 1933 and the Bridge was open to vehicular traffic on May 28, 1937.

Enforcing an abatement order on 50' feet of retaining wall is taking longer than it did to build the Golden Gate Bridge?

Sincerely,
Michael & Suzanne
3539 Calandria

On Tue, Jun 2, 2015 at 6:42 PM, Flynn, Rachel <RFlynn@oaklandnet.com> wrote:

Michael, See attached in regards to next steps on enforcement. Thanks, Rachel

From: Michael Hector [<mailto:psmhector@gmail.com>]
Sent: Tuesday, June 02, 2015 2:25 PM
To: Flynn, Rachel; Office of the Mayor; City Administrator's Office; City Administrator's Office; Woo, Winnie; Hunt, Michael; Reid, Larry; Kalb, Dan; Guillen, Abel; McElhaney, Lynette; Campbell Washington, Annie; Gallo, Noel; Brooks, Desley; Kaplan, Rebecca; Ranelletti, Darin; Sandercock, Deborah
Cc: Barron, Hugo; Ramirez, Ivan; Smith, Sandra M; Taylor, Marie (Allene); Suzy clark; michael hector
Subject: 99 communications on ENFORCEMENT of complaint 1101036 - still no clear answer

Director Flynn,

Is the building and planning department going to enforce complaint 1101036, as stated in the Notice To Abate dated February 28, 2011?

This is not a difficult question: The property owners at 3521 Calandria have taken a portion of City land, laid claim to it, marked city land as their private property and walled it off with a 6'+ high masonry retaining wall - all WITHOUT THE REQUIRED PERMITS.

This is our 77th email since April 24, 2015; my 99th communication since February 2011 on enforcement of complaint 1101036. We've been waiting one thousand five hundred and twenty two days - 1,522 days for enforcement! We still have not received a definitive response.

The inability to receive a clear, prompt answer is silly.

Regards,

Michael Hector & Suzanne Clark

3539 Calandria

From: Flynn, Rachel
Sent: Friday, June 26, 2015 2:05 PM
To: taylorheanue@yahoo.com
Subject: Calandria Avenue

Hi Taylor, For some reason, your e-mail went to my Junk Folder and the attachment did not come through. Could you please resend it? Thanks, Rachel

-----Original Message-----

From: Taylor [mailto:taylorheanue@yahoo.com]
Sent: Friday, June 26, 2015 12:49 PM
To: Flynn, Rachel
Cc: Low, Tim; Kawamoto, Edwin; Golde, James
Subject: Re: 3521 Calandria Avenue

Hi Rachel -

Please see the attached compliance plan. I also intend to drop off a signed copy downtown today.

With the definitive ruling you have provided in your May 29th letter, we are excited to finally clear this matter up.

The attached document is our response. We intend to fully comply with your ruling and we are already working away at this project, meeting contractors, etc.

Thank you for your attention to this matter and for the cross-departmental coordination your office has enabled.

regards,

Taylor & Mica Heanue
3521 Calandria Ave, Oakland 94605
(415) 990-2275

From: "Flynn, Rachel" <RFlynn@oaklandnet.com>
To: "taylorheanue@yahoo.com" <taylorheanue@yahoo.com>
Cc: "Low, Tim" <TLow@oaklandnet.com>; "Kawamoto, Edwin" <EKawamoto@oaklandnet.com>; "Golde, James" <JGolde@oaklandnet.com>
Sent: Tuesday, June 2, 2015 8:26 PM
Subject: 3521 Calandria Avenue

Taylor, Thanks for your prompt response and your willingness to work closely with the City on addressing the removal of the wall.

We look forward to seeing your Compliance Plan later this month after your return. Have a great trip! Rachel

Rachel Flynn AIA
Director | Planning & Building Department City of Oakland
510 . 238 . 2229

From: Taylor [mailto:taylorheanue@yahoo.com <mailto:taylorheanue@yahoo.com>]
Sent: Tuesday, June 02, 2015 7:06 PM
To: Flynn, Rachel; Kawamoto, Edwin
Cc: Low, Tim; Golde, James
Subject: Re: 3521 Calandria - NOV (meeting with Tayor Heanue)

Hi Rachel -

Yes I am leaving for Japan in a few hours. I'll be back on 6/17. It's my plan to get a framework of a plan together and rough schedule before your deadline, but I really won't be able to work on anything until I get back on the 17th.

Some other things came out of the meeting with Ed which I had hoped to go into in a bit more detail, but I am swamped getting out the door for this trip so I'll try to summarize:

Many of the details that Ed is requesting for the "compliance plan" are very specific (i.e., what tools are to be used, how many workers, what hours, etc) and will not be known until after a contractor is identified/vetted and the project is very planned out. This level of detail will not be possible in the 30 day time frame, but I plan to identify the various parts of the project and give a scope and time estimate for each and an overall time frame within the requested 30 days.

Also, there are multiple reasons why we intend to build a replacement wall as part of the same project, including: (1) needing the same access in order to build the replacement wall, and (2) Ed's stated desire that we retain all existing fill material behind the wall at 3521 Calandria and not in the park to be used for grading because it is unknown fill which has not been tested for toxicity. This just means it's not a simple knock down and re-grade.

We have been honest and open throughout this process and are glad to see this coming towards closure, but there is still much work to be done. As I have stated throughout this process, it is our desire to continue to move forward in the most correct way possible, follow all required rules, and work in compliance with the city at all stages. We don't want to fight this; we want to resolve it. It is also our hope to wrap this up in the most expedient manner possible. To whit: on the first business day after receiving your letter, I have already met in person with Ed about the compliance plan.

We have attempted to generate goodwill at all stages of this process, and we are hoping that Oakland can be reasonable when we present a time frame for this project. Please expect our compliance plan estimate, and some progress on the planning steps, inside of your 30 day timeframe (i.e. by Friday June 26). Once I get back from Japan, I will do the very best I can to gather all the information I can between 6/18-6/25 and make the best presentation possible when your deadline hits on June 26.

Thanks again for helping us get all the required parties together finally so we can resolve this issue once and for all.

regards,

taylor

From: "Flynn, Rachel" <RFlynn@oaklandnet.com <mailto:RFlynn@oaklandnet.com> >

To: "Kawamoto, Edwin" <EKawamoto@oaklandnet.com <mailto:EKawamoto@oaklandnet.com> >

Cc: "Low, Tim" <TLow@oaklandnet.com <mailto:TLow@oaklandnet.com> >; "Golde, James" <JGolde@oaklandnet.com <mailto:JGolde@oaklandnet.com> >; "taylorheanue@yahoo.com <mailto:taylorheanue@yahoo.com> "<taylorheanue@yahoo.com <mailto:taylorheanue@yahoo.com> >

Sent: Tuesday, June 2, 2015 6:23 PM

Subject: RE: 3521 Calandria - NOV (meeting with Tayor Heanue)

Thanks for the follow-up, Ed.

Taylor, As stated in the attached letter, if you cannot remove the wall within the 30-day timeframe, then you will need to submit a Compliance Plan within that timeframe for my review and approval. Ed Kawamoto has provided most items needed in the Plan. You should also add items like the hiring of a Civil Engineer to prepare the permit documents and the hiring of a contractor to perform the work. The more specific you can be, the better, so that we are all clear on how and when the wall will be removed.

Thanks, Rachel

From: Kawamoto, Edwin

Sent: Tuesday, June 02, 2015 4:23 PM

To: Flynn, Rachel

Cc: Low, Tim; Golde, James; taylorheanue@yahoo.com <mailto:taylorheanue@yahoo.com>

Subject: RE: 3521 Calandria - NOV (meeting with Tayor Heanue) To Rachel:

This concerns your letter dated May 29, 2015 to Taylor and Mica Heanue ("Letter") and status report of my meeting with Taylor Heanue on June 1, 2015.

When I met with Taylor Heanue, we discussed the Right of Entry Agreement ("Agreement") and the compliance plan ("Plan"), which are both referenced in your Letter.

With respect to Agreement, I informed Mr. Heanue that the Agreement (among other provisions) will include the Plan. The Plan, which will be attached as an exhibit to the Agreement, should include the following:

1. Scope of work for the encroachment abatement (including the work for the removal of the existing retaining wall, disposal of any soil, and the concrete debris) from Mr. Heanue's contractor.
2. Map showing the following:
 - a. Existing retaining wall (encroachment area) on the City owned property.
 - b. Work area on the City owned property beyond the encroachment area for encroachment abatement.
 - c. Access area (if required for egress and ingress) for equipment and tools, and for the removal of soil and concrete debris.
3. Scope of access use, if required, listing all equipment, tools and vehicles traversing over the access area.
4. Daily time schedule and hours of operation for the encroachment abatement work.
5. Plan for the disposal of any excess soil and concrete debris.
6. Time to complete all encroachment abatement work. (beginning and ending dates of project).
7. Security plan, if needed

I also informed Mr. Heanue that Agreement will require the following:

1. Administrative processing fee of \$1,178.32
2. Security Deposit of \$3,000 (refundable)
3. Certificate of Insurance naming the City as an additional named insured for liability coverage

Since Mr. Heanue is leaving for Japan, he informed me that the 30 day period commencing from the date of your letter is not enough time to complete the project and that he would ask you for time extension.

Again, for me to complete the Agreement, I will need to obtain a copy of the approved Plan. The approved Plan will then be attached as exhibit to the Agreement.

Please let me know whether you have any questions.

Ed

From: Flynn, Rachel

Sent: Friday, May 29, 2015 5:23 PM

To: taylorheanue@yahoo.com <mailto:taylorheanue@yahoo.com>

Cc: Low, Tim; Kawamoto, Edwin

Subject: 3521 Calandria - NOV

Taylor, I just realized that I had a typo in regards to the address of your property. I incorrectly typed 3921 Calandria Avenue and have corrected that typo to 3521 Calandria Avenue. Please see the attached corrected letter. Thanks, Rachel

From: Flynn, Rachel

Sent: Friday, May 29, 2015 4:59 PM

To: 'taylorheanue@yahoo.com'

Cc: Low, Tim; Kawamoto, Edwin

Subject: 3921 Calandria - NOV

Taylor, Attached please find the letter we discussed today regarding the concrete block wall that abuts your back yard.

Thanks, Rachel

Rachel Flynn AIA

Director | Planning & Building Department City of Oakland

510 . 238 . 2229

From: Flynn, Rachel
Sent: Monday, May 18, 2015 9:43 PM
To: Michael Hector
Cc: Taylor, Marie (Allene); Smith, Sandra M; Low, Tim; Labayog, Edward; Suzy clark; Hunt, Michael
Subject: Re: OMC 12.64.250 / complaint 1101036

Michael, I am working on getting answers to all of your questions. It is going to take me a few days to get the history/background.

