



**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 04/16/02  
AGENDA ITEM 2  
WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** Reconsideration of City Council's June 6, 2000 Action Authorizing Imposition of Lien for Unpaid Residential Rental Inspection Fees

**RECOMMENDATION:**

It is recommended that the City Council reconsider its June 6, 2000 action authorizing imposition of a lien against property located at 25353 Tarman Avenue (Clarence D. Cline, Owner) and adopt the attached resolution confirming its June 6, 2000 action imposing a lien for unpaid fees.

**BACKGROUND:**

On June 6, 2000, the City Council adopted a resolution confirming the report and assessment for overdue residential rental inspection fees for the 1999 calendar year. Included in the assessment was the charge of \$111.05 for a progress check on September 23, 1999, concerning code violations found at the subject property during the initial inspection on June 7, 1999. As is evidenced by the Rental Inspection Checklist, those code violations included, among other things, evidence of faulty heating facilities, and a family room addition and unauthorized garage conversion, both constructed without permits. The inspector did not enter the property for purposes of the September 23, 1999 progress check; however, observation from the sidewalk revealed that only two of the exterior violations had been cleared. Moreover, City records revealed that no permits had been obtained concerning the patio and garage conversions, or the wall furnaces.

Following the June 6, 2002 Council action, the property owner filed an action in Alameda County Superior Court, challenging the Council's action. On January 4, 2002, Judge Cecilia P. Castellanos issued a statement of decision, judgment, and peremptory writ of mandate. In her statement of decision, the Judge did not find any impropriety in the Council's decision with respect to the lien for unpaid fees or in the constitutional integrity of the program. She specifically found that the Residential Rental Inspection Program is constitutional on its face because it contains a provision for administrative review for property owners who wish to contest the findings of an inspector. Her concern was that the informal nature of the administrative review offered to Mr. Cline at the administrative level, prior to the Council's consideration of the lien for unpaid fees, deprived Mr. Cline of a "fair hearing" for challenging the inspection findings, and thus violated due process requirements.

The writ compels the City Council to set aside its June 6, 2002 decision as to the subject property, and remands the proceedings to Council for reconsideration consistent with the judge's statement of decision. Given the judge's concerns about the lack of a formal review process, prior to bringing the matter before Council for reconsideration, staff took the following actions.

On February 11, 2002, staff provided Mr. Cline with written notification of the specific code sections pertaining to the violations. Staff also conducted a formal administrative review on February 25, 2002, to allow Mr. Cline to provide evidence concerning the existence of the code violations. The proceedings were recorded by a certified shorthand reporter, and Mr. Cline has been provided with a copy of the transcript. Copies of the complete applicable codes were available for Mr. Cline at the review proceedings, and he was provided with selected code provisions that specifically relate to the code violations found to exist on the property at the initial inspection. Mr. Cline attended the formal administrative review; however, he failed to offer any evidence whatsoever concerning the alleged violations. The Building Official found sufficient evidence to support the imposition of the residential rental inspection fees.

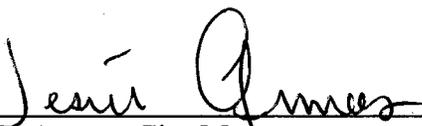
Staff believes that it is now appropriate to refer this matter to Council for reconsideration of its June 6, 2002 action authorizing an imposition of a lien on the subject property.

**Public Notice:** Notice of this hearing was sent to Mr. Cline by certified mail on April 1, 2002, and published in the Daily Review on April 6, 2002.

Recommended by:

  
\_\_\_\_\_  
Sylvia Ehrental  
Director of Community and Economic Development

Approved by:

  
\_\_\_\_\_  
Jesus Armas, City Manager

Attachments: Transcript  
Resolution

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

In Re CLARENCE D. CLINE, for  
Property at 25353 Tarman Ave.,

Petitioner,

vs.

NO. H-215388-5

CITY OF HAYWARD, and  
City employees, DUKE BRAGGS,  
City Inspector Wendell MacNeill,  
and DOES 1-10, inclusive,

Respondents.

ORIGINAL

RECEIVED

FEB 28 2002

OFFICE OF CITY ATTORNEY

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ADMINISTRATIVE HEARING

CITY OF HAYWARD

777 B Street, Hayward, California

Monday, February 25, 2002

Reported by:

CYNTHIA L. THOMAS, CSR #2950

---

**LEINAALA YEE GRAY & ASSOCIATES**

Certified Shorthand Reporters Established 1983, CSR No. 2941  
7185 Amador Valley Blvd., Dublin, California 94568 (925) 833-2016

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

I N D E X  
- - - - -

PROCEEDINGS:

PAGE 4

---o0o---

EXHIBITS:

PAGE

- |    |   |    |
|----|---|----|
| 1) | Peremptory Writ of Administrative Mandamus  | 11 |
| 2) | February 11, 2002, letter from Assistant city Attorney Nancy Hart to Clarence Cline, with attachments | 16 |
| 3) | Copies of code sections   | 28 |

---o0o---

1 BE IT REMEMBERED THAT on Monday, the 25th day  
2 of February, 2002, commencing at the hour of 10:00 a.m.,  
3 at the Offices of the CITY OF HAYWARD, Department of  
4 Community and Economic Development, 777 B Street,  
5 Hayward, California, before me, CYNTHIA L. THOMAS,  
6 CSR #2950, a Certified Shorthand Reporter in and for the  
7 County of Contra Costa, State of California, the  
8 following Proceedings were held.

9  
10 ---o0o---

11  
12 A-p-p-e-a-r-a-n-c-e-s:

13 The Hearing Officer:

14 HILARY R. HERMAN, BUILDING OFFICIAL  
15 City of Hayward  
16 Department of Community and Economic Development  
17 777 B Street  
18 Hayward, California 94541-5007

19 For the Petitioner:

20 CLARENCE D. CLINE, IN PRO PER

21 For the Respondent:

22 MAUREEN A. CONNEELY, ASSISTANT CITY ATTORNEY  
23 City of Hayward  
24 777 B Street  
25 Hayward, California 94541-5007

26 Also Present: DUKE BRAGG, SENIOR HOUSING INSPECTOR  
JOSEPH CONEY  
DICK GABLE  
DAN TANKERSLEY

---o0o---

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

P R O C E E D I N G S

THE HEARING OFFICER: My name is Hilary Herman, and I am the Building Official for the City of Hayward, and we are conducting an administrative hearing having to do with some housing code violations pursuant to a court order.

And can we start with introductions around the room, please?

And I'll start with again Hilary Herman, City of Hayward. And I'll go to my left and then continue.

MR. BRAGG: I'm Duke Bragg, B-R-A-G-G. I'm the Housing Supervisor, Senior Supervisor of City of Hayward.

MS. CONNEELY: Maureen Conneely, Assistant City Attorney for the City of Hayward.

MR. CONEY: Joseph Coney. I have no title.

MR. TANKERSLEY: Dan Tank --

MS. CONNEELY: Are you appearing on behalf of the petitioner Mr. Cline?

MR. CONEY: No.

MS. CONNEELY: Are you --

MR. TANKERSLEY: He's a -- he's a friend with us.

MS. CONNEELY: Okay.

MR. TANKERSLEY: Okay. My name is Dan Tankersley, and I'm here on behalf of Mr. Cline.

1 MR. GABLE: I'm Dick Gable, and I'm here on  
2 behalf of Mr. Cline.

3 MR. CLINE: I'm Clarence Cline. I'm the  
4 petitioner.

5 THE HEARING OFFICER: Good morning.

6 MR. CLINE: Good morning.

7 THE HEARING OFFICER: What we are going to be  
8 doing is we are going to go back to the original housing  
9 violations from the housing inspection, of which we have  
10 copies. Actually, I think we'll be short. We made five  
11 copies.

12 MR. TANKERSLEY: Before we get started, can I  
13 get something clarified, please?

14 THE HEARING OFFICER: Certainly.

15 MR. TANKERSLEY: Okay. We're here pursuant to  
16 a court order, correct?

17 THE HEARING OFFICER: Yes.

18 MR. TANKERSLEY: Both the mandate and the  
19 peremptory writ both grant -- make arrangements for this  
20 hearing, correct?

21 THE HEARING OFFICER: Maureen?

22 MS. CONNEELY: That's correct.

23 MR. TANKERSLEY: Okay. The mandate says on  
24 page 13 that:

25 "The Court finds that petitioner was not  
26 provided a fair hearing for challenging the

1 findings upon which the inspection fee was  
2 based, therefore the decision to impose a lien  
3 on the property for nonpayment of inspection  
4 fees was in error. For this reason the matter  
5 is remanded to the City Council to rehear the  
6 matter and provide a hearing, a fair hearing,"  
7 period.

8 Okay. So was this -- is this the hearing that  
9 was ordered by the City Council?

10 MS. CONNEELY: That's correct.

11 MR. TANKERSLEY: Okay. Has --

12 MS. CONNEELY: This is the hearing that the  
13 City has determined to provide us an administrative  
14 review of the code violations.

15 MR. TANKERSLEY: Okay. All right. I wanted to  
16 make sure we got that clear.

17 MS. CONNEELY: Uhm-hmm.

18 MR. TANKERSLEY: Okay. So and the peremptory  
19 writ basically says the same thing in the order.

20 MS. CONNEELY: Yes.

21 (Brief interruption by a person entering the  
22 room.)

23 THE HEARING OFFICER: Thank you, Jennifer.

24 MS. CONNEELY: As I understand it, the decision  
25 of the Court ordered that an administrative review of  
26 the code violations be provided to Mr. Cline, and that

1 is our purpose here this morning.

2 MR. TANKERSLEY: Okay. So do you have the  
3 policies that we're going to follow for these hearings  
4 today? Has -- has the City adopted policies?

5 MS. CONNEELY: The City has not formally  
6 adopted policies. This is an administrative review that  
7 is being transcribed by a court reporter.

8 MR. TANKERSLEY: Correct.

9 MS. CONNEELY: You will be given the  
10 opportunity to address the code violations that  
11 Mr. Bragg will be presenting to you.

