

CITY OF OAKLAND



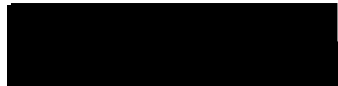
ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
Barbara J. Parker
City Attorney
Erin Bernstein
Senior Deputy City Attorney
eberstein@oaklandcityattorney.org

(510) 238-3601
FAX: (510) 238-6500
TTY/TDD: (510) 238-3254
(510) 238-6392

October 30, 2017

Jeff A. & Mildred C. Crear



Via FedEx Mail next day

Subject: **Notice of Intent to Obtain an Inspection Warrant**

Re: Complaint #: 1700519
Parcel #s: 3-21-3
3-21-12
Property Address: 2351/2353 San Pablo Avenue, Oakland
West St.
Prior Notice/Date: March 1, 2017

Dear Property Owners:

A review of City of Oakland (“City”) records and community reports demonstrate repeated unauthorized access to the building at 2351-2353 San Pablo Avenue, Oakland and the lot located behind it (the “Property”). On February 14, 2017, you denied the City access for a multi-agency inspection of the Property. City personnel nevertheless viewed from the street numerous conditions— including used condoms and drug paraphernalia on the lot – that threaten the health and safety of those living in and around the Property. Furthermore, City personnel have witnessed the back gate on West Street unsecured and have received reports of individuals trespassing into the building itself. These reports include observation of trespassers using candles within the structure—this behavior poses a fire hazard not only to this building, but to neighboring structures.

The City hereby requests your permission for employees of the following offices to conduct a multi-agency inspection at the Property:

- Oakland Building and Planning Department, Code Enforcement unit;
- Oakland Fire Prevention Bureau;
- Oakland City Administrator’s Office; and

Jeff A. & Mildred C. Crear
Re: Notice of Intent to Obtain an Inspection Warrant
October 30, 2017

- Oakland City Attorney's Office.

Inspector Wing Loo will be the primary inspector, and my office will be assisting in coordinating the inspection. The City requests that the multi-agency inspection be conducted on November 6, 7, 8, or 9, and that it be allowed to access to all areas of the Property, including the building interior and the lot.

If you refuse to provide us access onto the Property, we will immediately petition the court to issue an inspection warrant. This warrant will authorize the City and its agents to enter your property forcibly, if necessary. All costs for obtaining the warrant will be charged to you, and may be liened against your property title, and/or collected with your property taxes.

Please advise us immediately of your decision regarding permission to enter by signing and returning the enclosed Permission to Enter form. You may send the executed Permission to Enter form as an email attachment to Erin Bernstein at ebernstein@oaklandcityattorney.org or by personally delivering to my office at 1 Frank H. Ogawa Plaza, 6th Floor **no later than 5PM, Monday, November 6, 2017**. Office hours are Monday – Friday, 9:00 a.m. – 5 p.m.

Very truly yours,

BARBARA J. PARKER
City Attorney



Erin Bernstein
Senior Deputy City Attorney

Attachments:

30-Day Notice to Abate
Permission to Enter form

cc: Inspector Wing Loo

2203218

Jeff A. & Mildred C. Crear
Re: Notice of Intent to Obtain an Inspection Warrant
October 30, 2017

PERMISSION TO ENTER

I, _____ hereby grant my permission for employees of the City of Oakland, including but not limited to individuals from the following offices, to conduct a multi-agency inspection at 2351-2353 San Pablo Avenue Oakland and the lot behind it (the "Property"):

- Oakland Building and Planning Department, Code Enforcement unit;
- Oakland Fire Prevention Bureau;
- Oakland City Administrator's Office; and
- Oakland City Attorney's Office.

I grant my permission for the multi-agency inspection to be conducted on November 6, 7, 8, or 9, and to allow access to all areas of the Property.

I or my agent will be present at the multi-agency inspection to facilitate access to all areas of the Property. The following are **three potential dates and times during** November 6, 7, 8, or 9 when I or my agent can arrive at the Property to facilitate the multi-agency inspection:

- 1) _____
- 2) _____
- 3) _____

Owner Name (Sign): _____

Owner Name (Print): _____

Date: _____



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CITY HALL • 1 Frank H. Ogawa Plaza • 11th FLOOR • OAKLAND, CALIFORNIA 94612

City Administrator's Office
Nuisance Abatement Division

Greg Minor, Assistant to the City Administrator

TTY/TDD (510) 238-2007
FAX (510) 238-7084
Voicemail (510) 238-6370

30-DAY NOTICE TO ABATE

Certified and Regular Mail
7015 1660 0000 0910 0583

March 1, 2017

Jeff A. & Mildred C. Crear

Subject Property: 2351/2353 San Pablo Ave. Oakland, CA
dba Moor Hotel

Declaration of Public Nuisance – Nuisance Activity

Civil Penalty: \$1000 a day

Complaint #: 1700519

Reference: Police Reports #16-003823; 14-054443-003;
#14-054443-004

Dear Property Owner(s):

