

CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

08 OCT -2 PM 3: 36

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: October 14, 2008

RE: **Resolutions Confirming Administrative Hearings That Dangerous And Insanitary Conditions Exist At The Buildings Serving the Properties Known As 2402 – 98th Avenue, 728 Apgar Street, 1768 Auseon Avenue, 552 – 30th Street, 9619 B Street And 2534 Frances Street**

SUMMARY

Resolutions have been prepared, pursuant to Section 13.08.270 of the Oakland Municipal Code (OMC), administrative hearing on the abatement of dangerous and insanitary conditions at the building sewers serving the properties shown in **Attachment A**.

Staff has determined that dangerous and insanitary conditions exist at the subject locations. Staff conducted hearings with the property owners and directed them to abate the dangerous and insanitary conditions. The property owners failed to comply with OMC provisions and to promptly abate said dangerous and insanitary conditions existing at the building sewers indicated.

Staff requests that the City Council approve the resolutions authorizing the City to abate these dangerous and insanitary conditions.

FISCAL IMPACT

The costs to abate the dangerous and insanitary conditions at each of these properties are estimated between \$6,000.00 and \$15,000.00. Funds are available in the Sewer Service Fund (Fund 3100) Right of Way Management (Org 88343), Building Sewer Revolving Project (Code C08400) and the Safety and Liability Program (IP40). Upon completion of the work, a lien will be assessed on the property for the actual construction contract plus an administrative fee of \$541.00 for a voluntary abatement agreement or \$1,339.00 for mandatory abatement done on the sewer lateral.

BACKGROUND

Oakland Municipal Code Section 13.08.120 requires property owners to take responsibility for building sewer maintenance. The owners of the subject properties were notified that a dangerous

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and insanitary condition existed and were directed to make repairs. The owners have failed to make the necessary repairs, which resulted in dangerous and insanitary conditions.

Field tests by staff have confirmed that the defective building sewers have undermined the properties and/or streets in front of the locations listed above and on **Attachment A**. These conditions represent a significant health and safety hazard. City maintenance staff and Alameda County Health staff have been working unsuccessfully with the owner to resolve this condition. City staff scheduled several hearing dates with the property owners but they failed to attend.

The findings of the Director of the Community and Economic Development Agency indicate that this dangerous and insanitary condition should be abated by the City to protect public health and safety. The owner has the right to appeal the decision of the Director to the City Council, but no appeals were received.

KEY ISSUES AND IMPACTS

Field tests by staff have confirmed that the building sewers are defective and presents a significant health and safety hazard to the citizens of the City of Oakland.

SUSTAINABLE OPPORTUNITIES

Economic: Repairs will create job opportunities for Oakland contractors and residents.

Environmental: A repair to the building sewer will eliminate a potential source of polluted water into the storm sewer system, and potential fines imposed on the City by the Regional Water Quality Control Board.

Social Equity: The repair will create and maintain a healthy and safe environment for citizens of Oakland to live and work.

DISABILITY AND SENIOR CITIZEN ACCESS

This resolution pertains to the assessment of monies due to the City and does not have any concerns dealing with disability and senior citizen accessibility.

RECOMMENDATION AND RATIONALE

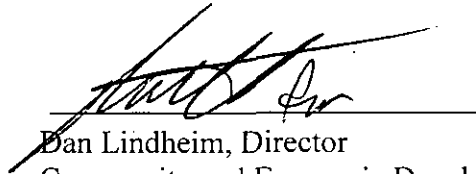
Staff recommends that the resolutions be approved to protect the public's health.

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ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt the resolutions ordering abatement.

Respectfully submitted,



Dan Lindheim, Director
Community and Economic Development Agency

Reviewed by:
Michael Neary, P.E.
Deputy Director
Department of Engineering and Construction

Prepared by:
Marcel Uzegbu, P.E.
Supervising Civil Engineer
Engineering Design & Right of Way Management

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE:


Office of the City Administrator

Item: _____
Public Works Committee
October 14, 2008

“ATTACHMENT A”

| ADDRESS | Administrative Hearing Date |
|--------------------------------|-----------------------------|
| 1768 Auseon Avenue | April 11, 2008 |
| 728 Apgar Street | September 4, 2008 |
| 9621 B Street | October 12, 2007 |
| 2543 Frances Street | April 30, 2008 |
| 552 – 30 th Avenue | May 28, 2008 |
| 2402 – 98 th Avenue | October 17, 2007 |

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 OCT -2 PM 3:37

Approved as to Form and Legality

OAKLAND CITY COUNCIL


Attorney's Office

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION CONFIRMING ADMINISTRATIVE HEARING THAT A DANGEROUS AND INSANITARY CONDITION EXISTS AT THE BUILDING SERVING THE PROPERTY KNOWN AS 2402 98th AVENUE