12 MR. TANKERSLEY: Well, see, Maureen, we have  
13 the same problem that we had when we started all this  
14 when we went before the Board, is that the mandate was  
15 written to mandate compliance with the code. Okay. And  
16 the peremptory writ basically enforces that.

17 We have the same problem here again. We're  
18 starting out. Two-and-a-half years ago we asked for the  
19 proceedings of the administrative process that were  
20 going to be used, number one, in writing.

21 Remember, Mr. Duke? Remember when we asked for  
22 that?

23 MR. BRAGG: I remember that was an issue.

24 MR. TANKERSLEY: That was an issue. The second  
25 issue that we asked for was we asked for discovery.

26 Okay?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MR. DUKE: Okay.

MR. TANKERSLEY: And that was part of the mandate, if you remember. I don't know if you're familiar with the mandate, but that's a big part of the mandate, is that we asked for the discovery in a meaningful time in a meaningful place so that we could be prepared for the hearing. Okay?

The City sent us a letter inviting us to this hearing, but didn't send us any discovery. We don't know what those codes say. We've had -- we've had no time to review what those codes say or even if -- even if -- discuss whether or not they apply.

MS. CONNEELY: I believe that the City did send you a list of the code sections that were violated, and Mr. Bragg is prepared to provide copies of those code sections --

MR. TANKERSLEY: Yeah. That's --

MS. CONNEELY: -- that were violated, and we can address them this morning --

MR. TANKERSLEY: But we're --

MS. CONNEELY: -- in the administrative review if you so choose.

MR. TANKERSLEY: But we're back -- we're back in the same position. We're back in the exact same position that we were at at the hearing when we went before the City Council, was that we asked for the

1 discovery prior to the hearing.

2 Do you remember that was a major point?

3 MR. BRAGG: I don't recall, but --

4 MR. TANKERSLEY: Okay. It's addressed right  
5 here in the Court's order, the mandate, and she talks  
6 about it on page 13 and 14. And I believe on page 13,  
7 second paragraph with regard -- regard to discovery,  
8 "The extent that the discovery that the party engaged in  
9 administrative hearing is entitled to a preliminary  
10 determined by a particular agency."

11 But the Court gave us the case of Mohilef.

12 Agreed?

13 MR. BRAGG: I wasn't a part of the legal  
14 process.

15 MR. TANKERSLEY: Oh, okay.

16 MR. BRAGG: I'm looking at you, but I wasn't a  
17 part of the legal process.

18 MR. TANKERSLEY: Okay.

19 MR. BRAGG: I have to be clear about that.

20 MR. TANKERSLEY: Well, we argued a case called  
21 Mohilef, because we believe we were entitled to  
22 discovery prior to the hearing according to Armstrong v.  
23 Menzo, which said that we had to have a meaningful  
24 hearing at a meaningful time in a meaningful place. And  
25 how are we going to have a meaningful hearing today  
26 unless these policies and procedures of which this

1 hearing is going to be conducted, one, were given to us;  
2 two, unless we have discovery prior to the hearing?

3 MS. CONNEELY: Our position is that you are  
4 being given an opportunity to meaningfully present your  
5 claim. Mr. Bragg will provide you with copies of the  
6 code violations. If you wish to address those this  
7 morning, that is your right.

8 MR. TANKERSLEY: Uh-huh. Well, according to  
9 the peremptory writ, which was from the Court, the Court  
10 ordered, number one, "A peremptory writ of mandate,  
11 administrative mandate shall issue from the Court."

12 MS. CONNEELY: Can you tell us what you're  
13 reading from?

14 MR. TANKERSLEY: Yes. I'm reading for the --  
15 from the peremptory writ, page two of what the Court  
16 ordered.

17 MS. CONNEELY: Do you have a copy that?

18 MR. TANKERSLEY: Yes. You can have this one.  
19 Okay. And if you'd like to read it into the record, you  
20 can read what the Court ordered yourself, if you'd like  
21 to.

22 MS. CONNEELY: Can you show me the title page  
23 of that?

24 MR. TANKERSLEY: Uh-huh.

25 MS. CONNEELY: Just so that we can all be clear  
26 about what --

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MR. TANKERSLEY: And here's page three. Okay.

MS. CONNEELY: Did you want to have this admitted?

MR. TANKERSLEY: Please, into evidence.

MS. CONNEELY: Okay. Did you -- do you have more than one copy or is that all?

MR. TANKERSLEY: No. That's all I have with me.

And Duke, if you'd like to read it, it doesn't make any difference.

MS. CONNEELY: Could you?

MR. BRAGG: I'll be right back.

MR. TANKERSLEY: Okay.

(Off the record.)

(Peremptory Writ of Administrative Mandamus was marked Exhibit 1.)

MR. TANKERSLEY: Okay. Reading from the peremptory writ from the Court, on page two it says:

"IT IS SO ORDERED that: Number 1, a peremptory writ of administrative mandate shall issue from the Court regarding the proceedings to the responding agency, commanding the agency to set aside its decision of June 6, 2000, as to petitioner's property located at 25353 Tarman Avenue, in the administrative proceedings titled Resolution Number 00-075 in

1 the City" -- "of the Hayward City Council, and  
2 to provide a fair hearing in light of the  
3 Statement of Decision and to take such further  
4 action as required by law; but nothing in this  
5 judgment or in that writ shall limit or control  
6 in any way the decision" -- I'm sorry -- "the  
7 discretion legally vested in the agency."

8 And so my point is is that this hearing today  
9 has to be conducted in compliance with the Statement of  
10 Decision, which was the original rent -- the original  
11 writ that was granted by the Court in her Statement of  
12 Decision.

13 And in that Statement of Decision, the  
14 arguments both for and against discovery were well  
15 supported and opposed, and the Court made the following  
16 statements and decisions on page six of the original  
17 writ of mandate in granting that in her Statement of  
18 Decision, and talked about discovery and how important  
19 it is and argued the case of Mohilef.

20 Now, we come today to this administrative  
21 proceeding and we have the same problem that we had when  
22 we went to the administrative hearing with the City  
23 Council, and that is that there's violations, and yeah,  
24 there may have been a list of those violations, but the  
25 list of those violations is -- was never supported by  
26 any other statutes or regulations. And we asked for the

1 discovery two years ago. That was part of the reason  
2 for requesting the writ, and the Court granted it on  
3 those grounds.

4 And so we -- we come here today and you guys  
5 give us a bunch of documents. We have no idea what they  
6 say. We don't know when they were enacted. We don't  
7 know if they apply. So how are we going to have a  
8 meaningful hearing if we don't even know if the  
9 discovery applies to us that you're going to give us  
10 today? And that's our problem.

11 THE HEARING OFFICER: Maureen, may I?

12 MS. CONNEELY: Uhm-hmm.

13 MR. TANKERSLEY: Yes.

14 THE HEARING OFFICER: As I understand, that is  
15 the exact premise as to what we are doing here today.  
16 We did send a list of the code violations and the code  
17 references correlating to the original housing  
18 inspection. We are not here about the seize or the  
19 liens or any of that. That was, from what I understand,  
20 is what you had done with the City Council that led to  
21 these events.

22 So basically my understanding is we are going  
23 backwards and doing exactly what it is that you had  
24 requested, that we were going to step by step go over  
25 each one of the violations, give you the section numbers  
26 and the code references to which they apply, and then

1 give you the opportunity of which to make any statements  
2 in compliance, had been corrected, they were not valid,  
3 et cetera, through this.

4 I mean, our thought process was to go through  
5 all of them and then turn it back over to you and then  
6 rehash, or if you would choose, we could go through each  
7 one of them, but you know, just for expediency, we might  
8 go to the -- I think there were 13 of them and many of  
9 them counter to the same codes and then go back and have  
10 the conversations about them.

11 MR. TANKERSLEY: Okay.

12 THE HEARING OFFICER: As I understand, it's  
13 exactly what we're doing here today sounds like what  
14 you're requesting.

15 MR. TANKERSLEY: But Hilary, we have a problem.  
16 The problem is is that the discovery that you guys now  
17 propose to give to us we have not had an opportunity to  
18 do -- to go research it, find out when it was adopted,  
19 find out if the house -- some of the issues that are  
20 addressed on those codes, if the house is grandfathered  
21 prior to those issues. Okay?

22 And so now we're going to come here and we're  
23 going to be forced to face charges, and our Supreme  
24 Court in a case in 1998 ruled in a case that's called  
25 Klonoski, K-L-O-N-O-S-K-I, ruled that denial of  
26 discovery is in effect an ambush at trial and denies the

1 people who are in the trial a fair hearing.

2 And it -- and it goes on to explain that when  
3 you deny someone discovery before, prior to a trial,  
4 that it is in effect forces them to play a game of  
5 blindman's bluff, and this is not a game. Court  
6 proceedings are not a game. They're about the facts and  
7 due process.

8 And so we're here again today on the same  
9 grounds basically when we went before the City Council.  
10 And the City Council, we asked -- we said specifically  
11 there's -- they're claiming these violations and we want  
12 the statutes to support those violations.

13 How are we going to have a meaningful hearing  
14 without the discovery?

15 THE HEARING OFFICER: That is exactly what we  
16 are proposing to do at this moment.

17 MR. TANKERSLEY: Correct, but you're missing  
18 the point, Hilary.

19 MS. CONNEELY: If I may?

20 MR. TANKERSLEY: Yes. Please.

21 MS. CONNEELY: Just for the record I wanted to  
22 note that there was a letter sent to Mr. Cline from Duke  
23 Bragg on the 7th of February itemizing the violations  
24 and the code sections.

25 I don't know if you have a copy of that or not.

26 MR. TANKERSLEY: But --

1 MS. CONNEELY: And I'd like to have that  
2 attached --

3 MR. TANKERSLEY: Okay.

4 MS. CONNEELY: -- to the record at this point.

5 (February 11, 2002, letter from  
6 Assistant City Attorney Nancy Hart to  
7 Clarence Cline was marked Exhibit 2.)

