

SAN JOSE APPEALS HEARING BOARD MINUTES  
THURSDAY, AUGUST 25, 2016  
6:30 P.M. COUNCIL CHAMBERS

1. The meeting of the San Jose Appeals Hearing Board convened this date at 6:31 p.m., Council Chambers, City Hall, with the following members in attendance: Chair David Parker, Commissioners Rajwant Bains, Ron Cabanayan, Andrew Ditlevsen, Timothy Kenny, Karen Parsons and Robyn Shearin. Commissioner Robyn Shearin arrived at 6:40 pm.

Staff Present: Karla Caceres, Appeals Hearing Board Secretary  
Oscar Carillo, Code Enforcement Acting Supervisor  
Tony Gonzalez, Code Enforcement Inspector  
Joseph Hatfield, Code Enforcement Inspector  
Rachel Roberts, Division Manager  
Carolyn Slezak, Code Enforcement Inspector  
Rosa Tsongtaatarii, Senior Deputy City Attorney  
Todd Waltrip, Code Enforcement Supervisor

2. **Approval of Minutes**

Commissioner Parsons made the motion, seconded by Commissioner Bains to approve the minutes of August 11, 2016 with the modification to distinguish between members that were present and the members that were absent.

AYES: Bains, Cabanayan, Ditlevsen, Kenny, Parker and Parsons  
NAYS:  
ABSTAIN:  
ABSENT: Shearin

3. **Requests for Deferrals and/or Continuance**

4. **Public Hearings Consent Calendar**

- a. **3499 WATTERS DRIVE (601-31-056) SUMMARY ABATEMENT**  
(Tony Gonzalez, Inspector / Niu Ding & Liu Xin, Property Owner)

- d. **1705 CURTNER AVENUE (446-09-067) SUMMARY ABATEMENT**  
(Tony Gonzalez, Inspector / Kimberly S. Conner, Property Owner)

- e. **2664 BRAHMS AVENUE (670-23-053) SUMMARY ABATEMENT**  
(Tony Gonzalez, Inspector / Delainah Borgonia, Property Owner)

There was a motion by Commissioner Kenny, seconded by Commissioner Parsons to order as follows:

Motion to approve the balance of the Consent Calendar for the properties located at 3499 Watters Drive, 1705 Curtner Avenue, and 2664 Brahms Avenue from the Consent Calendar.

AYES: Bains, Cabanayan, Ditlevsen, Kenny, Parker and Parsons  
NAYS:  
ABSENT: Shearin

**b. 2836 DENNYWOOD COURT (654-48-011) SUMMARY ABATEMENT**  
(Tony Gonzalez, Inspector / Kevin Phan, Property Owner)

There was a motion by Commissioner Kenny, seconded by Commissioner Parsons to order as follows:

Motion to approve the Consent Calendar for the property located at 2836 Dennywood Court from the Consent Calendar.

AYES: Bains, Cabanayan, Ditlevsen, Kenny, Parker and Parsons  
NAYS:  
ABSTAIN: Shearin  
ABSENT:

**c. 333 NORTH 26<sup>TH</sup> STREET (249-66-045) SUMMARY ABATEMENT**  
(Tony Gonzalez, Inspector / Thu Tam Nguyen, Property Owner)

There was a motion by Commissioner Kenny, seconded by Commissioner Parsons to order as follows:

Motion to approve the properties located at 333 North 26<sup>th</sup> Street the Consent Calendar.

AYES: Bains, Cabanayan, Ditlevsen, Kenny, Parker, Parsons and Shearin  
NAYS:  
ABSENT:

**5. Deferred and/or Continued Items**

**6. Public Hearings**

**a. 34 GEORGE STREET (259-18-049) ADMINISTRATIVE REMEDY**  
(Carolyn Slezak, Inspector / Cary O Lindstrom, Property Owner)

Code Enforcement Inspector Carolyn Slezak gave a summary of the inspections at the subject property. Inspector Slezak stated that testified as to additional dates when Code Enforcement attempted to contact the property owner that were not included in the Inspection Report. Inspector Slezak also presented photographs depicting the condition of the property on August 17, 2016 and August 25, 2016. Since January 2016, the San Jose Police Department has received 55 calls and one incident involving arson where Molotov cocktail bottles were found near the site of the fire.

