City of San José
Appeals Hearing Board

REGULAR MEETING MINUTES
APRIL 24, 2025

1. CALL TO ORDER & ORDERS OF THE DAY

ROLL CALL

PRESENT: Chair Karen Parsons, Commissioner Genevieve Altwer, Commissioner Jon Budas, Commissioner David Hook, Commissioner Timothy Kenny and Commissioner Brett Williamson.

ABSENT: Vice Chair Ron Cabanayan.

STAFF: Board Secretary Regina Lizaola, Code Enforcement Inspector Manuel Duarte, Code Enforcement Inspector Hector Ortiz, Code Enforcement Inspector Brittney Renaud, Code Enforcement Supervisor Amber Zenk, Code Enforcement Supervisor Joseph Hatfield, Code Enforcement Supervisor Joe Celio, Code Enforcement Supervisor Maria Diaz-Perez, Division Manager Eusebio Espitia, and Deputy City Attorney Leanne Bolaño.

CALL TO ORDER

Chair Parsons convened the Appeals Hearing Board at 6:33 p.m. in the City Council Chambers of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

2. OPENING REMARKS AND APPROVAL OF MINUTES

APPROVAL OF MINUTES

Documents Filed: Draft Meeting Minutes from Appeals Hearing Board Regular Meeting on April 10, 2025.

Action: Upon motion by Commissioner Kenny, seconded by Commissioner Williamson, the minutes for April 10, 2025 was approved. (6-0-1).

3. REQUEST FOR DEFERRALS

a. **ITEM 6B: 1322 HAVENWOOD DR (589-19-056) PROPOSED ABATEMENT**
(Manuel Duarte, Code Enforcement Inspector/ James T Nakamura, Successor Trustee of the Declaration of Trust of Edith T Nakamura, Property Owner)

Request for deferral from Property Owner email April 21, 2025

Deferral requested by Property Owner

Upon a motion by Commissioner Kenny, second by Chair Parsons the request for continuance was denied by the Board. (6-0-1).

4. CONSENT CALENDAR

a. **2144 THE ALAMEDA CT (230-16-068) SUMMARY ABATEMENT**
(Manuel Duarte, Code Enforcement Inspector/ Siham Salameh Yassin, Trustee of the Mohammad Ghazi Omar Yassin Family Trust, Property Owner)

Documents Filed: Summary Abatement Order and Notice of Public Hearing dated March 17, 2025.

Upon a motion by Commissioner Kenny, second by Chair Parsons and carried the Board affirmed the summary abatement actions as set forth in the Staff Report dated March 17, 2025. (6-0-1).

5. DEFERRED AND/OR CONTINUED ITEMS

a. **1053 S WHITE RD (484-31-047) ADMINISTRATIVE REMEDY**
(Hector Ortiz, Code Enforcement Inspector/ Jane C. Lee, Property Owner)

Documents Filed: Administrative Remedy Order and Notice of Public Hearing dated March 10, 2025.

Action: Code Enforcement Inspector Hector Ortiz made minor clerical corrections to the Notice of Hearing: on page 9 Section I confirmed the Administrative Costs amount is $1,054.00; confirmed page 12 detailing the Administrative Costs is "Attachment 1"; and on pages 1, 3, 4 and 9 confirmed the Compliance Due Date of November 22, 2019 is corrected to June 18, 2022. Mr Ortiz provided a summary of the case.

Property Owner Jane C Lee, was present and testified her property had the proper permits before annexation to the City of San José. She stated she was under the impression the house was permitted for the multiple units and was aware upon purchasing the house that it possessed many units. Ms. Lee also summarized the contents of her packets submitted to the Board.

Upon a motion by Commissioner Parsons, second by Commissioner Altwer and carried (6-0-1) the Board sustained the Director's decision dated June 15, 2022 and adopted the following order:

1. **Order to Correct**

On or before April 30, 2025, the Property Owner Jane C. Lee shall cease the improper occupancy of the rear unpermitted accessory units. Remove all personal items, beds, and other items that indicate occupancy. Submit plans and apply for a permit to remove the unpermitted buildings.

On or before May 31, 2025, submit a copy of your proposed plans in digital format via email to Building Code Compliance Inspector Marlon Aviles at buildingcodecompliance@sanjoseca.gov for review. The plans shall address all above listed violations. If the plans are approved by Inspector, visit Online Permit Services | City of San Jose (sjpermits.org) and submit the approved plans using ***SJePlans***.