8 MR. TANKERSLEY: We have no objection to that,  
9 because that's exactly what they did at the City Council  
10 meeting. They came out and they said "We have these --  
11 we have these violations. You were given a list of  
12 them." But that isn't -- when we went to the Superior  
13 Court, our argument in Superior Court was the list is  
14 not discovery.

15 The list of the violations is not in itself  
16 explaining the nature and cause of the allegations, and  
17 that's when we argued Mohilef. Mohilef, which the case  
18 -- which is the law of the case in this particular  
19 instance from the Court, because she put it in her  
20 judgment, and so that case says we are entitled to know  
21 the nature and the cause of the allegation. Not at the  
22 hearing; prior to the hearing.

23 MS. CONNEELY: If I just may?

24 MR. TANKERSLEY: Yes.

25 MS. CONNEELY: It doesn't simply list the  
26 violations. It lists the code sections specifically

1 that were violated, for which each violation attaches.

2 MR. TANKERSLEY: Uh-huh.

3 MS. CONNEELY: I'd say that it's the City's  
4 position that under the Court Statement of Decision we  
5 were required to do no more than what we are doing this  
6 morning.

7 We have provided you with the violations on the  
8 property and the code sections to which each violation  
9 applies. We can either go forward at this time and hear  
10 from the housing inspector about those code sections and  
11 the violations and you can respond to that, or if you  
12 choose, and this is totally up to you, we can simply say  
13 that there is no more proceedings this morning to be  
14 undertaken.

15 MR. TANKERSLEY: Well, we're going to do  
16 something a little different even than that. We're  
17 going to object to any further proceedings, which is  
18 basically what you're telling us. We're going to object  
19 on the same grounds that we wrote -- that we wrote in  
20 our mandate, and we're going to object on the grounds  
21 that the peremptory writ specifically has language on  
22 page two in her order that this hearing has to be  
23 conducted pursuant to the Statement of Decision.

24 In the decision, your argument that you just  
25 presented, your objection, that you gave us a list and  
26 the code sections was all presented to the Court, and we

1 presented to the Court our point of view was that those  
2 sections and that list of violations was not sufficient  
3 to know the nature and the cause of the allegation, and  
4 the Court agreed and granted the writ upon that and  
5 wrote in her Statement of Decision.

6 And there is a substantial amount of discussion  
7 here about discovery in her original mandate order, and  
8 starts with analysis on page six, and she believes, same  
9 as we believe, and her order reflects this, that we are  
10 entitled to discovery prior to the hearing.

11 MS. CONNEELY: I differ with you.

12 MR. TANKERSLEY: Okay.

13 MS. CONNEELY: As to the interpretation of the  
14 Statement of Decision, but the Statement of Decision  
15 speaks for itself.

16 MR. TANKERSLEY: It does. I agree.

17 MS. CONNEELY: I believe that we are doing  
18 everything that the City is required to do to provide  
19 Mr. Cline a fair hearing this morning. And if it's your  
20 position that it isn't an adequate opportunity for  
21 review, then that's your position and there's nothing  
22 more we can do about it.

23 MR. TANKERSLEY: Okay. I have a couple more  
24 questions.

25 Is -- Hilary, are you prepared to give us a  
26 remedy today? Do you have the discretion to dismiss

1 these citations?

2 MS. CONNEELY: She is authorized as the  
3 Building Official to make a decision on the citations.  
4 Whether she makes them this morning or not is a matter  
5 for her to determine.

6 MR. TANKERSLEY: Okay.

7 MS. CONNEELY: Most likely what would happen is  
8 she would hear the evidence and then let you know of her  
9 decision in writing. As in any court, she probably  
10 would take it under submission.

11 MR. TANKERSLEY: Okay. But my question,  
12 Maureen, was does she have authority and discretion to  
13 dismiss the citations?

14 MS. CONNEELY: Yes, she does.

15 MR. TANKERSLEY: Okay. And so have the  
16 procedures that are going to be used and adopted here,  
17 do we have those written down? Is there any policy  
18 that's been adopted by the City?

19 MS. CONNEELY: There are no formal procedures  
20 for the administrative hearing.

21 MR. TANKERSLEY: Okay. So what's the review  
22 process of this hearing?

23 MS. CONNEELY: I believe that Hilary already  
24 described it when she first made her opening remarks,  
25 but you can go ahead and describe it again, Hilary, to  
26 clarify.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MR. TANKERSLEY: All right. Please.

MS. HERMAN: We were going to go over each and every one of the housing violations that were done in I believe it was 1999. Maybe I have the date wrong. We were going to go over all of them. We were going to counter it to the appropriate code section in the variety of the codes that we use and then give you an opportunity to discuss each one of them, again after we mention it or at the end once we go through the list.

MR. TANKERSLEY: But Hilary, the question I asked was what is the review policy for a decision made from this administrative hearing?

THE HEARING OFFICER: The review policy. The review policy is that the Building Official of a city does have the discretion to either uphold or to counter or to excuse any of a violation, be it be either a housing, building, plumbing or mechanical code. That is my duty as a Building Official that I do have the administrative authority to do so.

If there is something that would be proposed to me in such a way that these code violations do not exist, then I can certainly. Yes, I do have the authority of which to negate them --

MR. TANKERSLEY: Okay.

THE HEARING OFFICER: -- or to change them, or it might be necessary for me to go view the structure

1           itself so a clear and concise decision can be made.  
2           Obviously we're sitting here blind. We have them in  
3           writing, and if you'd say it does and somebody said it  
4           does, I would probably, to be perfectly honest, need to  
5           see it. That would be the most appropriate and fair and  
6           concise way to be doing it.

7                     MR. TANKERSLEY: Okay. My next -- my next  
8           question, and this is what I need an answer to, is what  
9           is the appeal process of this hearing?

10                    THE HEARING OFFICER: The appeal -- I do think  
11           that we have ~~said~~ said that the appeal process is that we  
12           were going to be going over all the different code  
13           violations, and then within ten working days I was going  
14           to be in writing giving you my decision as to the  
15           validity of the violations themselves.

16                    MR. TANKERSLEY: See, one of the -- one of --  
17           one of the arguments that we made before the City  
18           Council is that the administrative procedures that were  
19           presented were insufficient.

20                    Do we need to go off the record for a moment?

21                    THE HEARING OFFICER: I just need to tell them  
22           to not call me. Excuse me.

23                    MR. TANKERSLEY: Okay.

24                    (Off the record.)

25                    THE HEARING OFFICER: Excuse me.

26                    MR. TANKERSLEY: Are you ready to continue?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MS. HERMAN: Please.

MR. TANKERSLEY: Okay. Thank you.

My question is what is the appeal process of this administrative hearing?

MS. CONNEELY: There -- as far as I'm aware, there is no appeal from this administrative hearing other than a legal remedy in court.

MR. TANKERSLEY: Okay. See, that's -- we're right back to where we started.

MR. GABLE: Excuse me. What section?

MS. CONNEELY: I don't believe that the Court has -- the Court -- the Court Statement of Decision provides that we offer you an opportunity to have a hearing on this. The Court Statement of Decision did not address whether or not there is an internal appeal from that, as I read the Statement of Decision.

MR. TANKERSLEY: Okay.

MS. CONNEELY: So the purpose of the hearing this morning is not to discuss what your subsequent legal remedies are. The point -- the point of this hearing this morning is to go over the code violations that were found on the property with reference to the specific sections and to give you the opportunity to present any evidence that either the violations did not occur or have been corrected.

MR. TANKERSLEY: Well, Maureen, I --

1 MS. CONNEELY: That's the purpose of the  
2 administrative review this morning. Other issues, such  
3 as whether there is an appeal from that, is not  
4 something that is currently under consideration. We  
5 have no formal written policies regarding the  
6 administrative review.

7 I do not believe that the Court ordered us to  
8 adopt formal written policies. The Court specifically  
9 said we are not going to address what kind of review the  
10 City must give. It simply said that the City must give  
11 an opportunity for you to present your position  
12 regarding these violations, and that is what we're here  
13 to do this morning. And if you would like to do that,  
14 then we are ready to proceed.

15 MR. TANKERSLEY: Okay. But we don't --

16 MS. CONNEELY: If you wouldn't like to do that,  
17 then --

18 MR. TANKERSLEY: No.

19 MS. CONNEELY: -- I don't believe that we have  
20 any further business here today.

21 MR. TANKERSLEY: Sure. Sure we do, because  
22 we're here today to discuss whether or not you guys have  
23 complied with an order, which you guys have to show  
24 cause by the 5th of whether you have or not.

25 MS. CONNEELY: That's correct.

26 MR. TANKERSLEY: Okay.

1 MS. CONNEELY: And I think that perhaps, at  
2 least as I was understand your position, that there is a  
3 difference of opinion on what the Court actually ordered  
4 us to do. And I don't necessarily believe that us  
5 discussing this back and forth any longer really will  
6 serve any purpose. I think --

7 MR. TANKERSLEY: It will serve a --

8 MS. CONNEELY: You know, we stated our position  
9 and you've stated your position, and you've been very  
10 clear on that.

11 MR. TANKERSLEY: Yeah.

12 MS. CONNEELY: And I think that at this point  
13 then if you're unwilling to proceed, which it appears to  
14 me that you're unwilling to do, then perhaps we need to  
15 take the matter back to the Court and let the Court  
16 decide.

17 MR. TANKERSLEY: And I'm in agreement with  
18 that, except that there's going to have to be a record  
19 here created, which was --

20 MS. CONNEELY: That's the purpose for the court  
21 reporter.

22 MR. TANKERSLEY: To find out whether or not the  
23 Court is going to agree with either party. And of  
24 course, in our prior mandate that we filed, one of the  
25 arguments was that we were invited to come down and sit  
26 with the Building Official and discuss the charges.

1 That was in the prior mandate, and that was discussed.

2 And there was some lengthy discussion from the  
3 Court. Even in her current Statement of Decision she  
4 discusses that and discusses and explains why that is  
5 not procedural due process for discussion to come down  
6 and appear before a Building Official for which there is  
7 no remedy.

8 MS. CONNEELY: Sir, I understand what you're  
9 saying.

10 MR. TANKERSLEY: Okay.

11 MS. CONNEELY: I agree -- I think we're in  
12 agreement that we are disagreeing on this.

13 MR. TANKERSLEY: Okay. All right.

14 MS. CONNEELY: The court reporter is here  
15 transcribing everything that's being said. You will be  
16 -- you will be given a copy of that transcript.

17 MR. TANKERSLEY: Correct.

18 MS. CONNEELY: If there's anything else that  
19 you want to say for the record, you can say it now, but  
20 I believe that we're being sort of repetitive at this  
21 point.

22 MR. TANKERSLEY: Well, just to make it  
23 absolutely clear, I don't believe that you have adopted  
24 any policies pursuant to the mandate to promote due  
25 process and promote administrative due process for the  
26 people in the City of Hayward who have complaints or

1 wish to contest the allegations or charges against them.

2 Number two, this administrative due process  
3 hearing under the guise of due process does not conform  
4 to due process, because there is no appeal process or  
5 remedy which follows.

6 Number three, because we were never given  
7 discovery prior to this hearing, this can never be a  
8 meaningful hearing at a meaningful time, according to  
9 Menzo versus -- Armstrong versus Menzo.

10 And number four, to now produce the discovery  
11 at the -- at the eve of this hearing is in effect an  
12 ambush at trial, because we have no idea what you're  
13 going to produce, whether it applies to us or whether it  
14 can be used.

15 And so we're going to object to any other  
16 further proceedings until the Court makes a decision on  
17 this matter. Okay?

18 MS. CONNEELY: Okay. Just for the record then,  
19 you don't want to go forward and address the violations  
20 regarding the property this morning?

21 MR. TANKERSLEY: That's correct.

22 MS. CONNEELY: Is that correct? Okay.

23 THE HEARING OFFICER: And for the record, can  
24 we put this in, please?

25 MS. CONNEELY: Sure.

26 THE HEARING OFFICER: Okay. We're going to

1 attach the --

2 MR. GABLE: I have one question, please. You  
3 said that after this hearing that there would be one  
4 remedy and that would be in court. Is there a code  
5 section that you were relying on that we could take  
6 this?

7 MR. TANKERSLEY: She said --

8 MS. CONNEELY: I believe at any time that you  
9 have a -- that you disagree with a decision of the City,  
10 you have legal remedies available to you other than  
11 simply internal remedies with the City. In other words,  
12 even if City policy doesn't provide internally for an  
13 appeal, say the City Council, for example, there are  
14 other legal remedies available to you through the court  
15 system.

16 I'm not -- I don't feel that it's appropriate  
17 for me to advise you as to what those remedies are, but  
18 there are remedies available.

19 MR. TANKERSLEY: Correct. And she said on the  
20 record already that they had no policies which proscribe  
21 any appeal process of this hearing.

22 MR. GABLE: All right.

23 MR. TANKERSLEY: Okay.

24 THE HEARING OFFICER: Actually I was not  
25 done.

26 MR. TANKERSLEY: I'm sorry. I didn't mean to

1 interrupt you.

2 THE HEARING OFFICER: That's okay.

3 MR. TANKERSLEY: Forgive me.

4 THE HEARING OFFICER: Because I was instructed  
5 to do so and I would like to carry on to put forth into  
6 evidence the -- first of all, there was a letter that  
7 was sent to Mr. Cline in early February giving a listing  
8 of the code violations attached to each one of the  
9 original housing violations that -- that were stated  
10 from the original inspection.

11 And with that we also have copies for the Court  
12 of all of them, again referenced with copies of the code  
13 sections themselves highlighted and all of the variety  
14 of the different codes that are here.

15 And I would like to then ask if we can go off  
16 the record for a moment, because I need to speak to  
17 Maureen before we all leave.

18 MR. TANKERSLEY: Okay.

19 THE HEARING OFFICER: Before we go off the  
20 record, I just want to also make clear that there are  
21 copies of the code sections available to the petitioner,  
22 should you would like to.

23 MS. CONNEELY: Thank you.

24 MR. TANKERSLEY: Thank you. We would like to  
25 see one. Thank you.

26 THE HEARING OFFICER: I would like to speak to

1           you.

2                               (Copies of code sections were marked  
3                               Exhibit 3.)

4               (Off the record.)

5               MS. CONNEELY: I believe we are adjourned.

6               THE HEARING OFFICER: Thank you.

7                       (Whereupon, these proceedings were adjourned at  
8               the hour of 10:32 a.m.)

9  
10                               ---o0o---

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

STATE OF CALIFORNIA        )  
                                  )  
COUNTY OF CONTRA COSTA    )

I, CYNTHIA L. THOMAS, a Certified Shorthand Reporter, do hereby certify:

That I am a Certified Shorthand Reporter in the State of California, County of Contra Costa;

That as such I was present and reported the proceedings in the foregoing matter;

That the preceding transcript constitutes a full, true and correct transcription of said proceedings.

I further certify that I am not interested in the outcome of said action, nor connected with, nor related to any of the parties in said action or to their respective counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of February, 2002.

  
\_\_\_\_\_  
CYNTHIA L. THOMAS, CSR #2950

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

CLARENCE D. CLINE,

Petitioner,

vs.

CITY OF HAYWARD,

Respondent.

No. H 215388-5

PEREMPTORY WRIT OF  
ADMINISTRATIVE MANDAMUS

To City of Hayward, Respondent:

Judgment having been entered in this action, ordering that a peremptory writ of administrative mandamus be issued from this court,

YOU ARE COMMANDED on receipt of this writ to set aside your decision dated June 6, 2000 as to petitioner and the property located at 25353 Tarmam Avenue, in the administrative proceedings titled Resolution No. 00-075 of the Hayward City Council. Those proceedings are remanded to you to reconsider in

EXHIBIT

ENCLOSURE  
FILED  
ALAMEDA COUNTY

JAN 18 2001

CLERK OF SUPERIOR COURT  
BY \_\_\_\_\_

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

CLARENCE D. CLINE,

Petitioner,

vs.

CITY OF HAYWARD,

Respondent.

No. H 215388-5

JUDGMENT GRANTING  
PEREMPTORY WRIT OF  
MANDAMUS

The Petition for Writ of Mandate brought by CLARENCE D. CLINE, petitioner in Case No. H 215388-5, came on regularly for hearing on August 20, 2001 in Department 511, the Honorable Cecilia P. Castellanos, Judge presiding. Petitioner appeared at hearing *in propria persona*, and Respondent CITY OF HAYWARD appeared at the hearing through counsel of record Nancy D. Hart. The record of the administrative proceedings having been received into evidence and examined by the Court, and additional evidence having been received by the

light of this court's statement of decision, and to take such further action as is required by law; but nothing in this writ limits or controls the discretion legally vested in you.

YOU ARE FURTHER COMMANDED to file a return to this writ within sixty days after service of this writ, regarding your compliance.

Date: \_\_\_\_\_

\_\_\_\_\_

CLERK

BY \_\_\_\_\_

DEPUTY CLERK

Let the foregoing writ issue.

Date: January 3, 2008



CECILIA P. CASTELLANOS  
Judge of the Superior Court

Court as indicated below, arguments having been presented, and the court having made a Statement of Decision which has been signed and filed,

IT IS ORDERED that:

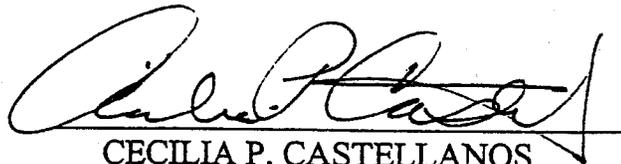
1. A peremptory writ of administrative mandamus shall issue from the court, remanding the proceedings to the respondent agency, commanding the agency to set aside its decision of June 6, 2000 as to petitioner and the property located at 25353 Tarmam Avenue, in the administrative proceedings titled Resolution No. 00-075 of the Hayward City Council, and to provide a fair hearing in light of the statement of decision and take such further action as is required by law; but nothing in this judgment or in that writ shall limit or control in any way the discretion legally vested in the agency. The writ shall command the respondent to file a return to the writ within sixty days after service of the writ, regarding the respondent's compliance.
2. The petitioner shall recover costs pursuant to the memorandum of costs procedure.
3. The petitioner shall recover no damages.
4. The petitioner shall recover reasonable attorney's fees by way of motion that demonstrates why this party appearing *in propria persona* should recover attorney's fees.

5. The Court reserves jurisdiction in this action until there has been full compliance with the writ.
  
6. Miscellaneous rulings on underlying matters: Based on respondent's stipulation to enlarge the administrative record to include Petitioner's Exhibit 2 and 6, the Court augments the record to include those matters; The Request for Judicial Notice by Petitioner and Respondent is Granted.

IT IS SO ORDERED.

Date:

Jan 3, 2009



CECILIA P. CASTELLANOS  
Judge of the Superior Court



CITY OF  
**HAYWARD**  
HEART OF THE BAY

February 11, 2002

Mr. Clarence D. Cline  
1397 Heather Lane S.E.  
Salem, OR 97302

*Via Federal Express*

Re: *Cline vs. City of Hayward, et al.*  
*Alameda County Superior Court No. H215388-5*

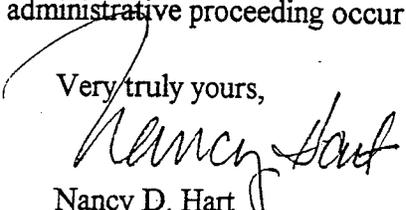
Dear Mr. Cline:

The City has taken the following actions in response to the court's peremptory writ of mandamus and its underlying statement of decision:

1. Enclosed is a letter from Duke V. Bragg, Senior Housing Inspector, providing authority applicable to each of the code violations cited against your property at 25353 Tarman Avenue, Hayward, California, at the initial inspection date of June 7, 1999.
2. A meeting has been arranged for you with Hilary Herman, the City's Building Official, for February 25, 2002, at 10:00 a.m. Ms. Herman's office is located on the second floor. At that meeting, you may present whatever information or evidence you believe to be relevant to the cited violations, including requesting clarification, contesting the validity, disputing the existence, or providing proof of correction of any code violation. We have arranged to have a certified shorthand reporter present to record the proceedings, from whom a transcript will be available.