WHEREAS, pursuant to the provisions of Chapter 13.08.240 of the Oakland Municipal Code (OMC) the Director of the Community and Economic Development Agency, on July 5, 2007, ordered abatement of the dangerous and insanitary sewer conditions which exist at the building sewer serving the property known as 2402 98th Avenue; and

WHEREAS, the owners of record of said property, Michael G. Estrada, failed or neglected to comply with the order to abate; and

WHEREAS, on July 5, 2007, findings were rendered that dangerous and insanitary condition(s) exists at the building sewer on said premises; and

WHEREAS, on October 4, 2007, the Director of the Community and Economic Development Agency duly notified the owners of record of said property of an Administrative Hearing scheduled for October 17, 2007; and

WHEREAS, on October 17, 2007, an Administrative Hearing was held; and

WHEREAS, pursuant to Section 13.08.270 of the OMC, said findings were presented to the City Council for confirmation, now, therefore be it

RESOLVED: That the finding and reports of the Director of the Community and Economic Development Agency that dangerous and insanitary sewer conditions which exist at the building sewer serving the property known as 2402 98th Avenue are hereby confirmed; and be it

FURTHER RESOLVED: That the Director of the Community and Economic Development Agency is hereby directed to file a lien with the Recorder of the County of Alameda for the parcels delineated in said REPORT OF ASSESSMENT; and be it

FURTHER RESOLVED: That this Council hereby directs the abatement of said dangerous and insanitary condition in accordance with Section 13.08.270 of the OMC. In the event that owners or occupants do not do so within the time allowed by the law, the Director of Community and Economic Development Agency shall, at the owner's expense, cause the same abated. All sums, which may be necessarily expended by the Director of Community and Economic Development Agency in abating, said sewer conditions shall be paid by owners.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

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OAKLAND
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Approved as to Form and Legality

OAKLAND CITY COUNCIL


Attorney's Office

RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION CONFIRMING ADMINISTRATIVE HEARING THAT DANGEROUS AND INSANITARY CONDITION EXISTS AT THE BUILDING SERVING THE PROPERTY KNOWN AS 728 APGAR STREET

WHEREAS, pursuant to the provisions of Chapter 13.08.240 of the Oakland Municipal Code (OMC) the Director of the Community and Economic Development Agency, on September 7, 2006, ordered abatement of the dangerous and insanitary sewer conditions which exist at the building sewer serving the property known as 728 Apgar Street; and

WHEREAS, the previous owner of record of said property failed or neglected to comply with the order to abate; and

WHEREAS, on November 17, 2006, the Director of the Community and Economic Development Agency duly notified the previous owners or person in possession of said property of an Administrative Hearing scheduled for November 29, 2006; and

WHEREAS, on November 29, 2006, an Administrative Hearing was held; and

WHEREAS, on May 3, 2007, the owner of record, Deutsch Bank National Trust Co. TR, was duly notified that a dangerous and insanitary condition(s) exists at the building sewer on said premises; and

WHEREAS, on March 28, 2008, the current owner of record, Judy T. Chau, was duly notified that a dangerous and insanitary condition(s) exists at the building sewer on said premises; and

WHEREAS, on August 20, 2008, the owner in possession of said property was duly notified of an Administrative Hearing scheduled for September 4, 2008; and

WHEREAS, the owner of record, Judy T. Chau, failed or neglected to comply with the order to abate; and

WHEREAS, pursuant to Section 13.08.270 of the OMC, said findings were presented to the City Council for confirmation, now, therefore be it

RESOLVED: That the finding and reports of the Director of the Community and Economic Development Agency that dangerous and insanitary sewer conditions which exist at the building sewer serving the property known as 728 Apgar Street are hereby confirmed; and be it

FURTHER RESOLVED: That the Director of the Community and Economic Development Agency is hereby directed to file a lien with the Recorder of the County of Alameda for the parcels delineated in said REPORT OF ASSESSMENT; and be it

FURTHER RESOLVED: That this Council hereby directs the abatement of said dangerous and insanitary condition in accordance with Section 13.08.270 of the OMC. In the event that owners or occupants do not do so within the time allowed by the law, the Director of Community and Economic Development Agency shall, at the owner's expense, cause the same abated. All sums, which may be necessarily expended by the Director of Community and Economic Development Agency in abating, said sewer conditions shall be paid by owners.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
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OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION CONFIRMING ADMINISTRATIVE HEARING THAT A DANGEROUS AND INSANITARY CONDITION EXISTS AT THE BUILDING SERVING THE PROPERTY KNOWN AS 1768 AUSEON AVENUE