Please visit the link below for more information. We recommend watching the videos on the link below to better understand the permit process.

https://www.sanjoseca.gov/businesses/development-services-permit-

center/sjeplans-electronic-plan-submittal-review/sjeplans-for-building-permits-applications

On or Before June 30, 2025, complete all corrective work for the above noted violation(s) and obtain a final clearance inspection (finaled permit) from the City of San José Building Division.

2. **Administrative Costs**

On or before April 30, 2025, the Property Owner shall pay Administrative Costs to the City of San José in the amount of **$1054.00**.

3. **Administrative Penalties**

On or before April 30, 2025, the Property Owner shall pay Administrative Penalties to the City of San José, pursuant to San José Municipal Code Section 1.14.090, in the amount of **$20,000**.

If full compliance with the Board's Order is not achieved by **July 31, 2025**, Code Enforcement staff recommends imposing additional Administrative Penalties in the amount of **$250.00 per day** starting **August 1, 2025**, 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.

6. PUBLIC HEARINGS

a. **2804 MONTE CRESTA WAY (589-14-031) PROPOSED ABATEMENT**
(Manuel Duarte, Code Enforcement Inspector/ Helen E Gibson Sucessor Trustee of the Gibson Trust, Property Owner)

Documents Filed: Proposed Abatement Order and Notice of Public Hearing dated March 24, 2025

Action: Code Enforcement Inspector Manuel Duarte submitted an Addendum to Exhibit C with additional photo documentation obtained December 8, 2021 through April 30, 2024 from inspections which may have not been noted. Mr. Duarte provided a summary of the case and advised he conducted a recent inspection on April 15, 2025 during which he observed the overgrown vegetation had been trimmed, but several items of blight remain in the driveway area.

Successor Trustee Donna Gibson, was present and testified that she does not deny the alleged violations and intends to comply. Ms. Gibson requested the Board allow her to abate the nuisance herself by the end of June 2025. She committed to being more responsive and communicative with City staff over the next few months as she comes into compliance.

The Board confirmed with City staff that the Property Owner will be provided a bin.

Upon a motion by Commissioner Kenny, second by Commissioner Parsons and carried the Board ordered the Property Owner to take the required corrective actions as listed in the Notice of Hearing dated March 24, 2025 by June 30, 2025; and if the listed hazards and violations are not removed by June 30, 2025, the abatement shall be performed by a City approved contractor or service providers and the cost of removal will be charged to the property owner in addition to administrative costs, to be billed following the completion of work and paid in full within thirty (30) days of the billing date. (6-0-1).

b. **1322 HAVENWOOD DR (589-19-056) PROPOSED ABATEMENT**
(Manuel Duarte, Code Enforcement Inspector/ James T Nakamura, Successor Trustee of the Declaration of Trust of Edith T Nakamura, Property Owner)

Documents Filed: Administrative Remedy Order and Notice of Public Hearing dated March 17, 2025.

Action: Code Enforcement Inspector Manuel Duarte made a minor clerical correction to the Notice of Hearing on page 9 paragraph 2, to correct the date the Warning Letter was issued from April 22, 2025 to April 22, 2024. Mr. Duarte provided a summary of the case and current status of the Property. He also testified a recent inspection was conducted on April 17, 2025 which showed no progress had been made to correct the noted violations and hazards.

Property Owner James T Nakamura, was present and testified that he believes some progress had been made. He pointed to photographs of full garbage bags, which were provided to the Board. Mr. Nakamura summarized his testimony as written and provided to the Board, wherein he requested at least 40 days to come into compliance.

The Board questioned whether to grant more time to the Property Owner and asked clarifying questions of Mr. Duarte, regarding the recommeded deadlines, a prior bin provided to the Property Owner, and the financial obligation the abatement would place onto the City.

Upon a motion by Commissioner Kenny, second by Commissioner Parsons and carried the Board adopted staff's recommendations as written in its entirety in the staff report dated March 17, 2025. (6-0-1)

c. **1724 DRY CREEK RD (446-07-039) ADMINISTRATIVE REMEDY**
(Brittney Renaud/John M Lane Trustee of the Dry Creek Pebble Beach Lane Trust)

Documents Filed: Administrative Remedy Order and Notice of Public Hearing dated March 14, 2025.