As you are aware, the court has ordered the City to file its return to the writ by March 5, 2002. It is therefore imperative that the proposed administrative proceeding occur without delay.

Very truly yours,

  
Nancy D. Hart  
Assistant City Attorney

NDH:cp/Enclosures

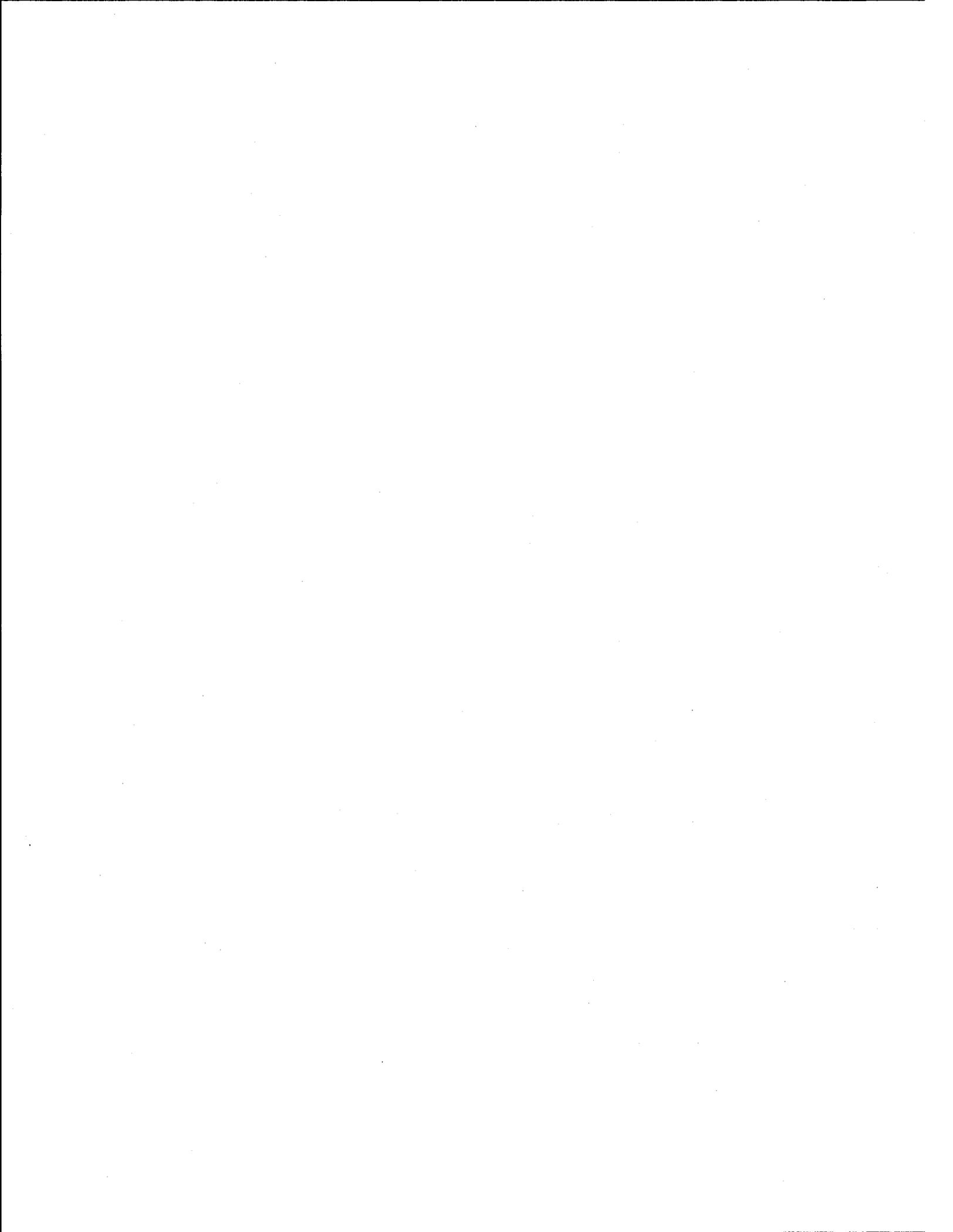
cc: Sylvia Ehrental, CED Director  
Hilary Herman, City Building Official  
Duke Bragg, Senior Housing Inspector



OFFICE OF THE CITY ATTORNEY

777 B STREET, HAYWARD, CA 94541-5007

TEL: 510/583-4450 • FAX: 510/583-3660 • TDD: 510/247-3340





CITY OF  
**HAYWARD**  
HEART OF THE BAY

February 7, 2002

Clarence D. Cline  
1397 Heather Lane S/E  
Salem, Oregon 97302

Re: 25353 Tarman Avenue, Hayward, California

Dear Mr. Cline:

I've been asked to research the code sections pertaining to the violations that you were cited for during and inspection of your property on 6-7-99.

I've taken the liberty to identify each violation on the Enforcement Checklist with a number. That number corresponds to the information listed below. For identification purposes please use the following information to identify the code sections that were referenced for each violation.

- U.H.C., Uniform Housing Code
- U.B.C., Uniform Building Code
- C.E.C., California Electric Code
- U.P.C., Uniform Plumbing Code
- U.M.C., Uniform Mechanical Code
- H & S., Health and Safety Code
- C.B.C., California Building Code
- H.M.C., Hayward Municipal Code

**Violation Items:**

1. U.H.C - 1997, Section 1001.8.3 ; H&S 17920.3 (g -3 & 4)
2. U.H.C - 1997, Section 1001.10
3. U.H.C - 1997, Section 1001.2-13; H&S 17920.3 (a -13)
4. C.E.C - 1998, Section 110.17 (a)
5. U.H.C - 1997, Section 1001.5
6. C.B.C - 1997, Section 106; H.M.C 10-1.3370 (c)
7. U.B.C - 1997, Section 106.1
8. H.M.C- Article 7, Section 5-7.15 (h)

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
BUILDING INSPECTION

777 B STREET, HAYWARD, CA 94541-5007

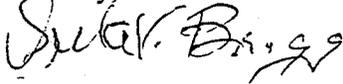
TEL: 510/583-4140 • FAX: 510/583-3642 • TDD: 510/247-3340

25353 Tarman Avenue, Continued

9. H&S - Section 17920.3 (d); U.H.C 1997, Section 1001.5
10. See #9, related violation
11. H&S - Section 17920.3 (a-13)
12. C.E.C - 1998, Section 110.22
13. H&S - Section 17920.3 (f)
14. H&S - Section 17920.3 (a-13)
15. H.M.C -1992-15.401; H.M.C-1999-10-701.1
16. H&S - Section 17920.3(d)

I hope the above information is of assistance to you. If you have any questions, please don't hesitate to contact our offices.

Sincerely,

A handwritten signature in black ink, appearing to read "Duke V. Bragg". The signature is written in a cursive, somewhat stylized font.

Duke V. Bragg  
Senior Housing Inspector.

**CITY OF HAYWARD**  
**DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT**  
**RENTAL INSPECTION PROGRAM**

**RENTAL INSPECTION CHECKLIST**

Property Address: 25353 NEUMAN Inspection Date: 6-7-99

**STRUCTURAL/GENERAL**

**DATE  
CLEARED**

- Replace/paint dryrotted rafter tails at  front  rear  right  left. \_\_\_\_\_
  - <sup>1.</sup> Replace/paint dryrotted eaves/soffit at  front  rear  right  left. \_\_\_\_\_
  - Roof substantially deteriorated; replace. **Building permit required.** \_\_\_\_\_
  - <sup>2.</sup> Repair/replace  gutter  downspout at  front  rear  right  left. \_\_\_\_\_
  - Paint fascia at  front  rear  right  left. \_\_\_\_\_
  - <sup>3.</sup> Exterior paint peeling to the extent weather protection is compromised at  front  rear  right  left. Repaint. (*EAVES AND WINDOW FRAMES*) \_\_\_\_\_
  - Repair/replace door at  front  rear. \_\_\_\_\_
  - Underfloor  eave  vents torn or missing at  front  rear  left  right; replace screens. \_\_\_\_\_
  - Unit number is missing; replace. \_\_\_\_\_
  - Exterior light globe at  front  rear is missing; replace. \_\_\_\_\_
  - Circuit breaker tie bar  circuit breaker cover  door cover is missing on electrical panel; replace. \_\_\_\_\_
  - <sup>4.</sup> Circuit breakers/fuses are not labeled; label correctly. \_\_\_\_\_
  - Cover unused openings in electrical panel; install spacers. \_\_\_\_\_
  - Weatherproof receptacle cover is  broken  missing; replace. \_\_\_\_\_
  - Exterior electrical receptacle is not grounded; ground or install ground fault circuit interrupter. \_\_\_\_\_
  - Water heater or furnace lacks adequate combustion air; unblock vent(s) or install two <sup>5.</sup> new vents, one each at top and bottom, minimum size 50 sq. inches per vent. \_\_\_\_\_
- EXPOSED CONDUCTORS AT WASHER/DRYER/PATIO COVER*

- TPR drain line  is missing  non-complying. Extend 3/4" hard drawn copper or galvanize pipe to exterior pointing down 6" above grade. \_\_\_\_\_
- Water heater flue improperly secured; install 3 screws in each flue joint. \_\_\_\_\_
- Water heater not secured to meet seismic standards. Install one strap at top and one at bottom. \_\_\_\_\_
- Exterior stairway treads defective  railing loose at  front  rear  left  right; repair or replace. \_\_\_\_\_
- Balcony railing loose  deck deteriorated. Repair or secure. \_\_\_\_\_
- Patio cover built without permit  unauthorized garage conversion; If zoning regulations permit (contact Development Review Services at 583-4200) obtain a building permit; or  remove structure  reconvert garage. (AND WITH A BUILDING PERMIT) \_\_\_\_\_
- 6.  Fence or fence post(s) deteriorated at  front  rear  left  right; repair fence/replace post(s). \_\_\_\_\_

FRAME IN KITCHEN WALL

- 7.  OBTAIN ZONING PLANNING & BUILDING PERMITS FOR FAMILY ROOM ADDITION \_\_\_\_\_
- 8.  TRIM EAST TREE AWAY FROM STRUCTURE 9-23-99 \_\_\_\_\_
- 9.  REMOVE EXPOSED CONDUCTORS AT SERVICE ENTRANCE EQUIPMENT \_\_\_\_\_
- 10.  AND AT SHED IN REAR 9-23-99 \_\_\_\_\_
- 11.  REPAIR ENTRY DOOR AT SHED \_\_\_\_\_

GARAGE

- Door to garage is not a solid core; change door to 1 3/8" minimum thickness. \_\_\_\_\_
- Door between garage and living area lacks self-closing device; install closer. \_\_\_\_\_
- Raise water heater 18" above garage floor. \_\_\_\_\_

25353 TRENAN

Wall heater gas shut-off valve is broken; replace.

