

2011 NOV 17 PM 4: 25

# CITY OF OAKLAND

## Agenda Report

TO: Office of the City Administrator  
ATTN: Deanna J. Santana  
FROM: Community and Economic Development Agency  
DATE: November 29, 2011  
RE: **Report On Residences Demolished By Building Services Between 2007 and 2011 And New Procedures Requiring The City Attorney And City Administrator To Review The Public Nuisance Process Before Demolition Contracts Are Bid**

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### SUMMARY

On September 20, 2011, the City Council requested that staff return with a report on

- residences that the Building Services Division (BSD) of the Community and Economic Development Agency (CEDA) has demolished in the past five (5) years, and
- a proposed policy requiring that the City Administrator approve demolitions of residences.

Between 2007 and 2011, BSD demolished the following five (5) uninhabitable residences that were severely damaged either by fire or weather:

PUBLIC NUISANCE RESIDENCES DEMOLISHED BY BUILDING SERVICES BETWEEN 2007 AND 2011				
PROPERTY ADDRESS	CAUSE OF DAMAGE	DECLARED PUBLIC NUISANCE	OWNER APPEAL	DEMOLISHED
2640 74th Ave	Fire	2008	owner did not appeal	2011
3131 Adeline St	Fire	2008	2008 appeal denied by Hearing Examiner	2011
3600 Calafra Ave	Weather (missing roof)	2007	owner did not appear at either of the 2007 appeal hearings	2009
3419 Chestnut St	Fire	2007	owner did not appeal	2008
2933 Harrison St	Weather (missing roof)	2004	2004 appeal denied by Hearing Examiner	2011

Pursuant to the Council motion of September 20, CEDA has adopted procedures requiring the City Attorney and the City Administrator to review the administrative record of the public nuisance process before contracts are bid to demolish privately owned residences.

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November 29, 2011

## **FISCAL IMPACT**

There are no fiscal impacts identified in this report. The prior demolitions and new procedures discussed in this report do not change any existing fiscal practices.

## **BACKGROUND**

Oakland Municipal Code Chapter 15.08 (Building Maintenance Code) contains the procedural requirements for demolishing public nuisance buildings. The regulatory framework is codified in the California Health and Safety Code section 17910 et seq. (State Housing Law). The OMC has expanded the State Housing Law provisions to include the following major elements:

- Defines the conditions for declaring a building or real property Substandard (structural hazards, electrical hazards, etc.) and Imminent Hazard (collapse, explosion, etc.).
- Requires that the Building Official declare a building or property with Substandard or Imminent Hazard conditions a public nuisance, and order the vacation whenever conditions are dangerous.
- Requires that lenders and others with a financial interest in the property also be notified by mail of the Substandard declaration.
- Revokes the building's Certificate of Occupancy and requires that a Public Nuisance notice be recorded on the property title.
- Requires that the property owner either rehabilitate or demolish a Substandard property within a limited time and immediately remedy an Imminent Hazard.
- Requires an appeal hearing with a Hearing Examiner if the owner appeals within fourteen (14) days of the Substandard or Imminent Hazard declaration.
- Authorizes the Building Official to demolish Substandard buildings and requires abatement of Imminent Hazard conditions.
- Requires that the property owner (either original or follow-on) sign a Compliance Plan and pay all fees, penalties, and performance deposit as condition for issuing rehabilitation or demolition permits.

## **KEY ISSUES AND IMPACTS**

### **Residential Demolitions**

Between 2007 and 2011, BSD demolished five (5) privately owned residences which were severely damaged by fire or weather (missing roofs). Prior to demolition, BSD was in direct communication with the property owners or their representatives. There were no issues

regarding lack of notice of the substandard conditions, lack of notice of a neutral appeals process, or lack of notice of impending demolition. BSD's enforcement actions resulted from neighbor complaints of severe blight, toxics and pollutants, rats and other vector, attractive nuisance for children and vagrants, and structural instability adjacent to their homes. Please refer to *Attachment A* for photographs.

- **2640 74th Avenue**

The single family dwelling was severely damaged by a tire in 2008. In response to neighborhood complaints, BSD declared the public nuisance building Substandard in October 2008. The owner did not appeal. BSD posted the property and recorded the public nuisance notice in February 2009. The owner, a prospective purchaser, and the owner's grand daughter contacted BSD in March and April 2009 concerning rehabilitating the tire damaged building, but a Compliance Plan was not signed. The damage was so severe that the residence would have had to have been demolished and rebuilt. BSD mailed warning notices to the owner of pending demolition in April 2009, July 2010, and October 2010. The owner did not respond to the notices. The residence was demolished in May 2011. Liens to date for fencing, blight removal, hazardous material remediation, demolition, administrative costs, and penalties exceed \$84,000.