I know you are frustrated and disappointed with the City's handling of the issues you raise. Please bear with me, as I am getting up to speed on everything.

Thanks, Rachel

On May 18, 2015, at 4:00 PM, "Michael Hector" <psmhector@gmail.com> wrote:

Ms. Taylor,

How do you reconcile your May 8 decision allowing Mr. & Mrs. Heaune to maintain a section of King Estates Park walled off, with OMC 12.64.250 - *"All parks within the city are held in trust for the use of the public"*?

Explaining your decisions and finding would be the professional and courteous response.

Sincerely,
Michael Hector

12.64.250 - Statement of principles.

All parks within the city are held in trust for the use of the public. Included within such use are public assembly, communication of thoughts between citizens and discussion of public questions. These uses of the city's parks are recognized as privileges, immunities, rights, and liberties belonging to all citizens, regardless of sex, race, religion, color, national origin, or political or philosophical persuasion. It is also recognized that the right to use the parks is not absolute, but relative, and must be exercised in subordination to the general comfort and convenience and in consonance with peace and good order.

From: Michael Hector [<mailto:psmhector@gmail.com>]

Sent: Thursday, May 28, 2015 8:09 AM

To: Office of the Mayor; City Administrator's Office; City Administrator's Office; Woo, Winnie; Hunt, Michael; Reid, Larry

Cc: Flynn, Rachel; Sandercock, Deborah; Labayog, Edward; Low, Tim; Barron, Hugo; Rivera, Leonardo; Suzy clark; michael hector; Ramirez, Ivan

Subject: Mayor Shaaf - is 1,517 days enough time for Oakland staff to enforce abatement order 1101036

Mayor Shaaf,

Is 1,517 days enough time for Oakland staff to enforce abatement order 110103 -
APPARENTLY NOT !

very disappointed in Oaklands' Leadership

Michael Hector & Suzanne Clark

From: Michael Hector [<mailto:psmhector@gmail.com>]

Sent: Friday, May 29, 2015 6:46 AM

To: City Administrator's Office; Woo, Winnie; Office of the Mayor; Hunt, Michael; Reid, Larry

Cc: Flynn, Rachel; Smith, Sandra M; Suzy clark; Low, Tim; Labayog, Edward; Rivera, Leonardo; Barron, Hugo; Sandercock, Deborah; michael hector

Subject: Mr. Flores - your pen can resolve complaints 1101036 & 1402022

ENFORCE THE RULES OR LEGALIZE THE VIOLATION

Mr. Flores,

Your pen can resolve complaints 1101036 & 1402022 You are the only individual, as City Administrator, empowered by the City Charter to execute small leases (less than 5,000 sq ft, less than 66 years). Not even the Mayor or Planning Director have that authority. Only the City Council as a group have similar and greater power over city controlled land.

The property owners at 3521 Calandria have taken a portion of City land, laid claim to it, and walled it off. The owners at 3511, 3529 and 3539 Calandria have all removed or replaced retaining walls.

Ordinance 13287, Article III, section 2.42.100 allows the City Administrator to:

Grant leases, 49 feet into the city parcel from existing lot boundaries (*less than 5000 sq ft*) for up to 66 years, to the owners of 3511, 3521, 3529, 3539, 3555 Calandria. This will equalize treatment under the law and resolve the problem.

day 1518 of violation without enforcement.

regards,

Michael Hector & Suzanne Clark
3539 Calandria
Oakland

From: Michael Hector [mailto:psmhector@gmail.com]

Sent: Friday, May 29, 2015 8:13 AM

To: Office of the Mayor; City Administrator's Office; City Administrator's Office; Hunt, Michael; Woo, Winnie; Reid, Larry

Cc: Flynn, Rachel; Sandercock, Deborah; Labayog, Edward; Low, Tim; Barron, Hugo; Rivera, Leonardo; Smith, Sandra M; Suzy clark; michael hector; Taylor, Marie (Allene)

Subject: complaint 1101036: we all have other things to do

ENFORCE THE RULES OR LEGALIZE THE VIOLATION

Honorable Libby Shaaf, Mayor,

Please, light a fire under the Planning Director to motivate her to do her job. To comply with the applicable codes, the planning staff **MUST** assess penalties and levy fines for failure to comply with the 2011 Notice to Abate 1101036 & NOV 1402022. Then Planning staff must proceed with priority leins as prescribed in the OMC, Charter, planning code, building code etc, for Notice to Abate 1101036 & NOV 1402022.

This is my 65th email since April 24, 2014; my 87th communication since February 2011 on enforcement of complaint 1101036.

Everyone is busy and has other tasks and duties. I'm certain my daily emails are tedious and unwanted; I'm tired of being forced - by city staff inaction - of trying to motivate city employees to **COMPLETE** the **ENFORCEMENT** of complaints 1101036 & 1402022.

OVER 1400 VIOLATIONS AT 3521 CALANDRIA without enforcement... [Planning code 17.152.030 (B)]
day 1 , 5 1 8 without enforcement.

Or:

Have the City Administrator lease portions of the city owned parcel (*Charter and ordinance 13287, Article III, section 2.42.100*) to the owners of 3511, 3521, 3529, 3539 & 3555 Calandria.

Sincerely,

Michael Hector & Suzanne Clark
3539 Calandria
Oakland

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Friday, May 15, 2015 11:45 AM
To: Taylor, Marie (Allene)
Cc: Smith, Sandra M; Flynn, Rachel; Low, Tim; Labayog, Edward; Suzy clark; michael hector
Subject: 3521 Calandria February 2011 abatement order #1101036
Attachments: 3521 calandria mls info.pdf; 3521 heanue letter.pdf



Ms. Taylor,

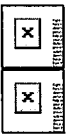
FYI on what the owners of 3521 Calandria (Mr. & Mrs Heanue) knew and when they knew it - reference north retaining wall encroachment, complaint 1101036.

- 1. Attached is the MLS listing from their purchase. Note the confidential remarks: *"...larger than tax records show. seller / broker will not verify actual square footage..."*
- 2. I spoke the managing broker, subject to a subpoena we're sending, they will provide copies of the signed disclosures by the Heanues on the tax record / actual square footage of their property and the HEANUES obligations to verify and accept current conditions of their property.
- 3. The Heanue letter of March 2011 accepting their responsibility and agreeing to correct. *(see paragraphs 2 & 3)*

Still waiting to hear what you based your conclusions on....

Regards,
Michael Hector

May 8 (7 days ago)
Taylor, Marie (Allene) 
to me, Sandra, Edward, Deborah, Rachel




Mr. Hector,

After reviewing the documentation and a site visit re: Complaint #1101036,

it has been determined that the owners of 3521 Calandria Ave. are not responsible for the wall behind the property which was built on city property.

The wall was built by the previous owner, the wall was built on city property at the rear of the house located at 3521 Calandria Ave. The new owners cannot be held responsible for something they did not purchase.

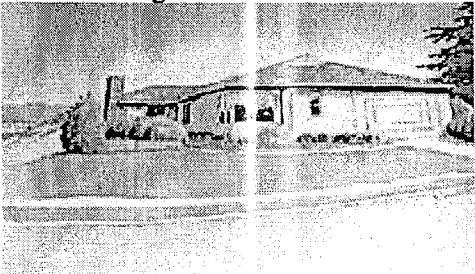
I am currently investigating which department within the city to contact to address the retaining wall. The wall does not appear to be failing or to any danger to anyone.

Also I would like to set up an on-site visit with you to address complaint # 1501141 currently issued to your property.

My calendar is open all day on Wednesday May 13th, 2015. Let me know if that would be a convenient day for you.

Marie Taylor

Building Services Manager



RESIDENTIAL

Detached

List Price
\$499,000

Status
Sold-Short Sale

Virtual Tour Link

05/14/2015 Print/email this listing:

3521 CALANDRIA AVE

Unit: OAKLAND, CA 94605-4405

MLS Number: 40449581

Two Story

Area: 2605

Orig. Price: \$499,000

Sold Price: \$487,888

DMLS: 14

CDMLS: 14

List Date: 2/8/2010

Off Mkt Date: 2/22/2010

Pend Date: 2/22/2010

COE Date: 5/3/2010

Calandria Ave

Margarita Ave

Granada Ave

500 feet

100 m

PROPERTY INFORMATION AND PUBLIC REMARKS				COMMON PROPERTY AND HOA INFORMATION			
Bedrooms: 3	Yr Blt: 1941	Garage: Yes		No. of Units: Complex:			
Baths/Par: 3 / 0	Age: 72	Spaces: 2		Unit's Floor: Type Own:	%OwnOcc:	TIC%:	
Sq Ft: 1735	Acres: 0.120...	Fireplaces: 2					
Source: Other	Lot SF: 5,390	Pool: No					
D/N/S: KING ESTATES		Total Rms: 7		HOA?: No Name:			
Bldr/Arch:		New Subdiv: No		Fee: \$	Litigation:	Trans Fee:	
Model:		List \$/SqFt: \$288					
Sweeping Views of Bay, GG Bridge, Downtown SF & Oakland and Rolling Green Hills! Gorgeous home w/hardwood floors throughout, Beautiful Private Location, Backyard w/Hot Tub, Large Bedrooms, Updated Kitchen and Bath. In-law potential on the lower level. Attached 2-car garage. Open house 2/14, 1-4pm				New Sbdv:			
				Sales Ofc:			

SHOWING AND LISTING INFORMATION			
Confid.	Commission will be split 50/50, subject to short sale approval. Home appears larger than tax records show. Seller/broker will not verify actual square footage. Offers received Thurs, 2/18 by 3pm.		
Remarks:			
Occ. By:	Vacant	Name:	Occupant Phone:
Show Info:	Vacant - Go Show	24 Hr. Notice Req'd?	No
Directions:	580/Keller to Fontaine, Left Crest, Rt Calandria	Cross St:	Crest
List Type:	Excl Agency	Comp Selling Ofc:	3*
List Ofc:	BHG MASON MCDOUFFIE REAL ESTATE - Off: 510-834-21	Dual/Variable:	No
List Agt:	MIMI FALGE - Alt: 510-967-8141	LA-BRE#:	
Co-List:	MALAIKA RANDOLPH - 510-326-4557	Preferred Agent Fax:	
Zoning:	1001	APN:	043A469200802
Census Tract:	4098.00	Point of Sale Ord.:	No
Listing Service:	Full Service	Special Info:	Potential Short Sale
Agent Hit Count:		Client Hit Count:	
City Transfer Tax:	Yes		