Stairway treads loose  handrail defective; repair or replace.

12. WIRE CIRCUITS AT PANELBOARD

13. OBTAIN MECHANICAL PERMIT TO REPLACE FURNACE VENT OR

OBTAIN MECHANICAL/PLUMBING PERMIT TO REPLACE HEATING

FACILITIES

14. REPLACE SHEETROCK AT WALL FURNACE 10-28-99

BATHROOM(s)

Basin is  cracked  chipped  replace  reglaze  caulk at rear of basin  
in  hall  master  upstairs.

5  Plastic drain assemblies (p-trap); replace with metal pipe in  hall  master  upstairs.

Toilet is loose in  hall  master  upstairs; secure.

Valve handle is missing at  sink  tub  shower in  hall  master  upstairs.

Base of shower/tub wall  floor at tub is inadequately caulked in  hall  master  
 upstairs; caulk.

Defective shower door  rollers worn in  hall  master  upstairs  repair.

Damaged  subfloor  underlayment  vinyl covering in  hall  master  
 upstairs; repair.

Three prong electrical receptacle is ungrounded in  hall  master  upstairs;  
install equipment grounding conductor or GFCI.

Electrical switch  receptacle  cover is missing in  hall  master  upstairs; replace.

Bath fan is not operating in  hall  master  upstairs; replace or repair.

Window(s) cracked  lock defective  frame broken in  hall  master  upstairs;  
repair or replace.

Repair window to open in  hall  master  upstairs.

BEDROOM(s)

Window(s) cracked  lock defective  frame broken in  master  front  rear;  
repair or replace.

Window emergency egress is too hard too open in  master  front  rear  
 clean track  install glides  repair to open easily.

Bedroom window emergency egress is improperly modified in  master  front  
 rear; replace window. **Building permit required when window is reframed.**

Ungrounded electrical outlets require two-prong receptacles in  master  front  rear.

16.  Electrical switch  receptacle  cover is missing in  master  front  rear; replace *(RIGHT BEDROOM)*

Smoke detector battery  missing  defective in  master  front  rear; replace.

THE 1994 UNIFORM BUILDING CODE (SECTION 1210) REQUIRES OWNERS OF RESIDENTIAL DWELLINGS TO INSTALL SMOKE DETECTORS WHENEVER A BUILDING PERMIT IS ISSUED FOR ADDITIONS, ALTERATIONS OR REPAIRS WHEN THE VALUATION OF THE WORK EXCEEDS \$1,000. THEREFORE, SMOKE DETECTORS (WHERE NOT EXISTING) MUST BE INSTALLED IN EACH SLEEPING ROOM AND AT A POINT CENTRALLY LOCATED IN THE CORRIDOR OR AREA GIVING ACCESS TO EACH SLEEPING AREA.

## Chapter 10 SUBSTANDARD BUILDINGS



### SECTION 1001 — DEFINITION

**1001.1 General.** Any building or portion thereof that is determined to be an unsafe building in accordance with Section 102 of the Building Code, or any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions referenced in this section to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, shall be deemed and hereby are declared to be substandard buildings.

**1001.2 Inadequate Sanitation.** Buildings or portions thereof shall be deemed substandard when they are insanitary. Inadequate sanitation shall include, but not be limited to, the following:

1. Lack of or improper water closet, lavatory, bathtub or shower in a dwelling unit or lodging house.
2. Lack of or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.
3. Lack of or improper kitchen sink in a dwelling unit.
4. Lack of hot and cold running water to plumbing fixtures in a hotel.
5. Lack of hot and cold running water to plumbing fixtures in a dwelling unit or lodging house.
6. Lack of adequate heating facilities.
7. Lack of or improper operation of required ventilating equipment.
8. Lack of minimum amounts of natural light and ventilation required by this code.
9. Room and space dimensions less than required by this code.
10. Lack of required electrical lighting.
11. Dampness of habitable rooms.
12. Infestation of insects, vermin or rodents as determined by the health officer.
13. General dilapidation or improper maintenance.
14. Lack of connection to required sewage disposal system.
15. Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer.

**1001.3 Structural Hazards.** Buildings or portions thereof shall be deemed substandard when they are or contain structural hazards. Structural hazards shall include, but not be limited to, the following:

1. Deteriorated or inadequate foundations.
2. Defective or deteriorated flooring or floor supports.
3. Flooring or floor supports of insufficient size to carry imposed loads with safety.
4. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
5. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
6. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration.

7. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

8. Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration.

9. Fireplaces or chimneys that are of insufficient size or strength to carry imposed loads with safety.

**1001.4 Nuisance.** Buildings or portions thereof in which there exists any nuisance as defined in this code are deemed substandard buildings.

**1001.5 Hazardous Electrical Wiring.** Electrical wiring that was installed in violation of code requirements in effect at the time of installation or electrical wiring not installed in accordance with generally accepted construction practices in areas where no codes were in effect or that has not been maintained in good condition or that is not being used in a safe manner shall be considered substandard.

**1001.6 Hazardous Plumbing.** Plumbing that was installed in violation of code requirements in effect at the time of installation or plumbing not installed in accordance with generally accepted construction practices in areas where no codes were in effect or that has not been maintained in good condition or that is not free of cross-connections or siphonage between fixtures shall be considered substandard.

**1001.7 Hazardous Mechanical Equipment.** Mechanical equipment that was installed in violation of code requirements in effect at the time of installation or mechanical equipment not installed in accordance with generally accepted construction practices in areas where no codes were in effect or that has not been maintained in good and safe condition shall be considered substandard.

**1001.8 Faulty Weather Protection.** Buildings or portions thereof shall be considered substandard when they have faulty weather protection, which shall include, but not be limited to, the following:

1. Deteriorated, crumbling or loose plaster.
2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
3. Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
4. Broken, rotted, split or buckled exterior wall coverings or roof coverings.

**1001.9 Fire Hazard.** Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the fire department, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause shall be considered substandard.

**1001.10 Faulty Materials of Construction.** The use of materials of construction, except those that are specifically allowed or approved by this code and the Building Code, and that have been adequately maintained in good and safe condition, shall cause a building to be substandard.

**1001.11 Hazardous or Insanitary Premises.** The accumulation of weeds, vegetation, junk, dead organic matter, debris, gar-

- (1) Lack of, or improper water closet, lavatory, or bathtub or shower in a dwelling unit.
  - (2) Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.
  - (3) Lack of, or improper kitchen sink.
  - (4) Lack of hot and cold running water to plumbing fixtures in a hotel.
  - (5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
  - (6) Lack of adequate heating.
  - (7) Lack of, or improper operation of required ventilating equipment.
  - (8) Lack of minimum amounts of natural light and ventilation required by this code.
  - (9) Room and space dimensions less than required by this code.
  - (10) Lack of required electrical lighting.
  - (11) Dampness of habitable rooms.
  - (12) Infestation of insects, vermin, or rodents as determined by the health officer.
  - (13) General dilapidation or improper maintenance.
  - (14) Lack of connection to required sewage disposal system.
  - (15) Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer.
- (b) Structural hazards shall include, but not be limited to, the following:
- (1) Deteriorated or inadequate foundations.
  - (2) Defective or deteriorated flooring or floor supports.
  - (3) Flooring or floor supports of insufficient size to carry imposed loads with safety.
  - (4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.
  - (5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.
  - (6) Members of ceilings, roofs, ceilings and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.
  - (7) Members of ceiling, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
  - (8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
  - (9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
- (c) Any nuisance.
- (d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.
- (e) All plumbing, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition, or which may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly, and which is free of cross connections and siphonage between fixtures.
- (f) All mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition, or which may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.
- (g) Faulty weather protection, which shall include, but not be limited to, the following:
- (1) Deteriorated, crumbling, or loose plaster.
  - (2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.

① ~~(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.~~

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) All materials of construction, except those which are specifically allowed or approved by this code, and which have been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) Any building or portion thereof which is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

(l) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.

(m) All buildings or portions thereof which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes which were not designed or intended to be used for such occupancies.

(o) Inadequate structural resistance to horizontal forces.

"Substandard building" includes a building not in compliance with Section 17920.7.

However, a condition which would require displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was constructed, altered, or converted in violation of such requirements in effect at the time of construction, alteration, or conversion.

17920.5. As used in this part "local appeals board" means the board or agency of a city or county which is authorized by the governing body of the city or county to hear appeals regarding the building requirements of the city or county. In any area in which there is no such board or agency, "local appeals board" means the governing body of the city or county having jurisdiction over such area.

17920.6. As used in this part, "housing appeals board" means the board or agency of a city or county which is authorized by the

4  
2

**110-22. Identification of Disconnecting Means.** Each disconnecting means required by this *Code* for motors and appliances, and each service, feeder, or branch circuit at the point where it originates, shall be legibly marked to indicate its purpose unless located and arranged so the purpose is evident. The marking shall be of sufficient durability to withstand the environment involved.