- **3131 Adeline Street**

The single family dwelling was severely damaged by a tire in 2008. In response to neighborhood complaints, BSD declared the public nuisance building Substandard in May 2008. The outside Hearing Examiner denied the owner's appeal in December 2008. BSD recorded the public nuisance notice in November 2009 and posted the property in January 2010 and May 2011. BSD mailed warning notices to the owner of pending demolition in January 2010 and December 2010. The owner did not respond to the postings or notices. The residence was demolished in August 2011. Liens to date for blight removal, hazardous material remediation, demolition, and administrative costs exceed \$62,000.

- **3600 Calafia Avenue**

The owner's contractor abandoned the re-construction and expansion of the single family dwelling in 2005. The circumstances of which were investigated by the Contractors License Board and the District Attorney. In response to neighbor complaints of rats and structural instability (missing roof), BSD declared the public nuisance building Substandard in February 2007. The owner failed to appear for the July 2007 appeal hearing with an outside Hearing Examiner and for a re-scheduled hearing. BSD posted the property and recorded the public nuisance notice in September 2008. BSD mailed a warning notice to the owner of pending demolition in October 2008. The owner and her attorney contacted BSD during the hazardous material survey in February 2009 to postpone the demolition, but the owner had been unable to

obtain financing to restart construction. The residence was demolished in March 2009. Liens to date for blight removal, hazardous material survey, demolition, and administrative costs exceed \$42,000.

- **3419 Chestnut Street**

The single family dwelling was severely damaged by a tire in 2006. In response to neighborhood complaints, BSD declared the public nuisance building Substandard in July 2007. The owner did not appeal. BSD posted the property and recorded the public nuisance notice in March 2008. BSD mailed a warning notice to the owner of pending demolition in May 2008. The owner did not respond to the posting or notices. The residence was demolished in July 2008. Liens to date for fencing, blight removal, hazardous material remediation, demolition, and administrative costs exceed \$99,000.

- **2933 Harrison Street**

In response to neighborhood complaints of severe damage by weather due to years of deferred maintenance, BSD sent a Notice to Abate in 2003 to repair the single family dwelling. A large portion of the roof was missing, and the roof and interior framing and wood shingle siding were deteriorated. Because the property owner was unresponsive BSD declared the public nuisance building Substandard in July 2004. The outside Hearing Examiner denied the owner's appeal in November 2004. The owner signed a Compliance Plan in November 2004, but did not obtain permits or start repairs. In September 2005, BSD revoked the expired Compliance Plan, recorded the public nuisance notice, and posted the property. BSD mailed warning notices to the owner of pending demolition in September 2005, February 2006, May 2008, June 2010, and October 2010. The owner did not respond to the notices. The residence was demolished in September 2011. Liens to date for blight removal, hazardous material remediation, demolition, and administrative costs exceed \$66,000.

### **Review of the Public Nuisance Administrative Record Prior to Demolition**

Although OMC Chapter 15.08 does not require a review by the City Attorney's Office (OCA) or the City Administrator's Office (CAO) for the Building Official to demolish a public nuisance residence, CEDA has established a policy that before demolition contracts are bid the administrative record must be submitted to the OCA for review of potential procedural errors and to the CAO for review of conformance with neighborhood revitalization and other policies.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** Demolitions of severely damaged buildings improve the economic vitality of neighborhoods and viability of commercial districts by eliminating blight and enhancing the quality of life perceptions of Oakland residents.

**Environmental:** Demolition of a severely damaged building improves the health of Oakland residents by removing environmental health hazards, including rodent harborages, lead-based paint, toxics, and respiratory pollutants.

**Social Equity:** Code enforcement regulation of the State Housing Law contributes to fair housing practices for low and moderate income renters.

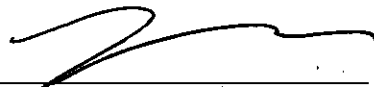
#### **DISABILITY AND SENIOR CITIZEN ACCESS**

Code enforcement abatement actions include requiring rehabilitation permits which can necessitate improvements to handicapped accessibility.

#### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the Council accept this report.