WHEREAS, pursuant to the provisions of Chapter 13.08.240 of the Oakland Municipal Code (OMC) the Director of the Community and Economic Development Agency, on September 18, 2007, ordered abatement of the dangerous and insanitary sewer conditions which exist at the building sewer serving the property known as 1768 Auseon Avenue; and

WHEREAS, the owner of record of said property, Fremont Investment & Loan, failed or neglected to comply with the order to abate; and

WHEREAS, on December 21, 2006, findings were rendered that dangerous and insanitary condition(s) exist at the building sewer on said premises; and

WHEREAS, on December 26, 2006, the Director of the Community and Economic Development Agency duly notified the previous owner of said property that dangerous and insanitary condition(s) exist at the building sewer on said premises; and

WHEREAS, on September 18, 2007, that owner of record of said property, Fremont Investment & Loan, was duly notified that a dangerous and insanitary condition(s) exists at the building sewer on said premises; and

WHEREAS, on March 27, 2008, the Director of the Community and Economic Development Agency duly notified the owner of record of said property of an Administrative Hearing scheduled for April 11, 2008; and

WHEREAS, on April 11, 2008, an Administrative Hearing was held; and

WHEREAS, pursuant to Section 13.08.270 of the OMC, said findings were presented to the City Council for confirmation, now, therefore be it

RESOLVED: That the finding and reports of the Director of the Community and Economic Development Agency that dangerous and insanitary sewer conditions which exist at the building sewer serving the property known as 1768 Auseon Avenue are hereby confirmed; and be it

FURTHER RESOLVED: That the Director of the Community and Economic Development Agency is hereby directed to file a lien with the Recorder of the County of Alameda for the parcels delineated in said REPORT OF ASSESSMENT; and be it

FURTHER RESOLVED: That this Council hereby directs the abatement of said dangerous and insanitary condition in accordance with Section 13.08.270 of the OMC. In the event that owners or occupants do not do so within the time allowed by the law, the Director of Community and Economic Development Agency shall, at the owner's expense, cause the same abated. All sums, which may be necessarily expended by the Director of Community and Economic Development Agency in abating, said sewer conditions shall be paid by owners.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
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Approved as to Form and Legality

OAKLAND CITY COUNCIL


Attorney's Office

RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION CONFIRMING ADMINISTRATIVE HEARING THAT DANGEROUS AND INSANITARY CONDITION EXISTS AT THE BUILDING SERVING THE PROPERTY KNOWN AS 552 – 30th STREET

WHEREAS, pursuant to the provisions of Chapter 13.08.240 of the Oakland Municipal Code (OMC) the Director of the Community and Economic Development Agency, on December 24, 2007, ordered abatement of the dangerous and insanitary sewer conditions which exist at the building sewer serving the property known as 552 – 30th Street; and

WHEREAS, on March 6, 2008, the Director of the Community and Economic Development Agency duly notified the previous owners or person in possession of said property of an Administrative Hearing scheduled for May 28, 2008; and

WHEREAS, on May 28, 2008, an Administrative Hearing was held; and

WHEREAS, the owner of record of said property failed or neglected to comply with the order to abate; and

WHEREAS, on April 25, 2008, findings were rendered that a dangerous and insanitary condition(s) exists at the building sewer on said premises; and

WHEREAS, on May 12, 2008, the new owner of record in possession of said property, Deutsche Bank National Trust Co. TR was ordered to abate the dangerous and insanitary sewer conditions which exist at the building sewer at said property; and

WHEREAS, on May 12, 2008, the Director of the Community and Economic Development Agency duly notified the new owner or persons in possession of said property of an Administrative Hearing scheduled for May 28, 2008; and

WHEREAS, on May 28, 2008, an Administrative Hearing was held; and

WHEREAS, the owner of record, Deutsche Bank National Trust Co. TR, failed or neglected to comply with the order to abate; and

WHEREAS, pursuant to Section 13.08.270 of the OMC, said findings were presented to the City Council for confirmation, now, therefore be it

RESOLVED: That the finding and reports of the Director of the Community and Economic Development Agency that dangerous and insanitary sewer conditions which exist at the building sewer serving the property known as 552 – 30th Street are hereby confirmed; and be it

FURTHER RESOLVED: That the Director of the Community and Economic Development Agency is hereby directed to file a lien with the Recorder of the County of Alameda for the parcels delineated in said REPORT OF ASSESSMENT; and be it

