

DATE: March 2, 2010

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Filing Nuisance Abatement Lien Notices with County Recorder's Office (Nuisance Abatement/Municipal Code Violations) for Non-Abatable Code Violations

RECOMMENDATION

That Council adopts the attached resolution confirming the filing of Nuisance Abatement Lien Notices for non-abatable code violations and fees, associated fees, and any penalty charges to become a lien against the below listed properties, and filed with the County of Alameda Recorders Office, pursuant to Government Code Section 38773.1.

BACKGROUND

On September 1, 2009, Council approved an alternative method of enforcement and collections for non-abatable violations of the Municipal Code, including but not limited to, fence height(s) and/or location, required setback(s), illegal structures, businesses operating without an approved Use Permit (if applicable) or failing to comply with the Conditions of Approval of an approved use permit, parking violations, and illegal units. This process is one of several available enforcement and collection tools. Others include seeking injunctions against the property/business owner and/or revocations of the approved Use Permits and Site Development Review through the City Attorney's Office and Planning Department.

The purpose of the Nuisance Abatement Lien report is to consider and confirm the proposed report and filings of liens with the County Recorder's Office as a third collection tool for the Community Preservation Division. The properties in violation will be officially confirmed by resolution, which will be filed with the County.

This additional enforcement process does not affect or change the Administrative Hearing Request Process, nor the Special Assessment Process. However, this Nuisance Abatement/Municipal Code Violation lien process is an additional means of enforcement when dealing with non-abatable code violations. Non-abatable violations consist of those types of violations, which have financial impact to the City because they typically are labor intensive to research and determine validity and/or potential legal non-conforming statuses. Authority for this new process is granted under Government Code Section 38773.1.

Staff sends three letters to each of the affected property owner(s) in question and/or to tenants if applicable. The first two letters are sent at the same time informing the owner of the right to an

Administrative Hearing to dispute the factual findings. The initial two letters are sent by way of “proof of service”. After a minimum of ten (10) days, a third letter is sent by way of process server. The third letter details all related costs and/or fees and informs the affected parties of the lien hearing request opportunity, and encouraging them to pay their bills to minimize fees. An approved copy of the Nuisance Abatement/Municipal Code Violation form will be sent to the owner, and lender once received from the County Recorder’s Office.

DISCUSSION

As of the date of this report, there are two (2) properties being submitted to Council for the filing of Nuisance Abatement Liens as listed below. The unpaid charges, plus any administrative costs of the County Recorder’s Office, will become a lien of the property title. When the property is sold or refinanced, the lien will be paid through escrow.

<u>Address</u>	<u>Violation</u>	<u>Lien Amounts</u>
1. 23023 Ida Lane	HMC 10-1.245.a (1-10): Illegal Accessory Structure	\$1,651.00
2. 1241 D Street	HMC 10-1.430.b: Minimum Side Yard Requirements	\$1,383.00

The property located at 23023 Ida Lane currently has an illegal, detached, accessory structure located in the rear yard that is within the required three (3) foot set back from the side and rear property lines. To date, the violation has not been corrected.

The property located at 1241 D Street currently has an illegal, attached, accessory structure (car port) located in the side yard that does not meet the required minimum five (5) foot side yard setback. To date, the violation has not been corrected.

FISCAL IMPACT

The fiscal impact is that (1) costs are charged and (2) this program provides reimbursement. Total amount expected to be collected through this process is \$3,034. This is expected to reimburse the City for all associated costs to date.

PUBLIC CONTACT

Notice of City Council’s confirmation of this report was published in the Daily Review on February 20, 2010.

Prepared by: Stacey Sorensen, Neighborhood Partnership Manager

Recommended by: Fran David, Assistant City Manager

Approved by:

A handwritten signature consisting of several overlapping, dark, curved strokes, likely representing the name Gregory T. Jones.

Gregory T. Jones, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 10-

Introduced by Council Member _____

RESOLUTION CONFIRMING THE REPORT AND LIEN LIST
ASSOCIATED WITH OVERDUE COMMUNITY
PRESERVATION CHARGES FOR THE 2009 CALENDAR
YEAR AND FIRST QUARTER OF THE 2010 CALENDAR
YEAR

WHEREAS, in connection with the 2009 & 2010 Community Preservation Program, the Neighborhood Partnership Manager has rendered an itemized report in writing to this Council showing the Community Preservation violations and cost of fines, fees, penalties and lien costs for certain properties in the City of Hayward described in the report, all as required by section 5-7.100 of the Municipal Code of the City of Hayward; and

WHEREAS, the hour of 7 p.m. on Tuesday, March 2, 2010, in the Council Chambers, City Hall, 777 B Street, Hayward, California, was fixed as the time and place for this Council to receive and consider the report, and a copy of the report has been posted and published in the manner required by section 5-7.110 of the Municipal Code; and

WHEREAS, the report was presented at the time and place fixed, and the City Council has considered the report and all comments with respect thereto.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that, except as may be amended by Council, the report of the Neighborhood Partnership Manager of the City of Hayward Community Preservation Program on costs and ordinance violations from the properties therein described, a copy of which is attached hereto, is hereby confirmed.

BE IT FURTHER RESOLVED that payments of all fines, fees, penalties and lien costs confirmed hereby may be received by the City of Hayward Finance Director within 10 days from the date of this resolution and thereafter such official shall transmit the unpaid charges to the County Recorder's Office for a Nuisance Abatement Lien on said property(s) listed in report.

IN COUNCIL, HAYWARD, CALIFORNIA March 2, 2010

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

MAYOR:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward