

*Braz Shabrell*  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**A RESOLUTION RECOMMENDS THAT THE CITY COUNCIL CONDUCT A PUBLIC HEARING AND, UPON CONCLUSION, ADOPT A RESOLUTION DENYING THE APPEAL OF APPELLANT KOBIE LYONS AND UPHOLDING THE DECISION OF THE INDEPENDENT HEARING OFFICER REGARDING HOUSING CONDITION AT 465 63RD STREET (COMPLAINT NO. 1901763).**

**WHEREAS**, the Planning and Building Department, Bureau of Building, Code Enforcement Services responds to complaints related to Property Maintenance, Building Maintenance and Zoning as stated in the Oakland Municipal Code 8.24, 15.08 and Title 17; and

**WHEREAS**, on April 25, 2019, a tenant at 465 63rd Street in Oakland (Subject Property) filed a complaint with Code Enforcement Services regarding housing conditions at the Subject Property; and

**WHEREAS**, on May 1, 2019, Specialty Combination Inspector Michae Legault inspected the Subject Property and confirmed various violations of Oakland Municipal Code Sections 8.24 and 15.08 pertaining to property and building maintenance; and

**WHEREAS**, on May 8, 2019, Inspector Legault issued a Notice of Violation (NOV) to the owner of the Subject Property, citing the violations noted during the May 1, 2019 inspection, with a description of the action required to correct each of the violations; and

**WHEREAS**, on June 7, 2019, Randall Whitney of Lyons Property Management filed an appeal on behalf of the property owner (Appellant), requesting an evidentiary hearing on several of the violations; and

**WHEREAS**, an administrative Appeal Hearing was initially scheduled for March 31, 2020, but was rescheduled several times due to shelter in place orders and a request for a continuance by the Appellant; and

**WHEREAS**, the Appeal Hearing eventually took place over the course of two days, on March 31 and April 26, 2021; and

**WHEREAS**, the Hearing was conducted by independent Hearing Officer Nathaniel L. Dunn, who is not an employee of the City of Oakland; and

**WHEREAS**, both the Appellant and the City submitted documentary evidence in advance of and during the course of the two-day Appeal Hearing, including photographs and videos of the Subject Property and notices from Pacific Gas & Electric (PG&E), along with witness testimony from Inspector Legault, two tenants at the Subject Property, the property manager, and the owner; and

**WHEREAS**, on May 3, 2021, the independent Hearing Officer issued a Hearing Decision finding no error or abuse of discretion by the City in the issuance of the May 8, 2019 NOV, thereby confirming the NOV; and

**WHEREAS**, on June 7, 2021, Appellant filed an Appeal of the Hearing Decision; and

**WHEREAS**, after giving due notice to the Appellant and all interested parties, the Appeal came before the City Council as the Appeals Board described in O.M.C. 15.04.1.125G at a duly noticed public hearing on November 16, 2021; and

**WHEREAS**, Appellant has not met its burden of demonstrating that there is no substantial evidence in the record to support the Hearing Officer's Decision, or that the Decision is based on an error of law; now, therefore, be it

**RESOLVED:** That the City Council, having heard, considered, and weighed all the evidence in the record presented on behalf of all parties, and being fully informed of the list of violations, the Administrative Hearing, the Hearing Decision, and the Appeal, determines that the Appellant has not established that there is no substantial evidence in the record to support the Hearing Decision, nor has Appellant established that there was an error of law; and be it

**FURTHER RESOLVED:** That Appellant's Appeal is denied, and the independent Hearing Officer's Decision dated May 3, 2021 is upheld; and be it

**FURTHER RESOLVED:** That the recitals contained in this Resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED

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