OTHER FEATURES			
BATH-MASTER INCLUDES	Stall Shower, Tile	KITCHEN FEATURES	Counter - Solid Surface, Dishwasher, Eat In Kitchen, Garbage Disposal, Gas Range/Cooktop, Range/Oven Built-in, Refrigerator, Updated Kitchen
BATH NON-MSTR INCLUDE	Shower Over Tub, Stall Shower, Tile, Updated Baths	LAUNDRY	Hookups Only, In Garage
COOLING	None	LEVEL - STREET	3 Bedrooms, 2 Baths, Master Bedrm Suite - 1, Laundry Facility, No Steps to Entry, Main Entry
CONSTRUCTION STATUS	Existing	LOT DESCRIPTION	Down Slope
DISCLOSURES	Short PayTrans/Short Sale, Other - Call/See Agent	POOL	Hot Tub
EQUIPMENT ADDITIONAL	Garage Door Opener, Satellite Dish - Owned, Security Alarm - Owned, Water Heater Gas	POSSESSION	COE
EXTERIOR	Stucco	ROOF	Composition Shingles
FIREPLACES	Family Room, Living Room	ROOM - ADDITIONAL	Au Pair, Bonus/Plus Room, Den, Family Room, Storage
FLOORING	Hardwood Flrs Throughout, Tile	STYLE	Other
FOUNDATION	Crawl Space	TERMS	Cash, Conventional
GARAGE/PARKING	Attached Garage, Int Access From Garage	WATER/SEWER	Sewer System - Public, Water - Public
HEATING	Electric	VIEWS	Bay, Bay Bridge, Canyon, City Lights, Downtown, Golden Gate Bridge, Greenbelt, Hills, Panoramic, Pasture, Ridge, San Francisco, Valley, Water
		YARD DESCRIPTION	Back Yard, Deck(s), Fenced, Front Yard, Garden/Play, Patio
School Dist:	Oakland (510) 879-8111	Elem:	Call School District
Jr Hi:	Call School District	Sr Hi:	Call School District

Sold By: <u>DAVID S KERR</u>		<u>ZIPREALTY - Off: 600-225-5947</u>				
Sale Price: \$487,888	Sale \$/Orig \$: 98%	Sale \$/Last \$: 98%	List \$/SF: \$ \$288	Sale \$/SF: \$ \$281	CDMLS: 14	CDOM: 14
Concession:	Sold Agent BRE#: 01256761		# of offers:	Sale Terms:	Conventional	

Prepared By: Suzanne Clark BRE #01817604 © 2015 BEAR, CCAR, EBRD. This information is deemed reliable, but not verified or guaranteed.

SHOWING AND LISTING INFORMATION

Home appears larger than tax records show.

Seller/broker will not verify actual square footage.

MICA & TAYLOR HEANUE

3521 CALANDRIA AVENUE, OAKLAND, CA 94605 • (415) 990-2275

City of Oakland
Community and Economic Development Agency
Building Services
250 Frank H Ogawa Plaza 2nd Floor
Oakland, California 94612

Re: Notice to Abate, Complaint# 1101036

Attn: Leonardo Rivera
Senior Construction Inspector

March 23, 2011

Dear Leonardo,

We received a "Notice to Abate" dated February 28, 2011. This Notice to Abate cites a single violation:

"Un-permitted cinder block retaining wall and wood fence located at the back of the property were constructed beyond the property line and into the city parcel. OMC 15.08.200(A)

Remove and relocate the existing cinder block retaining wall and fence inside the private property. Apply for a building permit to construct a new retaining wall. Submit plans with structural calculations and a boundary survey prepared by a licensed land surveyor. CBC Section 105.2(4)"

Based on the evidence you have presented us, including a site plan, we realize that the wall and fence violate the boundary of our property line. We are writing this letter to respond to this notice and to inform you of our plan to address and comply with this notice.

We recognize that it is our responsibility as current owners of the property to correct this situation. However, we want to be clear that we purchased this house less than a year ago and the retaining wall in question was installed in 2003 or possibly before by a previous owner.

We have begun to take steps towards planning this task by contacting surveyors and trying to figure out where the new wall belongs. What we have learned is that because that our property doesn't have a full survey on record, this is a much more involved and expensive job. We were quoted an estimate of \$5,000

After our recent phone discussion on 3/23/2011, we now realize that the current site map on file will be sufficient for the purposes of this construction.

This is a large job. A 50 foot long retaining wall that is 6 feet high with a wooden fence on top and all the earth behind it must be removed and a smaller 2-3 foot retaining wall must be put in place along a new line. Plans must be drawn up by an engineer, permits pulled, site inspections, etc. Based on discussions we have had with contractors, we have put together a cost estimate, which is shown below.

RECEIVED
2011 MAR 24 PM 3:48
CITY OF OAKLAND
COMMUNITY AND ECONOMIC DEVELOPMENT AGENCY
BUILDING SERVICES

MICA & TAYLOR HEANUE

3521 CALANDRIA AVENUE, OAKLAND, CA 94605 • (415) 990-2275

Estimation of costs:

Planning Phase (\$3,000-7,000)

(Boundary Survey not required)

Design new wall

Structural Calculations

Permitting

Demolition Phase (\$8,000-12,000)

Destroy existing wall and fence

Excavate yard extension

Remove debris and material

Construction Phase (\$18,000-\$25,000)

Build new wall

Build new fence

Drainage

Backfill


Total: \$29,000-\$44,000

Please understand that this whole thing has come as a complete surprise to us. We are new owners at this property and first time home-owners as well. We had not planned for a large expenditure like this and frankly we don't have very much money left in our savings right now. We are at a loss for what to do considering the large entry expense to get even through the planning phase.

Based on a hard look at our budget, we believe we can save \$1000/month towards this effort, which means that we are looking at a timeline of approximately 3 years for us to be able to afford the work that is required. We recognize that this is probably not the response you were hoping for, but this is the financial situation we are in. We hope that you can show some leniency on the project timeline based on the fact that we are new owners and not the ones who created this violation.

We have begun saving towards the cost of the job and we can hope to have enough to complete the planning phase by the end of summer 2011. Additionally, we will send updated progress reports quarterly to keep you informed on progress and revised cost and timeline estimates as we learn more.

Regards,

 Mica Heanue

Taylor Heanue & Mica Heanue

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Friday, May 15, 2015 1:50 PM
To: Taylor, Marie (Allene)
Cc: Flynn, Rachel; Smith, Sandra M; Low, Tim; Labayog, Edward; Suzy clark; michael hector
Subject: 4th request: seven questions - 3521 calandria finding #1101036
Attachments: PICT1995.JPG; PICT1514.JPG; 3521 heanue letter.pdf

4th request

Ms. Taylor,

In your May 8 email you made four statements / conclusions that I don't comprehend.

Mr. Hector,

re: Complaint #1101036,

1. it has been determined that the owners of 3521 Calandria Ave. are not responsible for the wall

2. The new owners cannot be held responsible for something they did not purchase.

3. The wall does not appear to be failing

4. or to any danger to anyone.

Since I don't understand how you reached your conclusions, I have a few questions.
1. How did you reach the conclusion that the Heanues did not purchase the wall in question?

2. If you possess some document that disavows the Heanues ownership claim to the wall in question, I would appreciate a copy.

3. Why did you disregard the Heanues letter of March 2011 (see attached),
where they accepted ownership and responsibility for the 2011 violation?

4. Please reference the section of the OMC or CBC, or California Statute / code that supports your conclusion that a property owner is not responsible for prior violations?

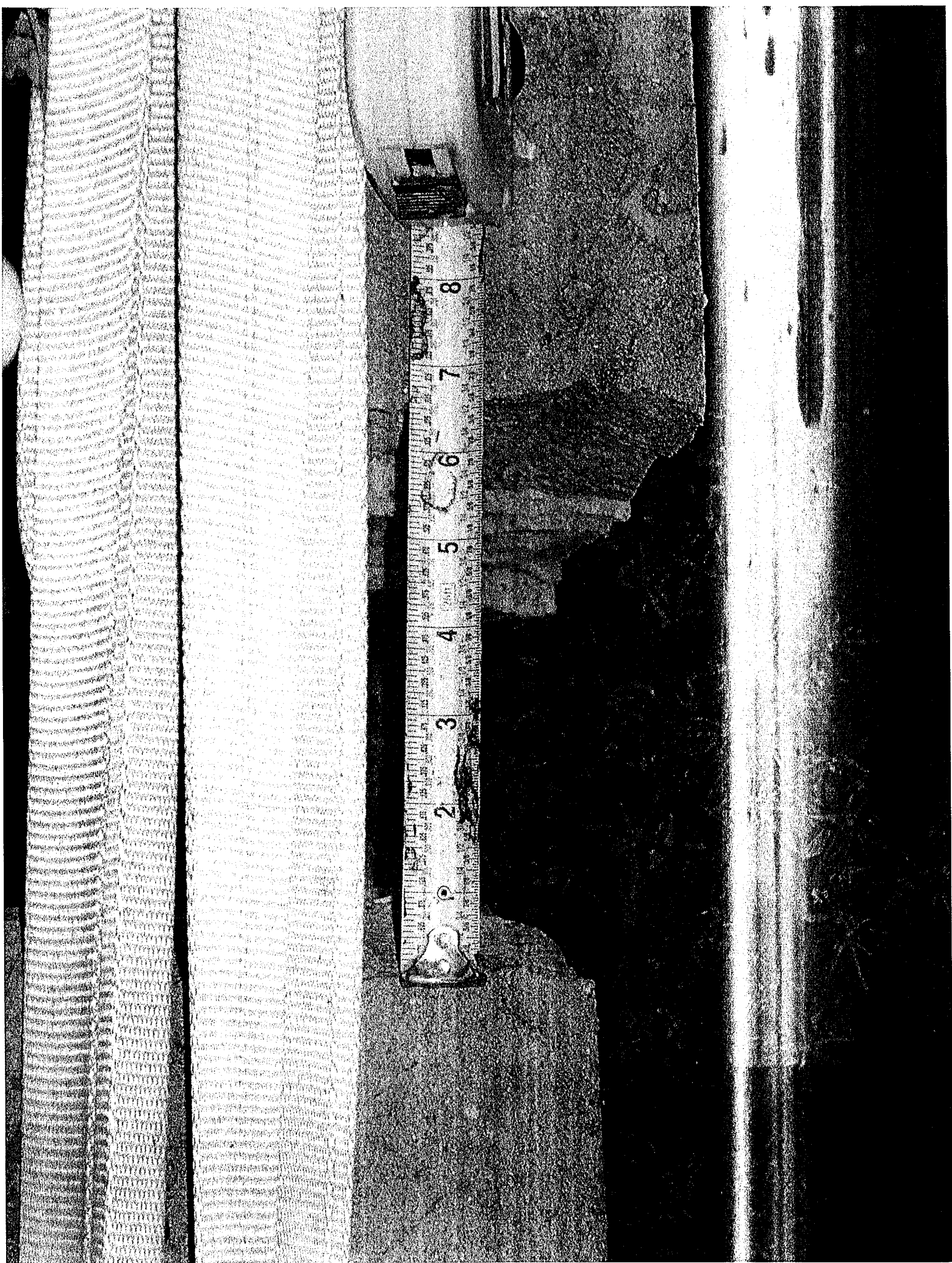
5. You said the wall is not failing. The wall is cracked top to bottom and has gaps and movement in three separate locations. The largest gap is 6.5". The wall is out of plumb 11 degrees. (sse pics) **How are you defining failure / failing / failed etc?**