Where circuit breakers or fuses are applied in compliance with the series combination ratings marked on the equipment by the manufacturer, the equipment enclosure(s) shall be legibly marked in the field to indicate the equipment has been applied with a series combination rating. The marking shall be readily visible and state "Caution — Series Rated System A Available. Identified Replacement Component Required."

(FPN): See Section 240-83(c) for interrupting rating marking for end-use equipment.

**B. Over 600 Volts, Nominal**

**110-30. General.** Conductors and equipment used on circuits over 600 volts, nominal, shall comply with all applicable provisions of the preceding sections of this article and with the following sections, which supplement or modify the preceding sections. In no case shall the provisions of this part apply to equipment on the supply side of the service point..

**110-31. Enclosure for Electrical Installations.** Electrical installations in a vault, room, or closet or in an area surrounded by a wall, screen, or fence, access to which is controlled by lock and key or other approved means, shall be considered to be accessible to qualified persons only. The type of enclosure used in a given case shall be designed and constructed according to the nature and degree of the hazard(s) associated with the installation.

A wall, screen, or fence shall be used to enclose an outdoor electrical installation to deter access by persons who are not qualified. A fence shall not be less than 7 ft (2.13 m) in height or a combination of 6 ft (1.80 m) or more of fence fabric and a 1-ft (300-mm) or more extension utilizing three or more strands of barbed wire or equivalent.

(FPN): See Article 450 for construction requirements for transformer vaults.

**(a) Indoor Installations.**

**(1) In Places Accessible to Unqualified Persons.** Indoor electrical installations that are open to unqualified persons shall be made with metal-enclosed equipment or shall be enclosed in a vault or in an area to which access is controlled by a lock. Metal-enclosed switchgear, unit substations, transformers, pull boxes, connection boxes, and other similar associated equipment shall be marked with appropriate caution signs. Openings in ventilated dry-type transformers or similar openings in other equipment shall be designed so that foreign objects inserted through these openings will be deflected from energized parts.

**(2) In Places Accessible to Qualified Persons Only.** Indoor electrical installations considered accessible to qualified persons only in accordance with this section shall comply with Sections 110-34, 710-32, and 710-33.

**(b) Outdoor Installations.**

**(1) In Places Accessible to Unqualified Persons.** Outdoor electrical installations that are open to unqualified persons shall comply with Article 225.

(FPN): For clearances of conductors for system voltages over 600 volts, nominal, see *National Electrical Safety Code*, ANSI C2-1993.

**(2) In Places Accessible to Qualified Persons Only.** Outdoor electrical installations having exposed live parts shall be accessible to qualified persons only in accordance with the first paragraph of this section and shall comply with Sections 110-34, 710-32, and 710-33.

**(c) Metal-Enclosed Equipment Accessible to Unqualified Persons.** Ventilating or similar openings in equipment shall be so designed that foreign objects inserted through these openings will be deflected from energized parts. Where

exposed to physical damage from vehicular traffic, suitable guards shall be provided. Metal-enclosed equipment located outdoors and accessible to the general public shall be designed so that exposed nuts or bolts cannot be readily removed, permitting access to live parts. Where metal-enclosed equipment is accessible to the general public and the bottom of the enclosure is less than 8 ft (2.44 m) above the floor or grade level, the enclosure door or hinged cover shall be kept locked. Doors and covers of enclosures used solely as pull boxes, splice boxes, or junction boxes shall be locked, bolted, or screwed on.

*Exception: Underground box covers that weigh over 100 lb (45.4 kg) shall be considered as meeting this requirement.*

**110-32. Work Space about Equipment.** Sufficient space shall be provided and maintained about electric equipment to permit ready and safe operation and maintenance of such equipment. Where energized parts are exposed, the minimum clear work space shall not be less than 6½ ft (1.98 m) high (measured vertically from the floor or platform), or less than 3 ft (914 mm) wide (measured parallel to the equipment). The depth shall be as required in Section 110-34(a). In all cases, the work space shall be adequate to permit at least a 90-degree opening of doors or hinged panels.

**110-33. Entrance and Access to Work Space.**

**(a) Entrance.** At least one entrance not less than 24 in. (610 mm) wide and 6½ ft (1.98 m) high shall be provided to give access to the working space about electric equipment.

On switchboard and control panels exceeding 6 ft (1.83 m) in width, there shall be one entrance at each end of such board.

*Exception No. 1: Where the switchboards and control panels location permits a continuous and unobstructed way of exit travel.*

*Exception No. 2: Where the work space required in Section 110-34(a) is doubled.*

*Working space with one entrance provided shall be so located that the edge of the entrance nearest the switchboards and control panels is the minimum clear distance given in Table 110-34(a) away from such equipment.*

Where bare energized parts at any voltage or insulated energized parts above 600 volts, nominal, to ground are located adjacent to such entrance, they shall be suitably guarded.

**(b) Access.** Permanent ladders or stairways shall be provided to give safe access to the working space around electric equipment installed on platforms, balconies, mezzanine floors, or in attic or roof rooms or spaces.

**110-34. Work Space and Guarding.**

**(a) Working Space.** The minimum of clear working space in the direction of access to live parts of electrical equipment such as switchboards, control panels, switches, circuit breakers, motor controllers, relays, and similar equipment shall not be less than specified in Table 110-34(a) unless otherwise specified in this *Code*. Distances shall be measured from the live parts if such are exposed, or from the enclosure front or opening if such are enclosed.

Table 110-34(a).  
Minimum Depth of Clear Working Space at Electrical Equipment

Nominal Voltage to Ground	Conditions (feet)		
	1	2	3
	(Feet)	(Feet)	(Feet)
601-2500	3	4	5
2501-9000	4	5	6
9001-25,000	5	6	9
25,001-75 kV	6	8	10
Above 75 kV	8	10	12

For SI units: 1 ft = 0.3048 meter.

**SECTION 106 — PERMITS**

**106.1 Permits Required.** Except as specified in Section 106.2, no building or structure regulated by this code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained from the building official.

**106.2 Work Exempt from Permit.** A building permit shall not be required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet (11.15 m<sup>2</sup>).
2. Fences not over 6 feet (1829 mm) high.
3. Oil derricks.
4. Movable cases, counters and partitions not over 5 feet 9 inches (1753 mm) high.
5. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.
6. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18 927 L) and the ratio of height to diameter or width does not exceed 2:1.
7. Platforms, walks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below.
8. Painting, papering and similar finish work.
9. Temporary motion picture, television and theater stage sets and scenery.
10. Window awnings supported by an exterior wall of Group R, Division 3, and Group U Occupancies when projecting not more than 54 inches (1372 mm).
11. Prefabricated swimming pools accessory to a Group R, Division 3 Occupancy in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed 5,000 gallons (18 927 L).
12. [For SFM] State-owned buildings under the jurisdiction of the state fire marshal.

Unless otherwise exempted, separate plumbing, electrical and mechanical permits will be required for the above-exempted items.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

**106.3 Application for Permit.**

**106.3.1 Application.** To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the code enforcement agency for that purpose. Every such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use or occupancy for which the proposed work is intended.

4. Be accompanied by plans, diagrams, computations and specifications and other data as required in Section 106.3.2.

5. State the valuation of any new building or structure or any addition, remodeling or alteration to an existing building.

6. Be signed by the applicant, or the applicant's authorized agent.

7. Give such other data and information as may be required by the building official.

**106.3.2 Submittal documents.** Plans, specifications, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs and other data shall constitute the submittal documents and shall be submitted in one or more sets with each application for a permit. When such plans are not prepared by an architect or engineer, the building official may require the applicant submitting such plans or other data to demonstrate that state law does not require that the plans be prepared by a licensed architect or engineer. The building official may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such even if not required by state law.

**EXCEPTION:** The building official may waive the submission of plans, calculations, construction inspection requirements and other data if it is found that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this code.

**106.3.3 Information on plans and specifications.** Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations.

Plans for buildings of other than Group R, Division 3 and Group U Occupancies shall indicate how required structural and fire-resistant integrity will be maintained where penetrations will be made for electrical, mechanical, plumbing and communication conduits, pipes and similar systems.

**106.3.3.1 [For SFM] Public schools.** Plans and specifications for the construction, alteration or addition to any building owned, leased or rented by any public school district shall be submitted to the Division of the State Architect, Office of Regulation Services for review and approval.

**EXCEPTION:** Upon the annual submission of a written request by the chief of any city, county, or city and county fire department or fire-protection district to the Division of the State Architect, Office of Regulation Services, approvals required by this subsection shall be obtained from the appropriate chief or his or her authorized representative. In such instances plans and specifications may be submitted to the state fire marshal for relay to the appropriate local authority or may be submitted directly to such local authority.

**106.3.3.2 [For SFM] Movable walls and partitions.** Plans or diagrams shall be submitted to the enforcing agency for approval before the installation of, or rearrangement of, any movable wall or partition in any occupancy. Approval shall be granted only if there is no increase in the fire hazard.

**106.3.3.3 [For SFM] New construction high-rise buildings.** 1. Complete plans or specifications, or both, shall be prepared covering all work required to comply with new construction high-rise buildings. Such plans and specifications shall be submitted to the enforcing agency having jurisdiction.

2. All plans and specifications shall be prepared under the responsible charge of an architect or a civil or structural engineer authorized by law to develop construction plans and specifications, or by both such architect and engineer. Plans and specifications shall be prepared by an engineer duly qualified in that

**HMC**

- (2) If a building permit is issued for construction of improvements authorized by the variance permit approval, the variance permit approval shall be void two years after issuance of the building permit, or three years after approval of the variance permit application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the variance permit approval.
- b. One-Year Extension(s).
- (1) A maximum of two one-year extensions can be approved by the Planning Director or, on appeal, by the Planning Commission or City Council.
- (2) Request for an extension of time must be filed with the Planning Division at least 15 days prior to the anniversary date of approval, and action on the request shall be taken within 30 days. Notice of said action shall be given pursuant to Section 10-1.2820.
- (3) In making a decision on approval of an extension, the following shall be considered:
- (a) the cause for delay in submittal of the administrative use permit; and
  - (b) whether the proposal is in conformance with existing development regulations.

**SEC. 10-1.3360 REVOCATIONS.**

In accord with the notice and hearing provisions detailed in Sections 10-1.2820 and 10-1.2825, the Planning Director may revoke a variance permit, modify or add to the conditions of approval thereto, or refer said matter to the Planning Commission with or without a recommendation, for failure to comply with or complete the conditions of approval or the improvements indicated on the approved plans.

**SEC. 10-1.3365 REAPPLICATION.**

A variance that has been disapproved may not be reapplied for within one year of the final decision to disapprove said application, except when the Planning Director finds that new evidence, a change of conditions, or a change in the project justifies reconsideration.

**60 SEC. 10-1.3370 VARIANCES TO USES, DENSITY, AND GARAGE CONVERSIONS PROHIBITED.**

- a. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and no permitted or nonconforming use of lands, structures, or buildings in other zoning districts shall be considered grounds for the issuance of a variance.
- b. In no case may an application be accepted and/or a variance be granted to permit a use or density not permitted in the zoning district in which the subject property is located.

- c. In no case may an application be accepted and/or a variance be granted to allow physical changes in a garage which would result in the conversion of a garage to purposes other than for parking vehicles. A waiver may be made by the Planning Director for a physically handicapped person who resides in the single-family home when the property owner can establish that the terrain is such that there is no reasonable access to the living quarters except through the garage portion of the residence. For purposes of this section, a waiver to allow accessibility for persons with physical disabilities to the dwelling by creating living quarters within the garage shall not be considered a garage conversion.

**SEC. 10-1.3375 LIMITATION OF VARIANCE APPROVAL.**

A variance approved to a required setback shall be valid only as it relates to the construction proposed at the time the variance approval was granted. Any future building addition which intrudes into a statutory setback shall not be authorized unless subsequent variance approval is obtained.

Hmc

- (d) Junk, trash, salvage materials, lumber, or other debris kept on the property for an unreasonable period of time;
- (e) Attractive nuisances dangerous to children including, but not limited to:
  - (1) abandoned, broken or neglected equipment;
  - (2) machinery;
  - (3) refrigerators and freezers;
  - (4) hazardous pools, hazardous ponds, and excavations;
- (f) Broken or discarded furniture, household equipment, goods and furnishings, or shopping carts stored on the property for an unreasonable period of time;
- (g) Overgrown vegetation that obstructs pedestrian access or obscures the necessary view of drivers on public streets or private driveways; or is likely to harbor rats, vermin, or other rodents;
- (h) Dead, decayed or diseased, or hazardous trees, weeds, or other vegetation which is unsightly, dangerous to public safety and welfare, or detrimental to neighboring properties or property values;
- (i) Boats, trailers, and other vehicles of similar kind and use stored on the property which are not located on the designated paved driveway area as required by Hayward Municipal Code section 10-1.505;
- (j) Boats, trailers, vehicles, or vehicle parts which are stored in yards and are inoperable or left in a state of partial construction or repair for an unreasonable period of time in violation of Hayward Municipal Code sections 10-1.505 and 4-1.20;
- (k) Unmounted campers or camper shells which are left on the property for an unreasonable period of time and are visible from a public street; and
- (l) Buildings which are unpainted or where the paint on the building exterior is mostly worn off.

SEC. 5-7.20 ABATEMENT NOTICE. Whenever the Enforcement Officer determines that any property within the City is being maintained contrary to one or more of the provisions of section 5-7.15 of this article, the Enforcement Officer shall give written notice ("Notice to Abate") to the owner of said property stating the section(s) being violated. The notice to abate shall set forth a reasonable time limit for the owner to abate the condition, which shall be no less than seven calendar days, or more than 14 calendar days, and which may also set forth suggested methods of correcting the violation(s). At the discretion of the Enforcement Officer, an extension(s) not to exceed 14 days at a time, may be granted for good cause for correcting the violation(s).

HMC

CHAPTER 4  
DRAINAGE SYSTEMS

15

SEC. 401 MATERIALS (Amendment.)

(a) Drainage piping shall be cast iron, galvanized steel, galvanized wrought iron, copper, brass, extra strength vitrified clay pipe, or other approved materials having a smooth and uniform bore, except that:

- (1) No galvanized wrought iron or galvanized steel pipe shall be used underground and shall be kept at least six inches (152.4mm) above ground.
- (2) Subsection (2) is hereby deleted.
- (2.1) Subsection (2.1) is hereby deleted.
- (3) No vitrified clay pipe or fittings shall be used above ground or where pressurized by a pump or ejector. They shall be kept at least 12 inches (.3m) below ground. ABS and PVC shall not be an approved material.

(b) Drainage fittings shall be of cast iron, malleable iron, brass, copper, vitrified clay, or other approved materials having a smooth interior waterway of the same diameter as the piping served and all such fittings shall conform to the type of pipe used.

- (2) The threads of drainage fittings shall be tapped so as to allow one-fourth inch per foot (20-9mm/m) grade. ABS and PVC shall not be an approved material.

CHAPTER 5  
VENTS AND VENTING

SEC. 503 MATERIALS. (Amendment.)

(a) Vent pipe shall be cast iron, galvanized steel, galvanized wrought iron, copper, brass, or other approved materials, except that:

- (2) ABS and PVC shall not be allowed.
- (2.1) Subsection (2.1) is hereby deleted.

(b) Vent fittings shall be cast iron, galvanized malleable iron or galvanized steel, copper, brass, or other approved materials, except that no galvanized malleable iron or galvanized steel fittings shall be used underground and shall be kept at least six inches (152.4mm) above ground. ABS and PVC shall not be an approved material.

HMC

SEC. 604.11 USE OF COPPER TUBING. (Addition) Underground copper tubing installed within a building must be sleeved or double spiral wrapped with minimum 10 mil tape in an approved manner.

SEC. 609.0 INSTALLATION TESTING. UNIONS AND LOCATIONS

SEC. 609.3.1 INSTALLATION. (Amendment)

(1) Ferrous piping shall have a protective coating of an approved type, machine applied and conforming to recognized standards. Field wrapping shall provide equivalent protection and is restricted to those short sections and fittings necessarily stripped for threading. Zinc coating (galvanizing) shall not be deemed adequate protection for piping or fittings. Approved non-ferrous piping shall be sleeved or double spiral wrapped with minimum 10 mil tape in an approved manner.

CHAPTER 7  
DRAINAGE SYSTEMS

SEC. 701.0 MATERIALS. (Amendment)

SEC. 701.1 Drainage piping shall be cast iron, galvanized steel, galvanized wrought iron, copper, brass, extra strength vitrified clay pipe, or other approved materials having a smooth and uniform bore, except that:

SEC. 701.2. Drainage fittings shall be of cast iron, malleable iron, brass, copper, vitrified clay, or other approved materials having a smooth interior waterway of the same diameter as the piping served and all such fittings shall conform to the type of pipe used.

SEC. 701.1.3. No vitrified clay pipe or fittings shall be used above ground or where pressurized by a pump or ejector. They shall be kept at least 12 inches (.3 m) below ground (non-traffic areas) and at least 18 inches below grade in vehicular traffic area. ABS and PVC shall not be an approved material.

SEC. 704.4 CLOSET RINGS (CLOSET FLANGES). (Amendment)

SEC. 704.1. Closet rings (closet flanges) for water closets or similar fixtures shall be of an approved type and shall be bronze, copper, cast iron, galvanized malleable iron, or other approved materials. Each such closet ring (closet flange) shall be approximately seven inches (178mm) in diameter and, when installed, shall, together with the soil pipe, present a one and one-half inch (38mm) wide flange or face to receive the gasket.

SEC. 704.4.4. Closet rings (closet flanges) shall be caulked to approved soil pipe, and shall be screwed or fastened in an approved manner to other materials.

**DRAFT**

HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

*Mac*  
*4/11/02*

RESOLUTION CONFIRMING CITY COUNCIL ACTION ON JUNE 6, 2000, AUTHORIZING IMPOSITION OF LIEN ON PROPERTY LOCATED AT 25353 TARMAN AVENUE FOR UNPAID RESIDENTIAL RENTAL INSPECTION FEES FOR CALENDAR YEAR 1999

WHEREAS, at its meeting on June 6, 2000, the City Council adopted Resolution No. 00-075, confirming the report and assessment for overdue residential rental inspection fees for the 1999 calendar year; and

WHEREAS, that assessment included a charge of \$111.05 for a progress check at 25353 Tarman Avenue for violations found at the property during an initial inspection of the property pursuant to the Residential Rental Inspection Ordinance; and

WHEREAS, the property owner filed a lawsuit in Alameda County Superior Court challenging Council's action; and

WHEREAS, the court issued a peremptory writ of administrative mandamus compelling the City Council to set aside its decision as to the subject property, and remanding the proceedings to Council for further consideration consistent with its statement of decision.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, hereby finds as follows:

1. That the initial inspection conducted pursuant to the City of Hayward Residential Rental Inspection Program on June 7, 1999, revealed numerous state and local code violations;
2. That the progress check on September 23, 1999 revealed that only two of the code violations observable from the exterior of the premises had been remedied;
3. That no applications for building permits have been filed, as would be required to remedy the interior code violations concerning heating facilities and illegal construction of patio and garage conversions;

4. That the property owner was afforded an opportunity to present evidence to rebut the inspector's findings at a formal administrative review on February 25, 2002;
5. That the property owner has failed to present any evidence concerning the cited code violations; and
6. That the fees for inspections pursuant to the City of Hayward Residential Rental Inspection Program were properly charged against the property owner.

BE IT FURTHER RESOLVED that sufficient evidence exists to support the imposition of the residential rental inspection fee, and that the City Council hereby confirms its decision on June 6, 2000 authorizing the imposition of a lien against the property located at 25353 Tarman Avenue in the amount of \$111.05.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2002

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward