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OAKLAND

2012 JUN 28 PM 12:42

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Fred Blackwell

SUBJECT: 7520 Circle Hill Drive Lien and Fee Refund

DATE: June 11, 2012

City Administrator
Approval

Deanna Santana Date

6/26/12

COUNCIL DISTRICT: 6

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving a refund totaling \$3,902.44 to Steven Edrington of code enforcement liens and fees paid by Mr. Edrington when he applied for permits in November 2011 to rehabilitate the public nuisance single family dwelling located at 7520 Circle Hill Drive (APN 040A-3443-033-00).

Mr. Edrington had previously paid code enforcement liens totaling \$5,089.12 which were included with the delinquent property taxes when he purchased the property at a foreclosure auction in May 2011. He rehabilitated the home and detached garage with permits (total fees = \$5,705.08) in six (6) weeks and sold it a market rate in January 2012 (transfer tax = \$5,100). Pursuant to Oakland Municipal Code (OMC) section 1.12.080, the City Administrator has approved the waiver of penalty citations totaling \$2,500 which were also assessed following the prior owner's appeal hearing in 2009.

OUTCOME

The resolution authorizes the Building Official to approve a partial refund (30%) of code enforcement liens (\$2,198.40) and a full refund (100%) of code enforcement processing fees (\$1,704.04) that Mr. Edrington paid when he applied for permits to rehabilitate the substandard home.

BACKGROUND/ LEGISLATIVE HISTORY

In 2009, the tenant-occupied single family dwelling was declared Substandard and a Public Nuisance for deteriorated structural conditions following two (2) years of efforts by code enforcement and police to get the prior owner to rehabilitate the home (SMART inspection, compliance plan, expired permits, housing rehabilitation loan referral, etc.). Mr. Edrington purchased the property at a foreclosure auction in May 2011 and obtained rehabilitation permits

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in November 2011. The work was completed in six (6) weeks, and the home was resold at market rate in January 2012. The City Administrator approved the waiver of \$2,500 of administrative citations when the permits were finalized (refer to *Attachment A*).

7520 Circle Hill Drive - June 2010 Foreclosure Auction purchased by Steven Edrington - resold to owner-occupants January 2012 ¹							
PAID WITH DELINQUENT PROPERTY TAXES AT FORECLOSURE AUCTION			PAID WITH REHABILITATION PERMITS FOR THE SUSTANDARD DWELLING			WAIVED WITH FINAL INSPECTION APPROVALS	
CHARGE		AMOUNT	CHARGE		AMOUNT	CHARGE	AMOUNT
2009 code enforce liens	prospective lien	\$1,942.68	2010 code enforce lien	Public Nuis declaration	\$2,198.40 ²	2009 Public Nuisance admin citations	\$2,500 ³
	Public Nuis appeal hearing	\$ 3,146.44	2011 code enforce fees	compliance plan	\$1,704.40 ²		
			2011 permit fees	bldg, elect mech, plumb sewer lateral	\$5,705.08		
total paid In June 2011		\$5,089.12	total paid in November 2011		\$9,607.88	total waived in January 2012	\$2,500

¹ transfer tax = \$5,100 ² total refund = \$3,902.44 ³ waived by City Administrator – OMC 1.12.080

Because the fees were assessed under the authority of the Master Fee Schedule Ordinance, which does not grant policy authority to waive fees administratively, City Council action is required to fulfill this refund request.

ANALYSIS

Mr. Edrington has requested that the City Council approve a refund of \$3,902.44 (refer to *Attachment B*) which he paid with his application for permits for

- a code enforcement lien totaling \$2,198.40 for charges against the prior owner which had not yet been transferred to the County Assessor for collection with property taxes, and for
- code enforcement fees totaling \$1,704.40 for processing the compliance plan which conditions the ministerial construction permits and which is required by the Oakland Building Maintenance Code (OMC section 15.08.370) for a public nuisance property.