FURTHER RESOLVED: That this Council hereby directs the abatement of said dangerous and insanitary condition in accordance with Section 13.08.270 of the OMC. In the event that owners or occupants do not do so within the time allowed by the law, the Director of Community and Economic Development Agency shall, at the owner's expense, cause the same abated. All sums, which may be necessarily expended by the Director of Community and Economic Development Agency in abating, said sewer conditions shall be paid by owners.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
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Introduced by Councilmember _____


Attorney's Office

RESOLUTION CONFIRMING ADMINISTRATIVE HEARING THAT A DANGEROUS AND INSANITARY CONDITION EXISTS AT THE BUILDING SERVING THE PROPERTY KNOWN AS 9619 B STREET

WHEREAS, pursuant to the provisions of Chapter 13.08.240 of the Oakland Municipal Code (OMC) the Director of the Community and Economic Development Agency, on March 15, 2007, ordered abatement of the dangerous and insanitary sewer conditions which exist at the building sewer serving the property which was initially known as 9621 B Street, per the Alameda County Assessors Office records, which has subsequently changed by the Alameda County Assessors Office records and is now known to be 9619 B Street; and

WHEREAS, the owner of record of said property, Kimberly and Darne Duckett, failed or neglected to comply with the order to abate; and

WHEREAS, on September 26, 2007, the Director of the Community and Economic Development Agency duly notified the owner of record of said property of an Administrative Hearing scheduled for October 12, 2007; and

WHEREAS, on October 12, 2007, the owner of record did not appear at the noticed hearing and the hearing officer confirmed that said property owners had neglected to comply with the order to abate the dangerous and insanitary conditions; and

WHEREAS, pursuant to Section 13.08.270 of the OMC, said findings were presented to the City Council for confirmation, now, therefore be it

RESOLVED: That the findings and reports of the Director of the Community and Economic Development Agency that a dangerous and insanitary sewer condition which exists at the building sewer serving the property known as 9619 B Street are hereby confirmed; and be it

FURTHER RESOLVED: That the Director of the Community and Economic Development Agency is hereby directed to file a lien with the Recorder of the County of Alameda for the parcels delineated in said REPORT OF ASSESSMENT; and be it

FURTHER RESOLVED: That this Council hereby directs the abatement of said dangerous and insanitary condition in accordance with Section 13.08.270 of the OMC. In the event that owners or occupants do not do so within the time allowed by the law, the Director of Community and Economic Development Agency shall, at the owner's expense, cause the same abated. All sums, which may be necessarily expended by the Director of Community and Economic Development Agency in abating said sewer conditions, shall be paid by owners.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

OAKLAND CITY COUNCIL


Attorney's Office

RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember _____

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RESOLUTION CONFIRMING ADMINISTRATIVE HEARING THAT A DANGEROUS AND INSANITARY CONDITION EXISTS AT THE BUILDING SERVING THE PROPERTY KNOWN AS 2534 FRANCES STREET

WHEREAS, pursuant to the provisions of Chapter 13.08.240 of the Oakland Municipal Code (OMC) the Director of the Community and Economic Development Agency, on January 22, 2008, ordered abatement of the dangerous and insanitary sewer conditions which exist at the building sewer serving the property known as 2534 Frances Street; and

WHEREAS, on April 13, 2008, findings were rendered that a dangerous and insanitary condition(s) exists at the building sewer on said premises; and

WHEREAS, on April 15, 2008, the Director of the Community and Economic Development Agency duly notified the owner of record of said property of an Administrative Hearing scheduled for April 30, 2008; and

WHEREAS, on April 30, 2008, an Administrative Hearing was held; and

WHEREAS, the owner of record of said property, U.S. National Bank Association, failed or neglected to comply with the order to abate; and

WHEREAS, pursuant to Section 13.08.270 of the OMC, said findings were presented to the City Council for confirmation, now, therefore be it

RESOLVED: That the finding and reports of the Director of the Community and Economic Development Agency that dangerous and insanitary sewer conditions which exist at the building sewer serving the property known as 2534 Frances Street are hereby confirmed; and be it

FURTHER RESOLVED: That the Director of the Community and Economic Development Agency is hereby directed to file a lien with the Recorder of the County of Alameda for the parcels delineated in said REPORT OF ASSESSMENT; and be it

FURTHER RESOLVED: That this Council hereby directs the abatement of said dangerous and insanitary condition in accordance with Section 13.08.270 of the OMC. In the event that owners or occupants do not do so within the time allowed by the law, the Director of Community and Economic Development Agency shall, at the owner's expense, cause the same abated. All sums, which may be necessarily expended by the Director of Community and Economic Development Agency in abating, said sewer conditions shall be paid by owners.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California