Respectfully submitted,



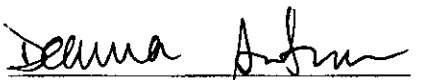
Fred Blackwell, Assistant City Administrator  
Community and Economic Development Agency

Prepared by:

Raymond M. Derania  
Deputy Director - Building Official  
Building Services Division

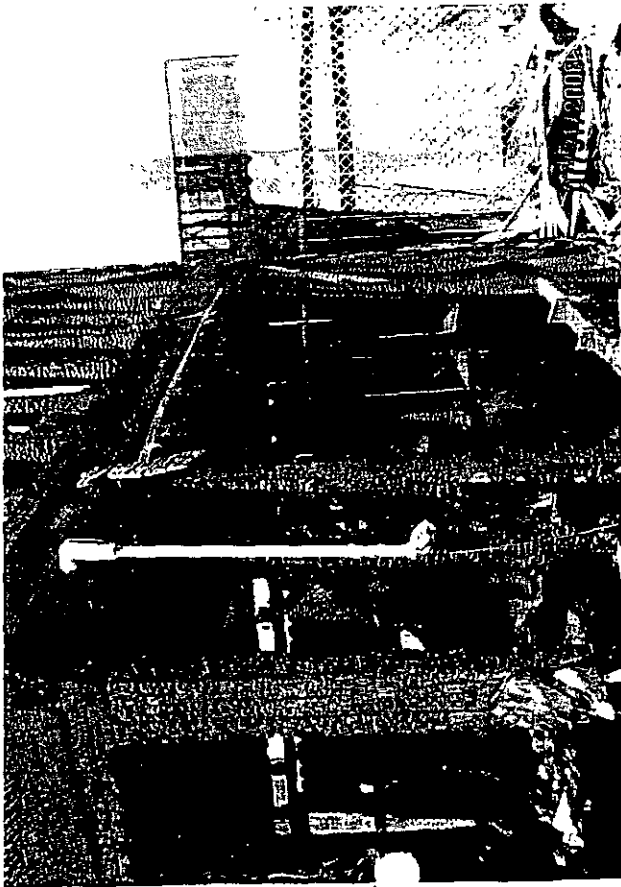
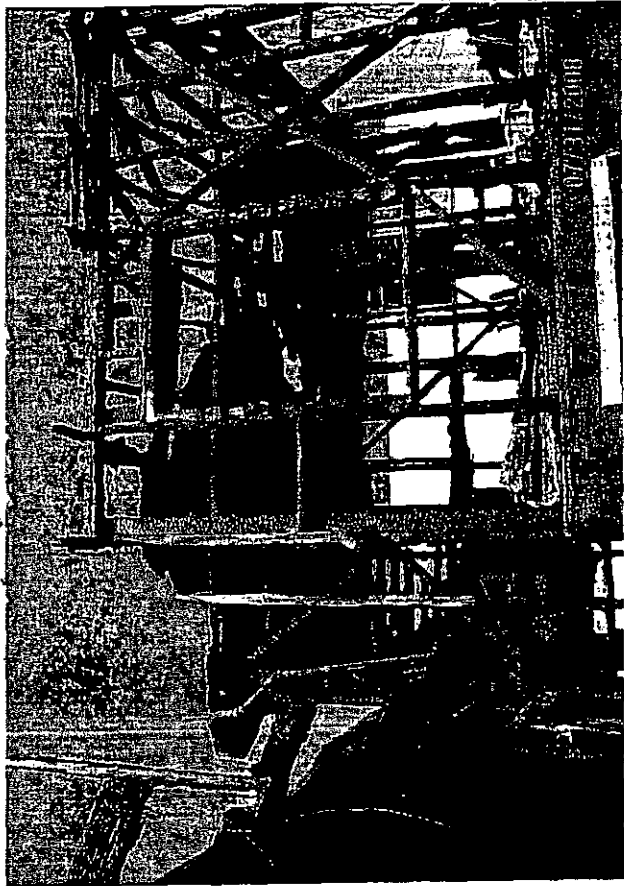
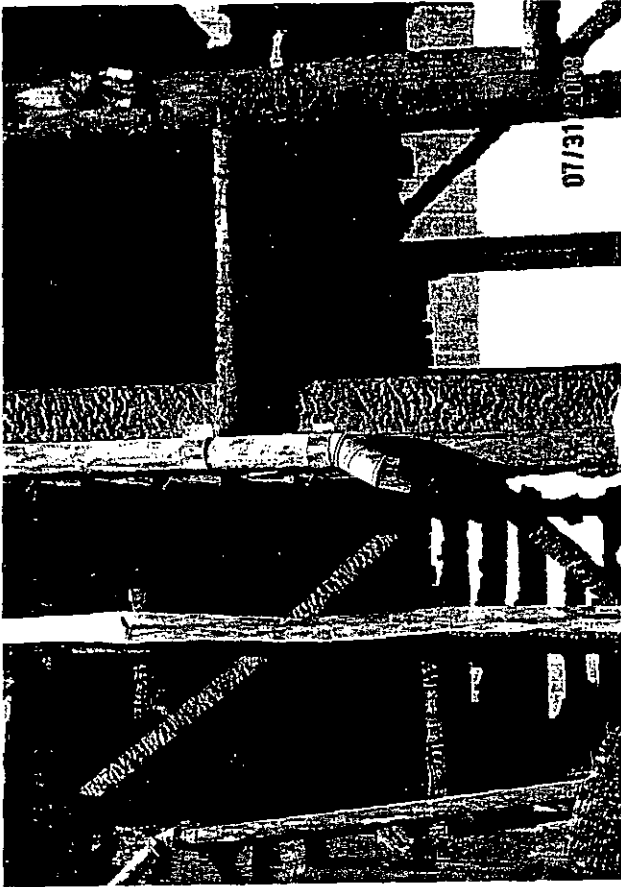
Margaretta Lin  
Special Projects Director  
Community and Economic Development Agency

**APPROVED AND FORWARDED TO THE COMMUNITY  
AND ECONOMIC DEVELOPMENT COMMITTEE:**

  
Office of the City Administrator

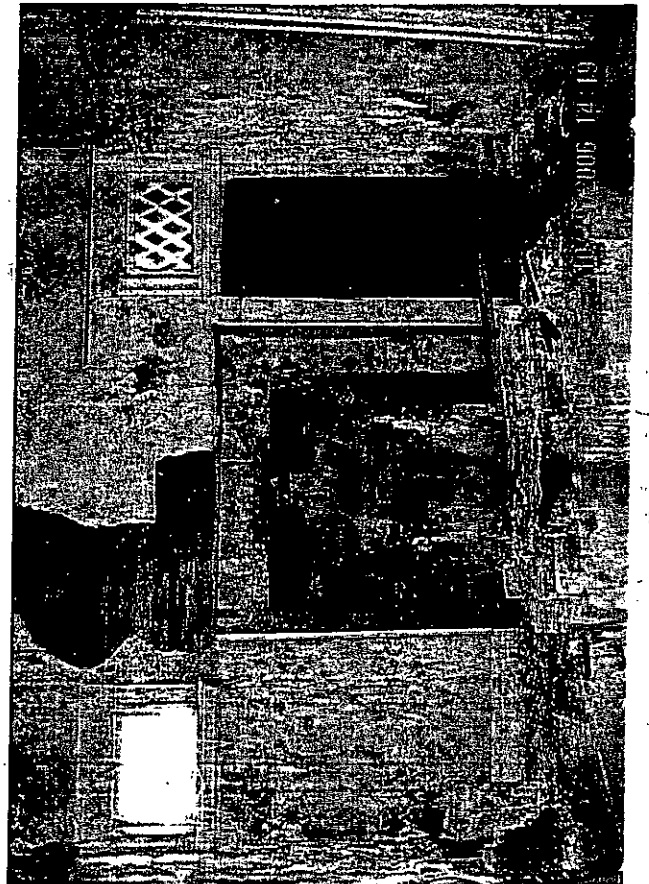
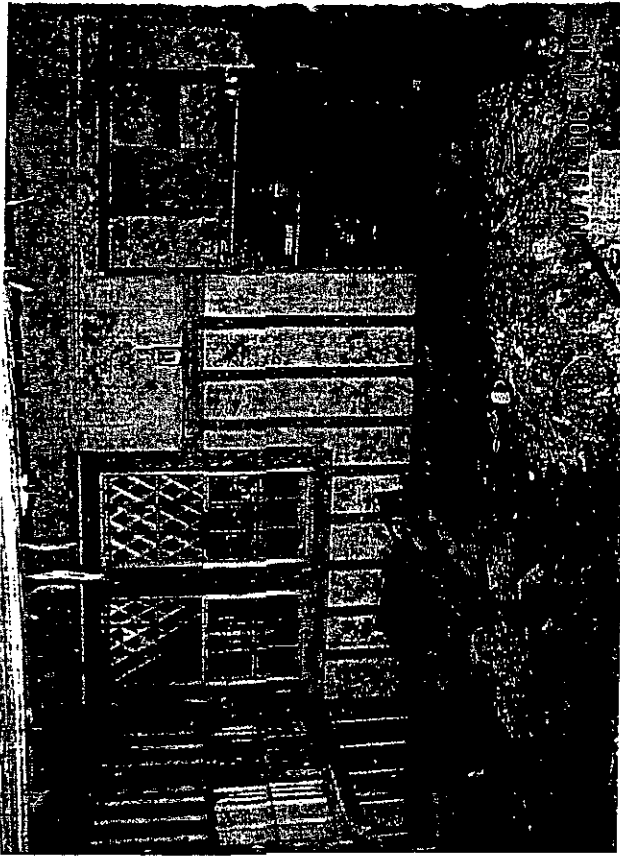
Attachment A – building photographs

Attachment A  
2640 74th Avenue



Attachment A

2933 Harrison Street



2933 Harrison Street