The City Attorney's Office has provided our office evidence of nuisance activity at the above-referenced property and is requesting that the subject property be declared a public nuisance pursuant to Oakland Municipal Code (OMC) Chapter 1, Section 1.08 et seq. Having reviewed the evidence and good cause existing, the City declares the following:

- The nuisance activity **including, but not limited to Penal Code 496(A), Receive/Etc Known Stolen Property, PC 601(L), Trespassing, drug activity and prostitution** documented in the attachment(s), and occurring on your property located at 2351-53 San Pablo Avenue, Oakland, CA constitutes a public nuisance. These activities constitute a threat to the health, safety, and well-being of the surrounding community and as such constitute a public nuisance. A public nuisance shall also exist whenever a condition on a property is corrected but recurs, and continues as a recurrent problem (OMC Section 1.08.030.B); and
- A review of the aforementioned police report for illegal activity subject you to daily penalties of \$1000 should you not act immediately to abate the activity; and

- Pursuant to the Oakland Master Fee Schedule Section B-11 you are hereby assessed a \$3,529.00 Nuisance Case fee.

Please be advised that thirty (30) days from the date of this letter, the City may impose daily penalty assessments of \$1000.00 a day up to \$365,000 a year (pursuant to OMC Chapter 1, Section 1.08 et seq), unless the nuisance conditions are abated. Assessments will be made every 30 days until you have identified remedial measures taken to prevent recurrence of activity to the satisfaction of the City. Further, buildings and structures or portions thereof which are determined to be a public nuisance, shall be abated by repair, rehabilitation, demolition or removal. It is your obligation to abate the nuisance condition.

Assessment will be based on number and frequency of recurrent nuisance conditions, as well as diligence of property owner in addressing concerns of the City. The amount of the assessment is based on the serious health and safety risks involved with the unlawful activities and the endangering of the neighborhood. Fees, costs, payments, assessments, and penalties associated with our enforcement actions are significant and shall be a charge against the property and the owners and, if not reimbursed immediately, shall become a special assessment/priority lien recorded against the property title and are recoverable through the property tax general levy and court action, among other remedies available to the City. Failure to remedy or abate nuisance conditions may result in the City doing so and billing you for the costs.

Remedial Actions Required

Pursuant to the above findings and declarations, you are ordered to take all remedial measures necessary to abate nuisance activity identified above. These measures include but are not limited to:

- Within 14 days (from the date of this notification), pay all City assessments to date; and
- Continually maintain the premises free of blighted conditions; and
- Immediately cease and desist the nuisance activity ,including but not limited to:
 - *Prostitution activity;*
 - *Trespassing and squatting on/hear, or in the surrounding or rear area of your property;*
 - *Possession of controlled substances for personal use/sale/or distribution;*
 - *Possession of any and all drug paraphernalia from the premises for personal use/sale/or distribution; and*
 - *Loitering on/hear, or in the surrounding or rear area of your property*

You have **fourteen days** in which to implement remedial measures.

APPEAL

As prescribed in OMC section 1.08 you have the right to appeal this determination. Pursuant to OMC section 15.08.410 your appeal must be received within 14 days from the date of this notice. An appeal hearing, if required will be conducted before an independent administrative hearing examiner. In order to request an appeal you must pay a \$110.00 non-refundable filing fee, and submit in writing the details upon which you base your claim that the City has erred or abused its discretion in these actions. Please be advised that you may be assessed fees for the actual costs incurred by the City for enforcement proceedings against your property.

Should you have questions concerning this form or the appeal process or penalty procedures, please contact the Nuisance Abatement Division's Administrative Assistant weekdays from 9:30 to 11:00 am and 2:30 p.m. to 4:00 p.m. by telephone. Your written appeal must be filed directly with the Administrative Assistant, either in person or via first class mail:

Susan Vasquez, Administrative Assistant
City of Oakland – Nuisance Abatement Division
1 Frank Ogawa Plaza, 11th Floor
Oakland, CA 94612

The form for filing an appeal is enclosed. Please be advised that if your written appeal and filing fee is not received **before 4:00 p.m. (local time), Wednesday, March 15, 2017**, you **waive your right** for further administrative adjudication of this matter, and your only other method for redressing this matter may be judicial action. Please note that incomplete appeals including, but not limited to, oral notification of your intention to appeal, a written appeal postmarked but not received within the time prescribed, or a written appeal received by the filing deadline without a filing fee, are not acceptable and will be rejected.

OPTION TO MEET FOR COMPLIANCE PLAN

Depending on the nature of the violations, you may also request to meet with the Nuisance Abatement Division and the referring department to develop a compliance plan to abate the nuisance. In some cases, a performance bond will be required along with compliance plan. If you reach an agreement, the City may suspend the daily penalties while you meet the terms of the compliance plan. To set up a meeting, please call Susan Vasquez at 238-7487.

Sincerely,



Greg Minor
Assistant to the City Administrator

Encls.: Administrative Appeal form; Proof of Service
OPD Report #16-003823; #14-054443-003; #14-054443-004

cc: Sgt. Richard Vierra, CRT/OPD (via email)
S. Hugo & F. Hussein, NLC (via email)
S. Landreth, City Administrator (via email)



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Nuisance Abatement Division

Greg Minor, Assistant to the City Administrator

TTY/TDD (510) 238-2007
Main FAX (510) 238-7084
Voicemail (510) 238-6370

**ADMINISTRATIVE APPEAL
DECLARATION OF PUBLIC NUISANCE
NUISANCE ACTIVITY
ADMINISTRATIVE PENALTY**

PROPERTY

ADDRESS _____

NON-REFUNDABLE FILING FEE \$110.00*

(*9.5% Records Mgmt. Fee & 5.25% Technology Enhancement Fee)

COMPLAINT _____ STATION _____ CERTIFIED MAIL _____ DATE _____

[] PUBLIC NUISANCE - SUBSTANDARD
[x] ADMINISTRATIVE PENALTY

[] UNSAFE OCCUPY
[] IMMINENT HAZARD

PARCEL NO. _____

APPELLANT _____

PROPERTY
OWNER _____

ADDRESS _____

ADDRESS _____

CITY/STATE _____

CITY/STATE _____

TELEPHONE _____

TELEPHONE _____

Email: _____

Email: _____

CONDITIONS FOR FILING AN ADMINISTRATIVE APPEAL

THE MUNICIPAL CODE PROVIDES FOR ADMINISTRATIVE ADJUDICATION BY AN INDEPENDENT HEARING EXAMINER OF THE ENFORCEMENT ACTIONS INDICATED ABOVE FOR APPELLANTS HAVING RECORD TITLE INTEREST IN THE PROPERTY. AN APPEAL MUST BE SUBMITTED IN WRITING WITH A FILING FEE. IF THE APPEAL AND FEE ARE NOT RECEIVED BY OUR OFFICE WITHIN 14 CALENDAR DAYS OF THE MAILING DATE OF THE NOTIFICATION OF THE ENFORCEMENT ACTION, OR IF THE APPELLANT FAILS TO IDENTIFY FACTS WHICH SUPPORT A CONTENTION THAT THE CITY HAS ERRED OR ABUSED ITS DISCRETION, THE APPEAL WILL BE DENIED WITHOUT AN ADMINISTRATIVE HEARING. THE INITIAL REVIEW TO DETERMINE IF SUFFICIENT FACTS WERE STATED WILL BE CONDUCTED BY THE CITY'S ADMINISTRATIVE HEARING OFFICER (AHO). THE ONLY OTHER REDRESS AVAILABLE TO AN APPELLANT WILL BE JUDICIAL ACTION (CIVIL PROCEDURE 1094.6, etc.).

- ☐ BRIEFLY IDENTIFY YOUR LEGAL INTEREST IN THE BUILDING OR PROPERTY:
- ☐ BRIEFLY IDENTIFY WHICH OF THE ENFORCEMENT ACTIONS BY THE CITY YOU ARE APPEALING:
- ☐ BRIEFLY IDENTIFY HOW THE CITY HAS ERRED OR ABUSED ITS DISCRETION IN BRINGING THIS ACTION:
- ☐ BRIEFLY IDENTIFY HOW YOU WANT THE CITY TO RESOLVE YOUR APPEAL:

I DECLARE UNDER PENALTY OF PERJURY THAT THE INFORMATION GIVEN HEREWITH IS IN ALL RESPECTS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

APPELLANT'S SIGNATURE
AGENT MUST PROVIDE NOTARIZED AUTHORIZATION

DATE

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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is City Hall, One Frank H. Ogawa Plaza, 11th Floor, Oakland, California 94612. On the date set forth below, I served the within documents:

30-Day Notice to Abate re 2351-2353 San Pablo Ave., Oakland, CA
Copy of Redacted Police Report #16-003823; #14-054443-003; #14-054443-004
Administrative Appeal Form
2 Photos

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, certified mail, return receipt requested in the United States mail at Oakland, California addressed as set forth.
- ☐ by causing personal delivery by messenger of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by personally delivering the document(s) listed above to the person at the address set forth below.
- ☒ by causing such envelope to be sent by certified and regular mail.

Jeff A. & Mildred C. Crear
5845 Mendocino Avenue
Oakland, CA 94618-1808

I declared under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 1, 2017, at Oakland, California.



Susan Vasquez