Six neighbors appeared before the Board and expressed concern about this property and stated that this property has been a nuisance in the neighborhood for over 15 years. People are always coming in and out of the property. Individuals will cut the lock, and live at the property. Some of the neighbors brought photographs of individuals that enter and live at the property. The transients also cross the neighbors' yards in order to access the subject property. One neighbor states that he has been physically threatened by the transient tenants of the property owner.

There was a motion by Commissioner Parsons, seconded by Commissioner Kenny, to order as follows:

Motion to uphold the Staff's recommendation and adopt a resolution that on or before September 30th, 2016, Cary O Lindstrom shall pay Administrative Penalties to the City of San Jose in the amount of \$46,750.00 which would equal \$100.00 per day (300 days) from October 31, 2015 to August 25, 2016 (\$30,000) for the Compliance Order dated January 5, 2015 and \$250.00 per day (67 days) from June 20, 2016 to August 25, 2016 (\$16,750) for the Compliance Order dated June 1, 2016. If full compliance with the Board's Order is not achieved by each individual date for each order to correct of September 15, 2016, September 30, 2016, November 30, 2016 and February 28, 2017 respectively, the property owner shall pay additional Administrative Penalties in the amount of \$500.00 per day, beginning September 16, 2016 for non-compliance with the first order to correct, \$500.00 per day, beginning October 1, 2016 for non-compliance with the second order to correct, \$500.00 per day, beginning December 1, 2016 for non-compliance with the third and \$500.00 per day, beginning March 1, 2017 for non-compliance with the fourth order until the date of compliance with the Boards Order, up to a maximum of \$100,000.

If the Administrative Penalties are not paid and are recorded as a lien on the real property pursuant to San Jose Municipal Code Sections 1.14.160 and 1.14.180, as may be amended, an interest rate of ten percent (10%) per annum shall be charged on the principal amount of the administrative lien, from the date the lien is first recorded until the date that payment is received by the City, consistent with California Code of Civil Procedure Section 685.010, as may be amended.

AYES: Bains, Cabanayan, Ditlevsen, Kenny, Parker, Parsons and Shearin

NAYS:

ABSENT

**b. 15 PALA AVENUE (484-19-111) ADMINISTRATIVE REMEDY**  
(Joseph Hatfield, Inspector / Le Quanghai, Property Owner)

Code Enforcement Inspector Joseph Hatfield gave summary of case and stated that the property owner or tenants have not given City Staff access inside units. But each unit has its own mailbox marked "A" and "B"

There was a motion by Commissioner Bains, seconded by Commissioner Parsons, to order as follows:

Motion to uphold the Staff's recommendation and adopt a resolution that on or before November 28, 2016 the Property Owner(s) shall pay Administrative Penalties to the City of San José, pursuant to San José Municipal Code Section 1.14.090, in the amount of \$10,000.00. If full compliance with the Board's Order is not achieved by October 25, 2016, the Property Owner(s) shall pay additional Administrative Penalties in the amount of \$500.00 per day, from October 26, 2016 until the date of compliance with the Board's Order, up to a maximum of \$100,000.00. If the Administrative Penalties are not paid and are recorded as a lien on the real property pursuant to San José Municipal Code Sections 1.14.160 and 1.14.180, as may be amended, an interest rate of ten percent (10%) per annum shall be charged on the principal amount of the administrative lien, from the date the lien is first recorded until the date that payment is received by the City, consistent with California Code of Civil Procedure Section 685.010, as may be amended.

AYES: Bains, Cabanayan, Ditlevsen, Kenny, Parker, Parsons and Shearin  
NAYS:  
ABSENT

**7. Request for Excused Absence**

**8. Other Business**

**9. Open Forum - Oral Communication from the Public**

**10. Adjournment**

There was a motion by Commissioner Kenny, seconded by Commissioner Parsons to adjourn the meeting. Chair Parker adjourned the meeting at 7:32 p.m. The next regular meeting will be held September 8, 2016 at 6:30 p.m. in the City Hall Council Chambers.