



AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF JANUARY 20, 2010

DEPARTMENT: NEIGHBORHOOD SERVICES
DIRECTOR: STEPHEN KUHARSIN

☐ Consent ☒ Discussion

SUBJECT:

BEYANT ITEM - Public Hearing - consider the report of expenses to recover costs for abatement of nuisance located at 1845 N. Vero Lake Way in the amount of \$4,690 (General Fund) and assess a maximum of \$43,550 in daily civil penalties. PROPERTY OWNER: BAO SHUXIN - Wai Nui Tarkanian

Fiscal Impact

☐ No Impact ☐ Augmentation Required
☐ Budget Funds Available

Amount: 4,690

Funding Source: General Fund

Dept./Division: Neighborhood Services/Response

PURPOSE/BACKGROUND:

The condition of the property was a public hazard and an attractive nuisance. The Department of Neighborhood Services declared the property in violation and started legal notification. When no corrective action was taken nor an appeal filed the Department of Neighborhood Services hired GraEagle Construction to remove all trash and high vegetation from all yard areas and post No Trespassing signs. To date, there have been ten (10) inspections conducted at this location. The value of the property based on the sale date of August 2009 was \$125,000.

RECOMMENDATION:

That the City Council: Approve the report of expenses to include \$800 invoice for GraEagle Construction services in addition to other fees assessed for a total of \$4,690 and consider assessing a maximum of \$43,550 in daily civil penalties.

BACKUP DOCUMENTATION:

1. Agenda Memo
2. Location Maps
3. Report of Expenses
4. Contractor Disclosure
5. Notice of Public Hearing
6. Chronological List of Events
7. Copy of the Notice and Claim of Lien
8. Rescheduled Hearing Notice

Motion made by LOIS TARKANIAN to Approve an assessment of \$4,690 with no civil penalties

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Passed For: 6; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 1

RICKI Y. BARLOW, LOIS TARKANIAN, STEVE WOLFSON, GARY REESE, STEVEN D. ROSS, STAVROS S. ANTHONY; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-OSCAR B. GOODMAN)

Minutes:

MAYOR PRO TEM REESE declared the Public Hearing open by way of reading the item.

DEVIN SMITH, Manager of Neighborhood Response, read the Purpose/Background and Recommendation sections.

A videotape was shown, but a copy was not submitted.

FRANCES COX, USA Real Estate and Property Management, commented that this matter was pending review of some documentation and that she was still requesting a waiver of the daily civil penalties because the violations occurred prior to BAO SHUXIN taken ownership.

DEPUTY CITY ATTORNEY JEFF STILL stated that he reviewed the documentation given to him at the last meeting by MR. SMITH, and he did find that the Notice and Order was on the preliminary title report that was recorded in 1/2009, months before the closing of this property. He discussed with MR. SMITH whether anyone had tried to contact him regarding the Notice and Order that had been recorded, but he indicated that Neighborhood Services' records demonstrated that no one used any due diligence, nor had contacted him to investigate the status of the Notice and Order.

Moreover, DEPUTY CITY ATTORNEY STILL explained that the Purchase and Sale Agreement apportions responsibility for Code Enforcement actions. Since this is a matter between private parties, the private parties need to resolve their issues in another forum.

He opined that the Council has the authority to impose whatever fines or costs that it deems appropriate and record a lien. Upon request, DEPUTY CITY ATTORNEY STILL recommended the Council take action to recover expenses incurred by the City in this matter, as he agreed with previous comments made by the Mayor, but stated that civil penalties are within the purview of the Council.

Based on DEPUTY CITY ATTORNEY STILL'S explanation, COUNCILWOMAN TARKANIAN opted to recover the City's expenses, emphasizing that it is a fair action.

COUNCILMAN ROSS stated that mortgage companies that disregard a City's request for abatement have to be held accountable. He asked whose responsibility it would be to pay for any civil penalties that could have been imposed. MR. SMITH explained that the property has changed hands three times since the abatement process started; first under the previous property owner, then the bank, and then to BAO SHUXIN.

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COUNCILMAN ROSS was perplexed as to how the information could have been missed when it was on the title report. MR. SMITH indicated that the seller should have made disclosure to the current buyer, so it was the bank's responsibility, or its agent. VIVIAN MAO, the seller's agent with Hot Point Realty, 6292 West Spring Mountain Road, asserted that she was unaware the lien was not clear because the system is faulty.

MAYOR PRO TEM REESE insisted the City is concerned about recovering its money.

See Item 58 for related discussion.

MAYOR PRO TEM REESE declared the Public Hearing closed by way of requesting a vote.