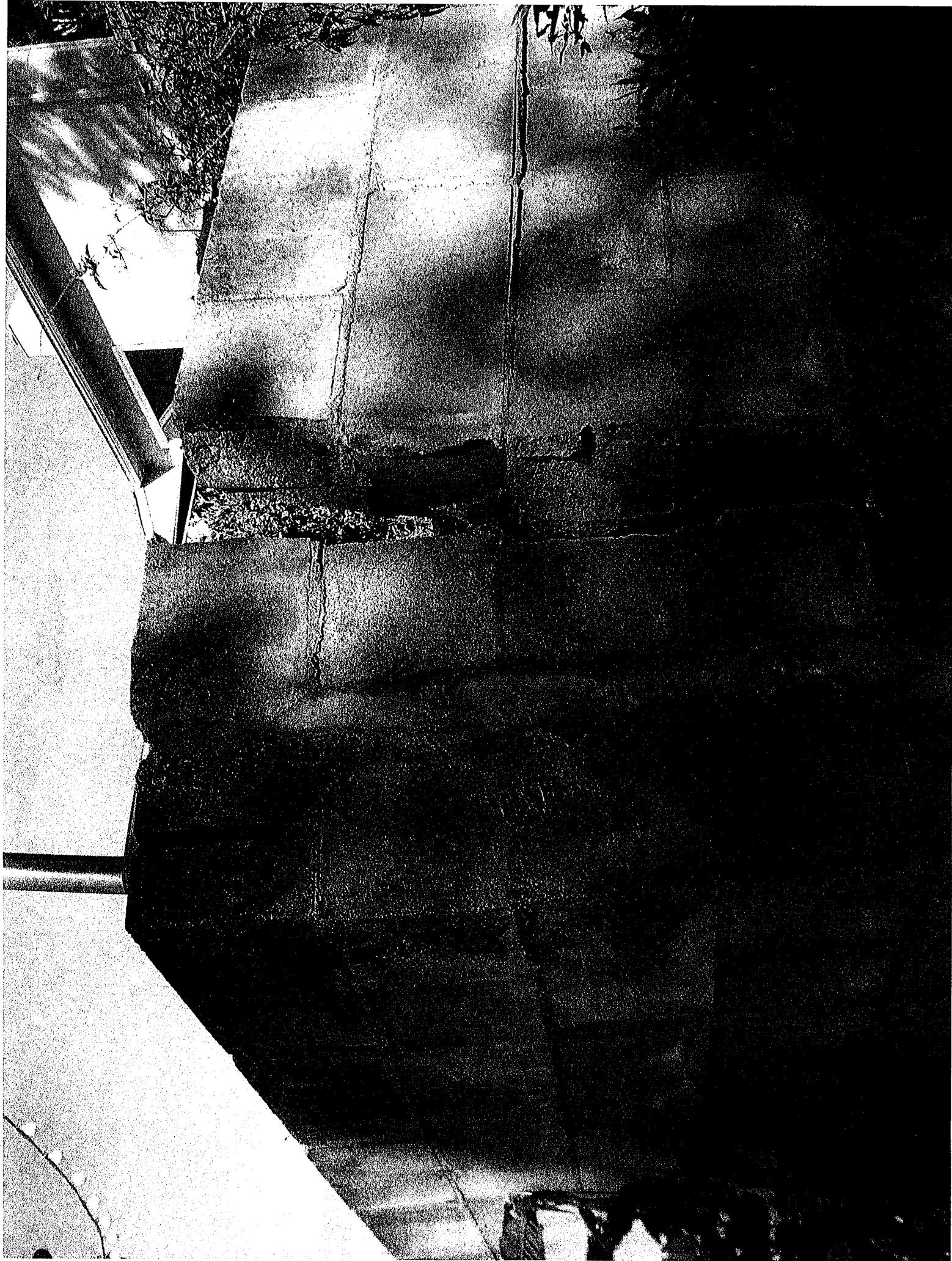
6. Heanue retaining wall NOT a danger? The Heanue's have a two year old son; the property owners at 3500 & 3529 have 10 year old boys that play in the park near and around the Heanue retaining wall. I walk my dogs in the park near and around this wall that is cracked and leaning ON PUBLIC PROPERTY. Trip / fall hazard. collapse hazard in or after heavy rain / earth quake. Most quake injuries occur from falling / failing unreinforced masonry. HOW DID YOU DETERMINE NO DANGER TO ANYONE?

6. If the wall is not owned by the Heanues, it is abandon property or waste dumped on city land?

Awaiting your detailed reply.

Regards,
Michael hector





MICA & TAYLOR HEANUE

3521 CALANDRIA AVENUE, OAKLAND, CA 94605 • (415) 990-2275

City of Oakland
Community and Economic Development Agency
Building Services
250 Frank H Ogawa Plaza 2nd Floor
Oakland, California 94612

Re: Notice to Abate, Complaint# 1101036

Attn: Leonardo Rivera
Senior Construction Inspector

March 23, 2011

Dear Leonardo,

We received a "Notice to Abate" dated February 28, 2011. This Notice to Abate cites a single violation:

"Un-permitted cinder block retaining wall and wood fence located at the back of the property were constructed beyond the property line and into the city parcel. OMC 15.08.200(A)

Remove and relocate the existing cinder block retaining wall and fence inside the private property. Apply for a building permit to construct a new retaining wall. Submit plans with structural calculations and a boundary survey prepared by a licensed land surveyor. CBC Section 105.2(4)"

Based on the evidence you have presented us, including a site plan, we realize that the wall and fence violate the boundary of our property line. We are writing this letter to respond to this notice and to inform you of our plan to address and comply with this notice.

We recognize that it is our responsibility as current owners of the property to correct this situation. However, we want to be clear that we purchased this house less than a year ago and the retaining wall in question was installed in 2003 or possibly before by a previous owner.

We have begun to take steps towards planning this task by contacting surveyors and trying to figure out where the new wall belongs. What we have learned is that because that our property doesn't have a full survey on record, this is a much more involved and expensive job. We were quoted an estimate of \$5,000

After our recent phone discussion on 3/23/2011, we now realize that the current site map on file will be sufficient for the purposes of this construction.

This is a large job. A 50 foot long retaining wall that is 6 feet high with a wooden fence on top and all the earth behind it must be removed and a smaller 2-3 foot retaining wall must be put in place along a new line. Plans must be drawn up by an engineer, permits pulled, site inspections, etc. Based on discussions we have had with contractors, we have put together a cost estimate, which is shown below.

RECEIVED
2011 MAR 24 PM 3:48
CITY OF OAKLAND
COMMUNITY AND ECONOMIC DEVELOPMENT AGENCY
BUILDING SERVICES

MICA & TAYLOR HEANUE

3521 CALANDRIA AVENUE, OAKLAND, CA 94605 • (415) 990-2275

Estimation of costs:

Planning Phase (\$3,000-7,000)
(Boundary Survey not required)
Design new wall
Structural Calculations
Permitting
Demolition Phase (\$8,000-12,000)
Destroy existing wall and fence
Excavate yard extension
Remove debris and material
Construction Phase (\$18,000-\$25,000)
Build new wall
Build new fence
Drainage
Backfill

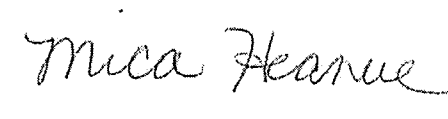
Total: \$29,000-\$44,000

Please understand that this whole thing has come as a complete surprise to us. We are new owners at this property and first time home-owners as well. We had not planned for a large expenditure like this and frankly we don't have very much money left in our savings right now. We are at a loss for what to do considering the large entry expense to get even through the planning phase.

Based on a hard look at our budget, we believe we can save \$1000/month towards this effort, which means that we are looking at a timeline of approximately 3 years for us to be able to afford the work that is required. We recognize that this is probably not the response you were hoping for, but this is the financial situation we are in. We hope that you can show some leniency on the project timeline based on the fact that we are new owners and not the ones who created this violation.

We have begun saving towards the cost of the job and we can hope to have enough to complete the planning phase by the end of summer 2011. Additionally, we will send updated progress reports quarterly to keep you informed on progress and revised cost and timeline estimates as we learn more.

Regards,



Taylor Heanue & Mica Heanue

Flynn, Rachel

From: Flynn, Rachel
Sent: Friday, May 15, 2015 2:40 PM
To: 'Michael Hector'; Taylor, Marie (Allene)
Cc: Smith, Sandra M; Low, Tim; Labayog, Edward; Suzy clark
Subject: 3521 calandria finding #1101036

Hi Michael, I have a call into Taylor Heanue to discuss the letter dated March 23, 2011. Thanks for sending this. The only number I have is 415-990-2275 (Taylor's cell). If you have other numbers, please forward them on.

In the meantime, I am reviewing the complaints filed against your property to see how we can bring closure to these case(s). Thanks, Rachel

Rachel Flynn AIA
Director | Planning & Building Department
City of Oakland
510 . 238 . 2229

From: Michael Hector [mailto:psmhector@gmail.com]
Sent: Friday, May 15, 2015 1:50 PM
To: Taylor, Marie (Allene)
Cc: Flynn, Rachel; Smith, Sandra M; Low, Tim; Labayog, Edward; Suzy clark; michael hector
Subject: 4th request: seven questions - 3521 calandria finding #1101036

4th request

Ms. Taylor,

In your May 8 email you made four statements / conclusions that I don't comprehend.

Mr. Hector,

re: Complaint #1101036,

1. it has been determined that the owners of 3521 Calandria Ave. are not responsible for the wall

2. The new owners cannot be held responsible for something they did not purchase.

3. The wall does not appear to be failing

4. or to any danger to anyone.

Since I don't understand how you reached your conclusions, I have a few questions.

1. How did you reach the conclusion that the Heanues did not purchase the wall in question?

2. If you possess some document that disavows the Heanues ownership claim to the wall in question, I would appreciate a copy.

3. Why did you disregard the Heanues letter of March 2011 (see attached), where they accepted ownership and responsibility for the 2011 violation?

4. Please reference the section of the OMC or CBC, or California Statute / code that supports your conclusion that a property owner is not responsible for prior violations?

5. You said the wall is not failing. The wall is cracked top to bottom and has gaps and movement in three separate locations. The largest gap is 6.5". The wall is out of plumb 11 degrees. (see pics) **How are you defining failure / failing / failed etc?**

6. Heanue retaining wall NOT a danger? The Heanue's have a two year old son; the property owners at 3500 & 3529 have 10 year old boys that play in the park near and around the Heanue retaining wall. I walk my dogs in the park near and around this wall that is cracked and leaning ON PUBLIC PROPERTY. Trip / fall hazard. collapse hazard in or after heavy rain / earth quake. Most quake injuries occur from falling / failing unreinforced masonry. HOW DID YOU DETERMINE NO DANGER TO ANYONE?

6. If the wall is not owned by the Heanues, it is abandon property or waste dumped on city land?

Awaiting your detailed reply.

Regards,
Michael hector

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Friday, May 15, 2015 2:50 PM
To: Flynn, Rachel
Cc: Taylor, Marie (Allene); Smith, Sandra M; Low, Tim; Labayog, Edward; Suzy clark
Subject: Re: 3521 calandria finding #1101036

Ms. Flynn,

Thank you for your reply. That is the number I have. Taylor is home now. He usually responds well to email: Taylor@funkyb3.com; taylorheanue@yahoo.com. Mica Heanue's email micamatsumoto@yahoo.com.

I will hold all communication pending your update.

warm regards,
Michael hector

On Fri, May 15, 2015 at 2:40 PM, Flynn, Rachel <RFlynn@oaklandnet.com> wrote:

Hi Michael, I have a call into Taylor Heanue to discuss the letter dated March 23, 2011. Thanks for sending this. The only number I have is 415-990-2275 (Taylor's cell). If you have other numbers, please forward them on.

In the meantime, I am reviewing the complaints filed against your property to see how we can bring closure to these case(s). Thanks, Rachel

Rachel Flynn AIA

Director | Planning & Building Department

City of Oakland

510 . 238 . 2229

From: Michael Hector [<mailto:psmhector@gmail.com>]
Sent: Friday, May 15, 2015 1:50 PM
To: Taylor, Marie (Allene)
Cc: Flynn, Rachel; Smith, Sandra M; Low, Tim; Labayog, Edward; Suzy clark; michael hector
Subject: 4th request: seven questions - 3521 calandria finding #1101036

4th request

Ms. Taylor,

In your May 8 email you made four statements / conclusions that I don't comprehend.

Mr. Hector,

re: Complaint #1101036,

1. it has been determined that the owners of 3521 Calandria Ave. are not responsible for the wall

2. The new owners cannot be held responsible for something they did not purchase.

3. The wall does not appear to be failing

4. or to any danger to anyone.

Since I don't understand how you reached your conclusions, I have a few questions.

1. How did you reach the conclusion that the Heanues did not purchase the wall in question?

2. If you possess some document that disavows the Heanues ownership claim to the wall in question, I would appreciate a copy.

3. **Why did you disregard the Heanues letter of March 2011 (see attached)**, where they accepted ownership and responsibility for the 2011 violation?

4. Please reference the section of the OMC or CBC, or California Statute / code that supports your conclusion that a property owner is not responsible for prior violations?

5. You said the wall is not failing. The wall is cracked top to bottom and has gaps and movement in three separate locations. The largest gap is 6.5". The wall is out of plumb 11 degrees. (see pics) **How are you defining failure / failing / failed etc?**

6. Heanue retaining wall NOT a danger? The Heanue's have a two year old son; the property owners at 3500 & 3529 have 10 year old boys that play in the park near and around the Heanue retaining wall. I walk my dogs in the park near and around this wall that is cracked and leaning ON PUBLIC PROPERTY. Trip / fall hazard. collapse hazard in or after heavy rain / earth quake. Most quake injuries occur from falling / failing unreinforced masonry. HOW DID YOU DETERMINE NO DANGER TO ANYONE?

6. If the wall is not owned by the Heanues, it is abandon property or waste dumped on city land?

Awaiting your detailed reply.

Regards,
Michael hector

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Friday, May 15, 2015 8:44 PM
To: Flynn, Rachel
Cc: Suzy clark; michael hector
Subject: calandria retaining wall history
Attachments: PICT0384 (1).JPG

Ms. Flynn,

Apologies, but it just occurred to me that the only reason you'd want to speak with Mr. Heanue, is your desire not to enforce his NOV's....

Do you know the history of retaining walls for 3539, 3529, 3521 & 3511 Calandria? It's in Oakland's records, but I'll help a little:

Of these 4 adjacent properties, 3521 (heanue) is the only property that has NOT replaced / removed retaining walls.

Building permits for 3511 & 3521 are in your database.

Oakland liened 3529 Calandria in 2004/05 for debris from their 2003/04 wall / fence project.

3539 Calandria removed 100' of park side retaining wall in February 2011 as a result of complaint 1101032. And 90' of street side retaining wall in 2014, as a result of inspector Barons NOV to us dated July 21, 2014. **We have removed / replaced 190' feet wall because of complaints originated by Mr. & Mrs. Heanue.**

I left pictures at your office two weeks ago of the front of our property . Here is a picture of the park side of our property from February 2011.

Three lawsuits have already been filed regarding the Heanue retaining wall - nine OPD officers have responded at different times. There is more to this story, but i'll end here for now. Please know that special treatment for the Heanues 1560 days after an abatement order would **never** be acceptable to us.

Respectfully
Michael Hector & Suzanne Clark



Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Friday, May 15, 2015 9:04 PM
To: Flynn, Rachel
Cc: Suzy clark; michael hector
Subject: heanues 2013 building permit

Ms. Flynn,

In 2013, The Heanues spent \$20,000 adding a new permitted bathroom, rather than complying with the 2011 abatement order. All the data is in Oakland's records.

Whatever you've been told, the Heanues are masters at deception. They simply don't want to follow the rules, they seek to impose on their neighbors.

Regards.

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Saturday, May 16, 2015 7:38 AM
To: Flynn, Rachel
Cc: Suzy clark; michael hector
Subject: Mr. Heanue in pictures
Attachments: PICT1776.JPG; PICT1774.JPG; PICT2022.JPG; PICT1909.JPG

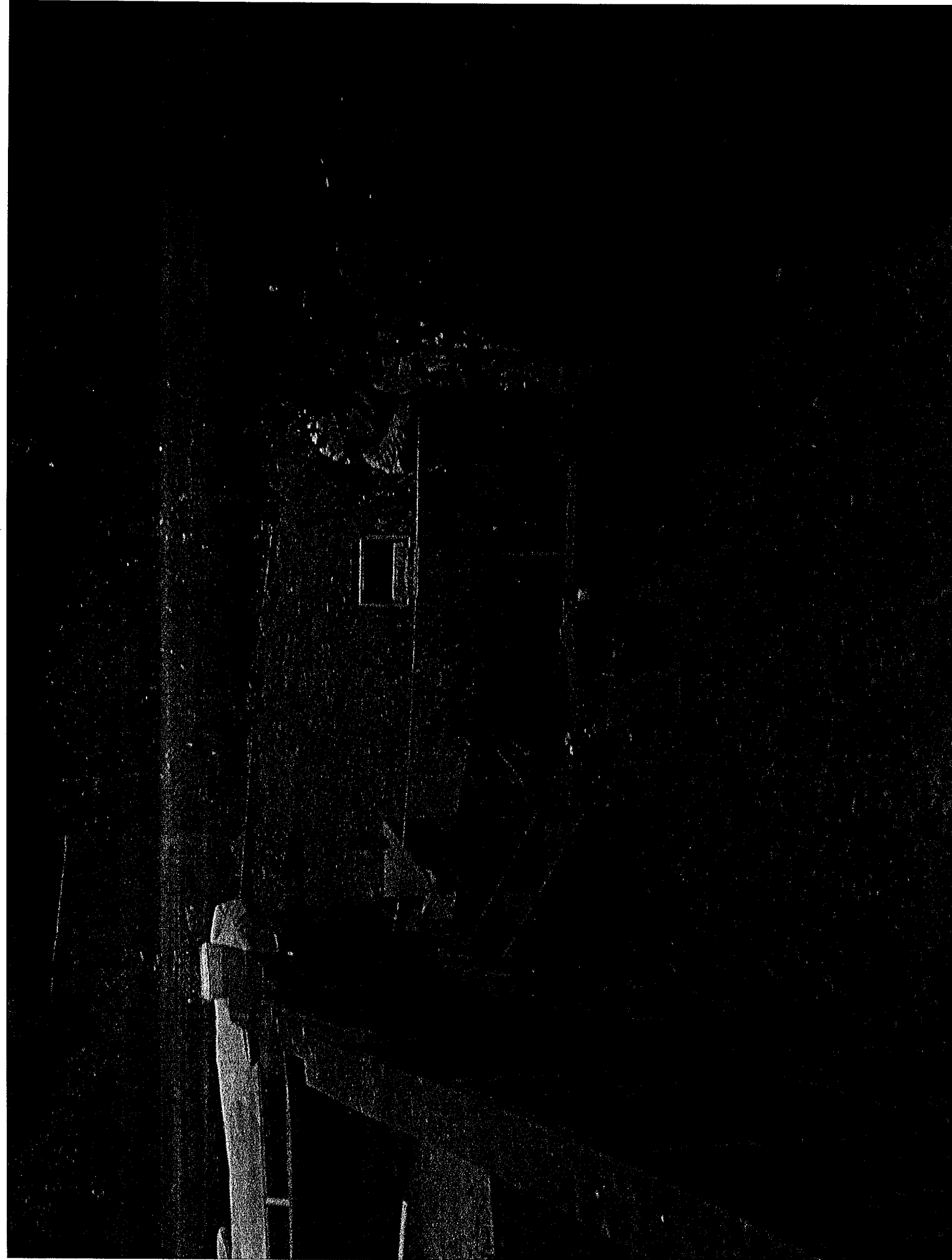
Ms. Flynn,

picture 1. shows Mr. Heanue marking Oakland park land as his private property. September 2014. That's Mr Heanue in the grey sweatshirt. His actual north property line follows the wood fences to the left.

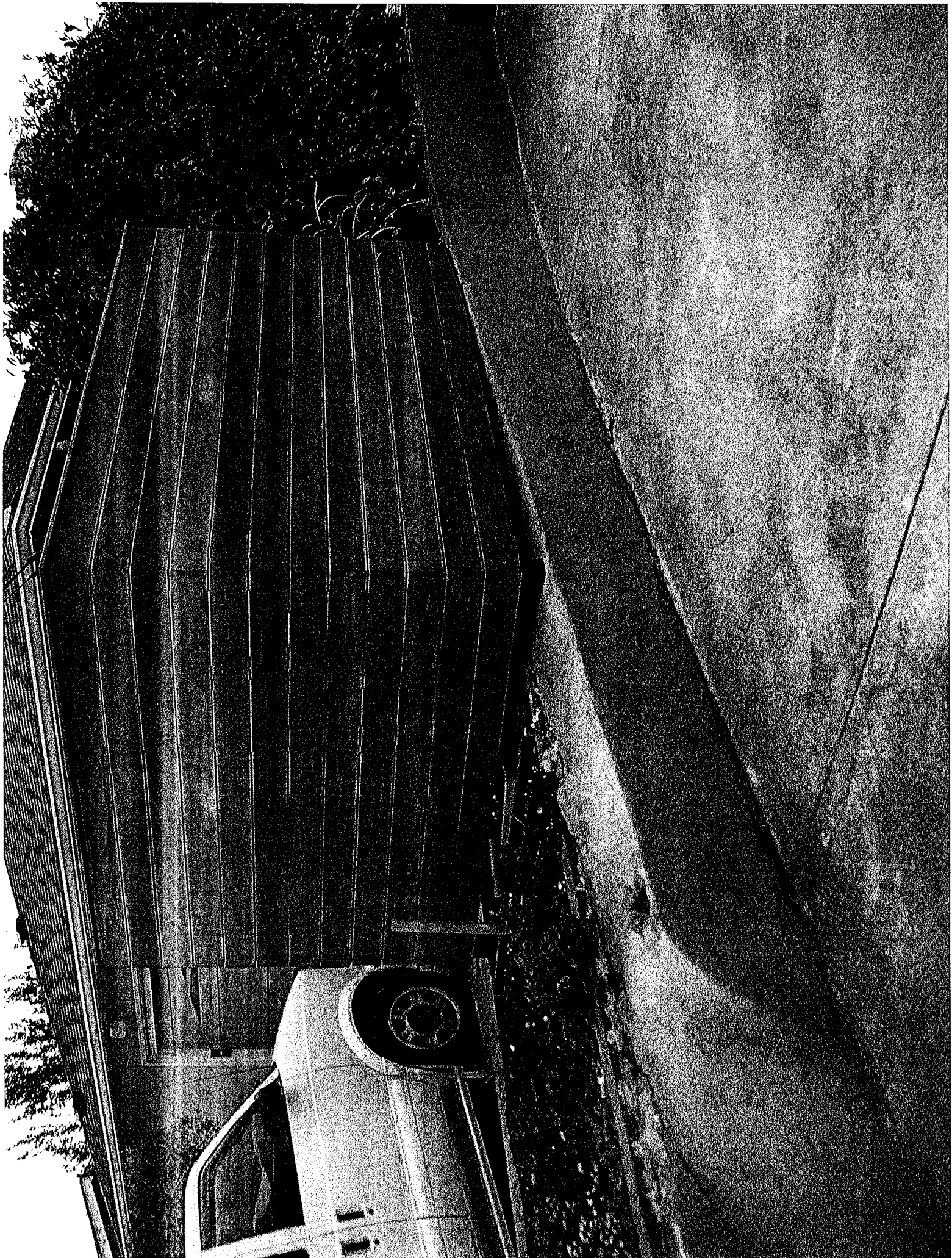
picture 2. shows the same after Mr Heanue finished. electrical and plumbing run into the park at the base of the sign. lights strung down the poles to the right. NOTE the wood fence in the background; the gap about 4' to the left is where 3511 & 3521 property line meets.

picture 3. shows the storage shed Mr Heanue just built in the front of his house. see the height relative to his house. Built in the front set back, zero lot line, combustible material.

picture 4. shows Mr Heanue walking behind our home, taking photos, at 7:30 AM on April 3, 2015.









Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Saturday, May 16, 2015 8:28 AM
To: Flynn, Rachel
Cc: Suzy clark; michael hector
Subject: 3521 Calandria legal / code issues

Ms. Flynn,

There really is nothing to discuss with the heanues regarding their violations. You have a difficult job sometimes, enforcing rules some people don't want to follow. But that is your job.

- a. there is no statute of limitations on building code violations. If there were, there would not be much enforcement.
- b. transfer of title does not resolve, abate or quiet building code violations. If it did, all a slum lord would need to do is transfer title and say "pre existing owner". We know that's not valid.
- c. the owners of 3521 created the following violations.
 - 1. encroachment into public lands / right of way without permit
 - 2. created an easement on public park land without City Council approval
 - 3. built a wall 6' 6" high (from footings) without permits or engineering as required - no wonder the wall is cracked and leaning 11 degrees after only a few years.
- d. The Heanues received disclosures PRIOR to purchase in 2010 that the property appeared larger than tax records, and it was their duty to check, accept or make demands on seller. The heanues purchased at a discount to list - concession for possible property code violations???
- e. The Heanues ran lighting into the park, and marked this public land as the private property in September 2014 - the is 3 years and 6 months AFTER the Heanues wrote they KNEW this was not their property.
- f. The Heanues had legal recourse under CCC 1102, against the sellers and agents if their north property line issue was not disclosed.
- g. The heanues were told by building inspector rivera in March 2010 to seek an easement. they did not. I inquired with the city, because the heanues told OPD in September 2014, they were negotiating to buy the easement / encroachment land from the city. City officials said no application was made. And the easement / sale would violate the general plan for protected open space. therefore any easement to the Heanues would require city council approval and an amendment to the general plan. Good luck getting that approved.

The wall and easement violate multiple codes, statutes and Oakland's general plan. The Heanues accepted responsibility and agreed to correct in 2011. The Heanues choose to spend their money on a bathroom in 2013, rather than abating these violations. That was the choice the Heanues made. The Heanues marked this land as their private property in 2014, made multiple false police reports of trespass and assault, and filed two lawsuits against me in 2014 for trespassing on public land, they claimed as their property. Both suits dismissed. We filed suit in superior court on October 2014, still pending.

We expect the city to promptly enforce the valid 2011 and 2014 violations by assessing re inspection and violation fees (52 months without correction and 9 months without correction). Then filing a priority lien as permitted by code.

Sincerely,
Michael hector & Suzanne clark

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Monday, May 18, 2015 8:55 AM
To: Flynn, Rachel
Subject: waiting for a reply

Ms. Flynn,

I'm waiting to hear if you will enforce the 2011 and 2014 abatement order and NOV for 3521 Calandria.

Sincerely,
Michael hector
3539 Calandria

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Monday, May 18, 2015 11:50 AM
To: Flynn, Rachel; Smith, Sandra M; Taylor, Marie (Allene); Low, Tim; Barron, Hugo; Rivera, Leonardo; Sandercock, Deborah; Labayog, Edward
Cc: Suzy clark; michael hector
Subject: \$7,000 max cost to cure 3521 Calandria 2011 and 2014 violations

Ms. Flynn,

\$7,000 is the maximum cost for the Heanues to clear the encroachment and remove the excess material - possibly a lot less, depending on city demands.

1. The block retaining wall is made up of 360 +/- standard 8*8*16 blocks. demolished, this would make up less than 6 cubic yards of concrete debris.
2. the earth fill from the Heanue property line, to the wall, to the existing grade is less than 30 cubic yards.
3. If removed by hand, a 6 man team could complete the task in three days - 18 man days, moving 2 cubic yards per man, per day.
4. if the city will allow skid steer crawler in the park, it's a one day job to remove.

by hand less than \$6,600 plus profit and (City permit if required)

Waste management cost for 6, six cubic yards dumps @ \$450 each is less than \$3,000.

18 man days @ \$200 each \$3,600

with equipment \$2,600 plus (City permit if required)

a single double 20 cu yard dump truck and waste fee is \$2,000.

skid crawler for the day with driver \$600

The cost to cure the violation is modest for a home the Heanues paid half a million for. I can speak from experience, because we removed more than 190 feet of retaining wall from our property! The cost to demolish our old 400 sq ft garage, foundation and disposal was \$1,800 using equipment.

Regards,
Michael Hector.

Flynn, Rachel

From: Suzanne Clark <suzanneclark@rocketmail.com>
Sent: Monday, May 18, 2015 12:20 PM
To: Hunt, Michael; Flynn, Rachel; Michael Hector; Taylor, Marie (Allene); Smith, Sandra M; Sandercock, Deborah
Subject: 2011 open violation @ 3521 Calandria, Taylor and Mica Heanue

Mr. Hunt,

My husband and I are extremely dissatisfied with the way the Oakland building inspectors have failed to enforce the multiple violations for our neighbor at 3521 Calandria! We would like to make a presentation to the Oakland City Council. A draft of our proposed comments is below for your review and approval.

Warm Regards,
Suzanne Clark

DRAFT
Oakland City Council

RE: director of planning and building, Rachel Flynn's failure to enforcement applicable codes and regulations.

My name is Michael Hector. I reside a 3539 Calandria Ave, Oakland; by the zoo

1. An adjacent property owner has walled off part of the city owned King Estates park (about 1000 square feet) and claimed it as their private property. This was done without permission and in violation of multiple codes, statutes and Oakland's general plan.

Picture A, B & C: shows walled area taped off, overhead.

I've been trying for 53 months to work with city staff to see this violation is cleared - without success.

2. in February 20, 2011, Oakland inspectors issued an abatement order.
picture D & E; order 1101036.

3. in March 2011, the owners accepted responsibility and agreed to correct.

picture ; Heanue letter

4. Nothing was done. In 2013, these owners decided to spend \$20,000 on a new bathroom (RB), rather than comply with the abatement order; probably because the City was not taking enforcement action...

picture; heanue bathroom building permit

5. This has become a personal problem, because property owners, have made multiple attempts to prevent me from using the King estates open space, by claiming this is their private land and I'm trespassing while in the park. Nine OPD officers have responded. The Heanues filed a citizens police reports and two lawsuits (RG & RG) seeking restraining orders to keep me out of the park. Judges denied both requests and dismissed the lawsuits.

picture; citizen complaint, lawsuits

5. Because of my continued complaints, building inspectors issued another violation in September 2014 - nine months ago.

picture. 2014 NOV.

6. Still no enforcement action. I continued to complain louder until I reached the Director, Ms. Flynn at the end of April 2015.

picture. flynn email to staff

7. Oakland building staff member Marie Taylor, on May 3, 2015, voided the valid notices of violations and declared the city would take no action - after 1560 days. Ms Taylor made this decision without citing and code or statutory authority. **Ms. Taylor said the wall is not failing.** By doing so, Ms. Taylor, on her own authority effectively transfered city owned park land to a private property owner without compensation and in violation of Oakland's general plan and real estate policies.

picture. Marie Taylor's May 3rd email.

pictures 1, 2, 3 & 4 showing the cracked, leaning wall

8. I've written more than 100 emails and letters, met or spoken to multiple oakland inspectors and managers over the past 1590 days in an attempt to get staff to follow and apply the OMC rules. Without success.

Flynn, Rachel

From: Lu, Alan
Sent: Monday, May 18, 2015 12:38 PM
To: Flynn, Rachel
Subject: 3521 Calandria Ave - Ownership Info

Please see below, hope that helps.

Mica & Taylor Heanue (05/03/2010 – Current)
Teodolina Pique (08/16/2005 – 05/02/2010)
Gregory Grove & Teodolina Pique (02/28/2003 – 08/15/2005)
Gary Crutcher (prior to 1999 - 02/27/2003)

Alan Lu
Public Service Representative
City of Oakland / Bureau of Building
(P) 510.238.6731
(F) 510.238.6445

This message may contain confidential and/or restricted information. If you are not the addressee or authorized to receive this for the addressee, you must not use, copy, disclose, or take any action based on this message or any information herein. This information should only be forwarded or distributed on a "need to know basis". If you have received this message in error, please advise the sender immediately by reply e-mail and delete this message. Thank you for your cooperation.

Flynn, Rachel

From: Lu, Alan
Sent: Monday, May 18, 2015 1:06 PM
To: Flynn, Rachel
Subject: RE: 3521 Calandria Ave - Ownership Info
Attachments: 3251 CALANDRIA AVE.pdf

Please see attached.

Thanks.

Alan Lu
Public Service Representative
City of Oakland / Bureau of Building
(P) 510.238.6731
(F) 510.238.6445

This message may contain confidential and/or restricted information. If you are not the addressee or authorized to receive this for the addressee, you must not use, copy, disclose, or take any action based on this message or any information herein. This information should only be forwarded or distributed on a "need to know basis". If you have received this message in error, please advise the sender immediately by reply e-mail and delete this message. Thank you for your cooperation.

From: Flynn, Rachel
Sent: Monday, May 18, 2015 1:02 PM
To: Lu, Alan
Subject: RE: 3521 Calandria Ave - Ownership Info

Thanks Alan. Were any permits issued between 1999 and 2005? Thanks, Rachel

From: Lu, Alan
Sent: Monday, May 18, 2015 12:38 PM
To: Flynn, Rachel
Subject: 3521 Calandria Ave - Ownership Info

Please see below, hope that helps.

Mica & Taylor Heanue (05/03/2010 – Current)
Teodolina Pique (08/16/2005 – 05/02/2010)
Gregory Grove & Teodolina Pique (02/28/2003 – 08/15/2005)
Gary Crutcher (prior to 1999 - 02/27/2003)

Alan Lu
Public Service Representative



Address History

ADDR_PARTIAL Begins With 3521 CALANDRIA
APN = (blank)
DATE_OPENED >= 1/1/1999
DATE_OPENED <= 12/31/2005

3521, CALANDRIA, AVE

APN	Unit #	Record ID	Date Opened	Status	Status Date	Description
043A469200802		RB0300690	2/13/2003	Expired	11/24/2003 12:00:00 AM	SUBSTRUCTURAL STRENGTHENING: Anchor hot-tub to existing slab using 5/8" x 10" anchor bolt
043A469200802		RP0300312	1/30/2003	Expired	9/12/2003 12:00:00 AM	1 WATER HEATER (#0300336)
043A469200802		0300336	1/16/2003	Open	1/16/2003 12:00:00 AM	BUILDING AND PLUMBING PERMITS WILL EXPIRE IF THERE HAVE BEEN NO MAJORINSPECTIONS IN THE PAST SIX MONTHS.
043A469200802		RE0300177	1/14/2003	Final	2/24/2003 12:00:00 AM	Residential Electrical--Upgrade Service To 200Amps. and (3) Circuits.
043A469200802		WB0001321	5/4/2000	Final	5/4/2000 12:00:00 AM	NO BARS ON BEDROOM WINDOWS. BARS ON LOWER FAMILY ROOM
043A469200802		RP9900907	4/15/1999	Final	4/19/1999 12:00:00 AM	Plumbing for termite repair.
043A469200802		RB9901185	4/5/1999	Final	4/19/1999 12:00:00 AM	Repair shower, frame and new tile.

Flynn, Rachel

From: Flynn, Rachel
Sent: Monday, May 18, 2015 2:40 PM
To: Miller, Scott; Harlan, David; Low, Tim; Rivera, Leonardo
Cc: Ranelletti, Darin; Merkamp, Robert
Subject: RE: 3521 Calandria

Thanks Scott,
So for my clarification, if he came in to get zoning clearance, zoning would have sent him over to the Building side because there are no zoning issues related to demo of an existing wall of construction of a new wall on private property?

From: Miller, Scott
Sent: Monday, May 18, 2015 2:15 PM
To: Flynn, Rachel; Harlan, David; Low, Tim; Rivera, Leonardo
Cc: Ranelletti, Darin; Merkamp, Robert
Subject: RE: 3521 Calandria

Hi, Rachel. Since Zoning doesn't issue permits for demolitions nor for new wall construction, I am forwarding this to Dave Harlan, and also to Tim Low and Leonardo Rivera. Attached is a Code Compliance record (and notes) from 2011 about a "patio encroachment" into the City's park land. I assume this may also address the wall itself. Leonardo (and PWA) were involved in the issue at that time. I would think the City would need to get some sort of "hold-harmless" agreement from the owner to authorize the work (demolition) on City land, but adjacent to his property. Dave or Leonardo, can you provide more information to address this situation?

Scott

Scott Miller, Zoning Manager | Bureau of Planning | 250 Frank H. Ogawa Plaza, Suite 2114 | Oakland, CA 94612 | Phone: (510) 238-2235 | Fax: (510) 238-4730 | Email: smiller@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Flynn, Rachel
Sent: Monday, May 18, 2015 12:37 PM
To: Miller, Scott
Cc: Ranelletti, Darin; Merkamp, Robert
Subject: 3521 Calandria

Scott – There is a 6' high CMU block wall (50' in length) that was built in the backyard of a private residence several years ago. The house abuts City-owned park land and the wall is located on that land. The current owners did not build the wall. Apparently, it was built by previous owners without getting permits. The City had no knowledge of the wall on its land until a neighbor complained in 2011.

The current owner, Taylor Heanue, claims that he came to the permit counter a few months ago to demo the wall (on City-owned park land) and build a new wall on his property. But he claims that he was informed that he is not allowed to do work on City-owned land.

Can you please confirm whether, 1) this is correct and, if so, 2) what his options are to correct the situation? For example, can he get an easement to do construction work? Would it require indemnification, etc., in case he gets hurt doing the work?

Complaint#: 1101036
Filed: 02/18/11 Rcvd by: ME Station* CLERICAL Source* 2 TELEPHONE CALL
Address: 3521 CALANDRIA AV Suite: Parcel: 043A-4692-008-02
Responsible Station* ENG-SVCS Dist: 06B Primary Inspector Alternate
Existing Use* Parcel Condition: X
Descr: ENCROACHMENT OF PUBLIC PROPERTY (CITY PARK LAND), PATIO CONSTRUCTED
 ACROSS PARCEL LINE

Notice:
Owner: HEANUE MICA & TAYLOR A Tel:
Address: 3521 CALANDRIA AVE OAKLAND CA Zip: 94605
Agent:
Agt Tel:
Agt Addr Zip:
Complainant: MARTIN MATARRESE Tel: (510)867-0694
Complainant Response Requested? (Y/N): Y Response: Ltr/Tel/Oth:
* Violation Types* Cur Stn* Dist Last Action Date By Disposition
-- OMC 25 ENG-SVCS 06B Ntc of Viol - No F 04/20/11 LR V 02/22/11

F2=Bookmark F3=Ext F24=Com ENTER=Next Selection Bottom

Complaint#: 1101036
Parcel#: 043A-4692-008-02
-----COMMENTS-----
Complaint#: 1101036
03/24/11 - Received a letter from the owner requesting for extension.
04/20/11 - Sent a response letter to the property owner granting a 60-day extension for compliance. The extension will expire on June 27, 2011. LR*4759
>>> 04/20/2011 11:36:24 RIVER#LR QPADEV001D
06/13/11 - Received copy of the e-mail from Jim Ryugo, PWA Bldg. Svcs. manager addressed to the property owner. He said that he needs more time to find a reasonable solution to this encroachment issue. Compliance date to expire on June 27, 2011. Compliance can be re-extended pending PWA resolution on this LR*4759
>>> 06/16/2011 09:51:51 RIVER#LR QPADEV001J

F14=Prcl
F3=Exit Bottom

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Monday, May 18, 2015 3:58 PM
To: Taylor, Marie (Allene)
Cc: Flynn, Rachel; Smith, Sandra M; Low, Tim; Labayog, Edward; Suzy clark; michael hector; Hunt, Michael
Subject: OMC 12.64.250 / complaint 1101036

Ms. Taylor,

How do you reconcile your May 8 decision allowing Mr. & Mrs. Heaune to maintain a section of King Estates Park walled off, with OMC 12.64.250 - "*All parks within the city are held in trust for the use of the public*"?

Explaining your decisions and finding would be the professional and courteous response.

Sincerely,
Michael Hector

12.64.250 - Statement of principles.

All parks within the city are held in trust for the use of the public. Included within such use are public assembly, communication of thoughts between citizens and discussion of public questions. These uses of the city's parks are recognized as privileges, immunities, rights, and liberties belonging to all citizens, regardless of sex, race, religion, color, national origin, or political or philosophical persuasion. It is also recognized that the right to use the parks is not absolute, but relative, and must be exercised in subordination to the general comfort and convenience and in consonance with peace and good order.

/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECI

From: Neary, Mike
Sent: Monday, May 18, 2015 2:53 PM
To: Flynn, Rachel
Cc: Levin, Brooke A.; Ortiz, Celso
Subject: RE: Demo Wall on City Land

Rachel, I think Building Department must have some way of allowing this to take place, not an encroachment permit but something similar? Maybe just a letter of understanding? I can't think of having done something like this before, probably the remaining gray area where most permits, even for right-of-way, have until now been handled by Building.

I just read the history in the email here, a simple letter allowing them access to do this should suffice, perhaps with some stipulation that the City is not responsible for damages incurred in the actual work.

Copying Celso for his opinion.

Michael Neary, P.E.
Assistant Director
Bureau of Engineering & Construction
City of Oakland | Public Works Department | APWA Accredited Agency

This e-mail message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message and any attachments.

From: Flynn, Rachel
Sent: Monday, May 18, 2015 2:49 PM
To: Neary, Mike
Cc: Levin, Brooke A.
Subject: Demo Wall on City Land

Hi Mike, There is a CMU-block wall (6' high x 50' long) that was built by a former homeowner several years ago on City-owner park land.

The former owner did not get a permit or any other City approvals. Years later, a neighbor complained about this wall – questioning its structural integrity along with the fact that a private property owner walled off about 1,000 sf of City-owned park land.

The current owner is willing to demolish the wall, but would need City permission to work on City property. My understanding is that this can be arranged through a license agreement with OPW. Is this correct?
If so, how do we proceed and who do we talk to about such a license agreement?

Thanks, Rachel

Rachel Flynn AIA
Director | Planning & Building Department
City of Oakland
510 . 238 . 2229

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Tuesday, May 19, 2015 7:14 AM
To: Flynn, Rachel
Cc: Taylor, Marie (Allene); Smith, Sandra M; Low, Tim; Labayog, Edward; Suzy clark; Hunt, Michael; michael hector
Subject: Re: OMC 12.64.250 / complaint 1101036
Attachments: heanue letter March 23, 2011.pdf

Ms. Flynn,

Thank you. A simple reply with a time estimate. I still fail to understand the inability to follow the NOV's issued by two experienced staff inspectors, and the **property owners acceptance of liability**. But, I'll hold communication until Friday.

Frustration is an understatement.

Marie Taylor overruled to VERY experienced inspectors **without ANY explanation** and in contradiction of dozens of OMC, CBC codes, Oakland General Plan and California Statutes. Oh yeah, **she also disregarded the property owners own acceptance of liability....** ???

Marie Taylor is your employee, but are sure she's qualified to act as an umpire over inspectors with 40+ years of experience? She did a site visit and either didn't see or ignored a retaining wall leaning 11 degrees with THREE CRACKS - ONE 6.5' INCHES WIDE; and said the wall is not failing. You're an architect by training; do you agree with **Ms. Taylors opinion of the wall as "not failing"**? She didn't even check Oakland's filing / data base for existing information prior to her site visit - I obtained the **Heanue March 23, 2011 letter** from Oakland through a public records request. Did Ms. Taylor even speak to inspector Rivera prior to her May 8 email?

Did I make my point: **Mica and TAYOR Heanue accepted responsibility for removing the wall and agreed to do so on March 11, 2011.** Allow me to quote:

*"..the wall violates the boundry of our property...
... our plan to address and comply...
... it is our responsibility...."*
Mica and Taylor Heanue, March 23, 2011. **MARCH 2011 !!!**

But you need another week to sort it out.....

Very unhappy in Oakland!
Michael hector & Suzanne Clark

On Mon, May 18, 2015 at 9:43 PM, Flynn, Rachel <RFlynn@oaklandnet.com> wrote:
Michael, I am working on getting answers to all of your questions. It is going to take me a few days to get the history/background.

I know you are frustrated and disappointed with the City's handling of the issues you raise. Please bear with me, as I am getting up to speed on everything.

Thanks, Rachel

On May 18, 2015, at 4:00 PM, "Michael Hector" <psmhector@gmail.com> wrote:

Ms. Taylor,

How do you reconcile your May 8 decision allowing Mr. & Mrs. Heaune to maintain a section of King Estates Park walled off, with OMC 12.64.250 - "*All parks within the city are held in trust for the use of the public*"?

Explaining your decisions and finding would be the professional and courteous response.

Sincerely,
Michael Hector

12.64.250 - Statement of principles.

All parks within the city are held in trust for the use of the public. Included within such use are public assembly, communication of thoughts between citizens and discussion of public questions. These uses of the city's parks are recognized as privileges, immunities, rights, and liberties belonging to all citizens, regardless of sex, race, religion, color, national origin, or political or philosophical persuasion. It is also recognized that the right to use the parks is not absolute, but relative, and must be exercised in subordination to the general comfort and convenience and in consonance with peace and good order.

Based on the evidence you have presented us, including a site plan, we realize that the wall and fence violate the boundary of our property line. We are writing this letter to respond to this notice and to inform you of our plan to address and comply with this notice.

We recognize that it is our responsibility as current owners of the property to correct this situation. However, we want to be clear that we purchased this house less than a year ago and the retaining wall in question was installed in 2003 or possibly before by a previous owner.

MICA & TAYLOR HEANUE

3521 CALANDRIA AVENUE, OAKLAND, CA 94605 • (415) 990-2275

City of Oakland
Community and Economic Development Agency
Building Services
250 Frank H Ogawa Plaza 2nd Floor
Oakland, California 94612

Re: Notice to Abate, Complaint# 1101036

Attn: Leonardo Rivera
Senior Construction Inspector

March 23, 2011

Dear Leonardo,

We received a "Notice to Abate" dated February 28, 2011. This Notice to Abate cites a single violation:

"Un-permitted cinder block retaining wall and wood fence located at the back of the property were constructed beyond the property line and into the city parcel. OMC 15.08.200(A)

Remove and relocate the existing cinder block retaining wall and fence inside the private property. Apply for a building permit to construct a new retaining wall. Submit plans with structural calculations and a boundary survey prepared by a licensed land surveyor. CBC Section 105.2(4)"

Based on the evidence you have presented us, including a site plan, we realize that the wall and fence violate the boundary of our property line. We are writing this letter to respond to this notice and to inform you of our plan to address and comply with this notice.

We recognize that it is our responsibility as current owners of the property to correct this situation. However, we want to be clear that we purchased this house less than a year ago and the retaining wall in question was installed in 2003 or possibly before by a previous owner.

We have begun to take steps towards planning this task by contacting surveyors and trying to figure out where the new wall belongs. What we have learned is that because that our property doesn't have a full survey on record, this is a much more involved and expensive job. We were quoted an estimate of \$5,000

After our recent phone discussion on 3/23/2011, we now realize that the current site map on file will be sufficient for the purposes of this construction.

This is a large job. A 50 foot long retaining wall that is 6 feet high with a wooden fence on top and all the earth behind it must be removed and a smaller 2-3 foot retaining wall must be put in place along a new line. Plans must be drawn up by an engineer, permits pulled, site inspections, etc. Based on discussions we have had with contractors, we have put together a cost estimate, which is shown below.

RECEIVED
2011 MAR 24 PM 3:48
CITY OF OAKLAND
COMMUNITY AND ECONOMIC DEVELOPMENT AGENCY
BUILDING SERVICES

MICA & TAYLOR HEANUE

3521 CALANDRIA AVENUE, OAKLAND, CA 94605 • (415) 990-2275

Estimation of costs:

Planning Phase (\$3,000-7,000)
(Boundary Survey not required)
Design new wall
Structural Calculations
Permitting
Demolition Phase (\$8,000-12,000)
Destroy existing wall and fence
Excavate yard extension
Remove debris and material
Construction Phase (\$18,000-\$25,000)
Build new wall
Build new fence
Drainage
Backfill

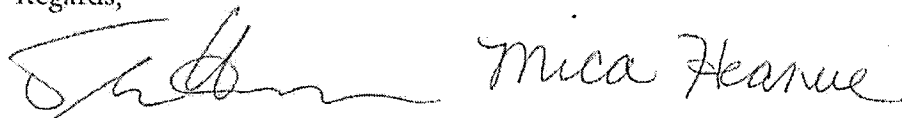
Total: \$29,000-\$44,000

Please understand that this whole thing has come as a complete surprise to us. We are new owners at this property and first time home-owners as well. We had not planned for a large expenditure like this and frankly we don't have very much money left in our savings right now. We are at a loss for what to do considering the large entry expense to get even through the planning phase.

Based on a hard look at our budget, we believe we can save \$1000/month towards this effort, which means that we are looking at a timeline of approximately 3 years for us to be able to afford the work that is required. We recognize that this is probably not the response you were hoping for, but this is the financial situation we are in. We hope that you can show some leniency on the project timeline based on the fact that we are new owners and not the ones who created this violation.

We have begun saving towards the cost of the job and we can hope to have enough to complete the planning phase by the end of summer 2011. Additionally, we will send updated progress reports quarterly to keep you informed on progress and revised cost and timeline estimates as we learn more.

Regards,



Taylor Heanue & Mica Heanue

Flynn, Rachel

From: Michael Hector <psmhector@gmail.com>
Sent: Tuesday, May 19, 2015 9:04 AM
To: Flynn, Rachel
Cc: Taylor, Marie (Allene); Smith, Sandra M; Low, Tim; Labayog, Edward; Suzy clark; Hunt, Michael
Subject: Re: OMC 12.64.250 / complaint 1101036

Ms. Flynn,

IMPORTANT: review complaint 1101032. On the park side retaining wall history - review complaint 1101032.

On Mon, May 18, 2015 at 9:43 PM, Flynn, Rachel <RFlynn@oaklandnet.com> wrote:
Michael, I am working on getting answers to all of your questions. It is going to take me a few days to get the history/background.

I know you are frustrated and disappointed with the City's handling of the issues you raise. Please bear with me, as I am getting up to speed on everything.

Thanks, Rachel

On May 18, 2015, at 4:00 PM, "Michael Hector" <psmhector@gmail.com> wrote:

Ms. Taylor,

How do you reconcile your May 8 decision allowing Mr. & Mrs. Heaune to maintain a section of King Estates Park walled off, with OMC 12.64.250 - "*All parks within the city are held in trust for the use of the public*"?

Explaining your decisions and finding would be the professional and courteous response.

Sincerely,
Michael Hector

12.64.250 - Statement of principles.

All parks within the city are held in trust for the use of the public. Included within such use are public assembly, communication of thoughts between citizens and discussion of public questions. These uses of the city's parks are recognized as privileges, immunities, rights, and liberties belonging to all citizens, regardless of sex, race, religion, color, national origin, or political or philosophical persuasion. It is also recognized that the right to use the parks is not absolute, but relative, and must be exercised in subordination to the general comfort and convenience and in consonance with peace and good order.