Action: Code Enforcement Inspector Brittney Renaud made the following clerical corrections to the Notice of Hearing: on page 1, confirmed the Compliance Order date of December 6, 2024 is actually March 18, 2024; on page 3, confirmed the Compliance Order Inspection Date of December 6, 2024 should be October 2, 2023, the Compliance Order Mailing Date of December 6, 2024 should be March 18, 2024, the Compliance Due Date of January 3, 2024 should be April 2, 2024, and the Reinspection Date of January 6, 2025 should be May 8, 2024; on page 9 San José Municipal Code ("SJMC") Section 24.02.515E should be stricken and Exhibit K should be Exhibit F; on page 10 paragraph 2, remove SJMC Section

24.02.515E, under Section H Administrative Penalties item 2 the Compliance Order date of December 6, 2024 should be March 18, 2024; on page 10 Section IV item 2 the Compliance Order date of December 6, 2024 should be March 18, 2024; on page 11 the Compliance Order date of December 6, 2024 should March 18, 2024, and the date of January 3, 2025 should be April 2, 2024; on page 13 the "Hearing" date of December 12, 2024 should be April 24, 2025; and finally, Exhibits F, G, H, I, J, L and M are stricken from the record as irrelevant, and Exhibit K is re-labeled to Exhibit F. Mrs. Renaud provided a summary of the case and current status of the Property. She advised the violations with regards to the signage, including SJMC Sections 23.04.320 and 23.04.340 have been resolved since the Notice of Hearing was finalized and sent to the parties.

Property Owner John Lang was present testified that he is willing to comply.

Neighbor R. Loftus testified regarding his frustration that extraneous violations are not being adressed in the present hearing.

Edward Leopold Novak testified to request clarification on who the Property Owner can speak with from City staff to understand the outstanding corrective actions.

Interested party Keon V. testified regarding his concern of the remaining, outstanding violations at the property, including those not addressed by the present hearing. He questioned when the additional, extraneous violations would be addressed.

Code Enforcement Division Manager Eusebio Espitia testified to confirm that although City is aware of additional violations on the property, which are being investigated in pursuit of a different open case, the matter presently before the Board pertains solely to the March 18, 2024 Compliance Order and the listed violations therein.

Upon a motion by Commissioner Kenny, second by Commissioner Hook and carried (6-0-1) the Board adopted the following Administrative Order:

1. **Order to Correct**

   On or before **May 30, 2025**, the Property Owner shall submit a copy of proposed plans in digital format via email to Building Code Compliance Inspector Marlon Aviles at buildingcodecompliance@sanjoseca.gov for review. The plans shall address all above listed violations.

   On or before **June 15, 2025**, pay all required fees to and obtain a building permit from the City of San José Building Division to correct the above noted violation(s). Ensure permit is issued.

   On or before **July 31, 2025,** obtain a finaled permit (final clearance inspection) from the City of San José Building Division to correct the above noted violations(s). A final clearance inspection can be scheduled with a Building Inspector by emailing CodeEnforcementInformation@sanjoseca.gov or calling Code Enforcement at 408-535-7770.

2. <u>Administrative Costs</u>

On or before **May 15, 2025**, the Property Owner shall pay administrative costs to the City of San José in the amount of **$2,508.00**.

3. <u>Administrative Penalties</u>

On or before **May 15, 2025,** the Property Owner shall pay Administrative Penalties to the City of San José, pursuant to San José Municipal Code Section 1.14.090, in the amount of **$5,000.00**.

If full compliance with the Board's Order is not achieved by the dates listed in the **Order to Correct** above[5/30/25, 6/15/25, 7/31/25], the Property Owner shall pay additional Administrative Penalties in the amount of **$250.00 per day starting on the date of noncompliance until full 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.

2. REQUEST FOR EXCUSED ABSENCE

There was no request for excused absence.

3. OTHER BUSINESS

There was no other business.

4. PUBLIC COMMENT

Commissioners formally welcomed Commissioner Altwer to the Board as the newest member.

5. ADJOURNMENT

Upon a motion by Commissioner Kenny, seconded by Chair Parsons, and carried unanimously, the Hearing was adjourned at 8:29 p.m.