Staff recommends that the City Council approve this refund for the following reasons:

- the purchaser had no familial relationship or business association with the foreclosed owner;
- the purchaser is requesting a refund of less than one-half (47%) of the code enforcement liens and fees he has paid;
- the purchaser rehabilitated the public nuisance property and resold it to owner-occupants within nine (9) months of acquisition;
- the resale of property resulted in the payment of \$5,100 in transfer tax and a 47% increase in the foreclosed property assessed valuation.
- establishing criteria for incentivizing the purchase and occupancy of abandoned or foreclosed properties in Oakland which are encumbered with existing code enforcement liens is a critical component in a holistic program for revitalizing neighborhoods and commercial corridors and reducing the continuing commitment of limited City resources to reduce grime and crime.

COORDINATION

The Office of the City Attorney and the Budget Office have reviewed this report and resolution.

COST SUMMARY/ IMPLICATIONS

Approval of the refund will result in a negligible reduction of revenue for the current fiscal year in the special revenue Development Service Fund 2415, Code Enforcement Inspections organization (84454), Miscellaneous account (45419), Neighborhood Preservation program (NB31).

SUSTAINABLE OPPORTUNITIES

Economic – Rehabilitation of substandard and foreclosed housing units provides increased opportunities for professional services, construction related jobs, and payment of delinquent code enforcement charges and property taxes.

Environmental – Rehabilitation of substandard and foreclosed housing reduces public health irritants, contaminants, pollutants, toxics, and vectors for occupants and neighbors.

Social Equity – Rehabilitation of substandard and foreclosed housing units provides increased opportunities for purchases by owner-occupants and first-time home buyers.

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CEQA

This report is not a project under CEQA.

For questions regarding this report, please contact Ray Derania, Building Official, at 510/ 238-4780.

Respectfully submitted,



FRED BLACKWELL
Assistant City Administrator

Prepared by: Raymond M. Derania, Building Official
Department of Planning, Building, and Neighborhood
Preservation

Attachments: A - compliance plan
B - letter from Steven Edrington

ATTACHMENT A

Community and Economic Development Agency
Building Services Division

Compliance Plan

7520 Circle Hill Drive
040A-3443-033-00

BACKGROUND

This single-family dwelling was declared Substandard in 2009 as a result of a SMART inspection with Oakland Police in 2007 and the prior owner's failure to follow-through with repairs to the single family dwelling (2007 compliance plan). The Hearing Examiner denied the prior owner's appeal of the Substandard action and affirmed the assessment of administrative citations against the prior owner. A Public Nuisance declaration and liens for administrative costs and citations were recorded on the property title in 2009 and 2010:

Steve Edrington purchased the property in June 2011 through an "arms-length" transaction (foreclosure auction). Mr. Edrington paid liens L 031090 and L 03220 (\$5,089.12) with the delinquent property taxes. He has subsequently removed the occupants, completed a significant clean-up of the premises, and applied for permits to rehabilitate the dwelling. Mr. Edrington has rehabilitated and returned other deteriorated homes in Oakland to productive use.

CODE ENFORCEMENT			
PROPERTY LIENS	CHARGES AGAINST PRIOR OWNER	PAID BY EDRINGTON	OWED
priority lien L 031090	prepare prospective lien	1,942.68	
priority lien L 032220	Substandard appeal hearing	3,146.44	
priority lien L 033288	prepare Public Nuisance declaration		2,198.40
prospective lien	administrative citations		2,600.00
	total	\$ 5,089.12	\$ 4,698.40

KEY ISSUES AND IMPACTS

Substandard Buildings

Building permits for rehabilitating Substandard buildings are currently constrained by the following codified requirements:

- Building Maintenance Code (OMC 15.08)
 - o all building permit fees must be paid
 - o all penalties and interest must be paid
 - o all code enforcement fees he must paid
 - o all code enforcement liens and interest must be paid
 - o a refundable performance security must be deposited
 - o a compliance plan must be signed (sets-forth construction milestone dates)

- Building Construction Code (OMC 15.04)
 - o all building permit fees must paid at filing
 - o code enforcement compliance plan must be signed before issuance
 - o all code enforcement liens, fees, penalties, interest, and deposits must be paid at filing

The Administrative Citation Chapter (OMC 1.12) also provides that:

The City Manager, or his or her designee, is authorized to establish standards and procedures for adjustment of administrative citations previously issued for extraordinary circumstances which are expressly demonstrated to serve the best interests of the residents of the City.

Proposal

Mr. Edrington has proposed that the City approve the following Compliance Plan conditions:

- collect payment from him of all fees for his rehabilitation permits plus the renewal Certificate of Occupancy fee plus the refundable security deposit; and
- defer payment by him of the administrative citations (\$2,500) assessed against the prior owner so that his rehabilitation permits may be issued immediately; and
- allow him six (6) months to obtain final approval of his rehabilitation permits (with an extension for extenuating circumstances as determined by Building Services); and
- waive payment by him of the administrative citations upon final approval of his rehabilitation permits (City has the option of pursuing payment by the prior owner); and
- upon his request after final approval of his rehabilitation permits (within 6 months of issuance plus any extension), present an agenda report to the City Council recommending a refund of the following fees he has paid:

FOLLOWING FINAL APPROVAL OF REHABILITATION PERMIS		
CHARGES AND FEES	WAIVE by CITY ADMINSTRATOR	REQUEST REFUND by GITY COUNCIL
administrative citations	\$2,500	
lien L 033288		\$ 2,198.40
compliance plan fee		1,704.04
total	\$2,500	\$ 3,902.44

OWNER

Steve Edrington

11/1/11
date

CEDA- BUILDING SERVICES

Raymond M. Derania

11-01-2011
date

OFFICE OF THE CITY ADMINISTRATOR

BY

10/31/11
date

ATTACHMENT B

Edrington & Associates

6114 La Salle Ave #595, Oakland, CA 94611 Ph:510-749-4880 Fx 510-225-2527

Email:steve@eddringtonandassociates.com

May 4, 2012

Ray Derania
Chief Building Engineer
City of Oakland
250 Frank H. Ogawa Plaza, 2nd Floor
Oakland, CA 94512

Dear Ray,

Please let me know the status of the refund. My understanding is that this needs to be sent to city council for approval.

Background on project: My wife and I purchased 7520 Circle Hill Drive in May 2011 and there was a notice of substandard building and a prospective lien of \$50,000 filed against it. Code enforcement had liened \$12,322.13 against this project. The tenants were believed to be engaged in illegal drug activity and growing a lot of marijuana...which started the code enforcement process in 2007. The house was known in the neighborhood as the "Hillbilly House". The tenant left at the end of June 2011 and we have hauled away twelve 40-yard dumpsters and one 10 yard concrete dumpster of junk from a 2 bedroom, 1 bath, 920 sq.ft. house. I started in July 2011 asking for the City of Oakland to waive fees on this project and didn't receive compliance plan approval and permits until November 2011. My opinion is that ~~the liens were excessive for the scope of the project~~ and I requested that some of the code enforcement liens be waived as a condition of the compliance plan. The city agreed and put the code enforcement lien waiver into the compliance plan. Please see attached copy of the compliance plan. The project was completed in December 2011 with major remodeling which corrected all the notices of violations and a new certificate of occupancy was issued. I submitted the request for refund on December 19, 2011 and have yet to receive a refund.

Policy Recommendations: The current Code Enforcement Lien Waiver process is overly long and painful. The problem seems to lie in how the city puts on liens and the inability to be flexible with new owners of property who want to correct the code violations and remove excessive liens. The power to negotiate these liens and compliance plan should rest with the Chief Building Engineer or Code Compliance Department and should not be subject to CEDA Director and the City Manager having to sign the compliance plan. In essence, this should be a staff-driven process and the master fee schedule should be amended to allow flexibility. The

Edrington & Associates

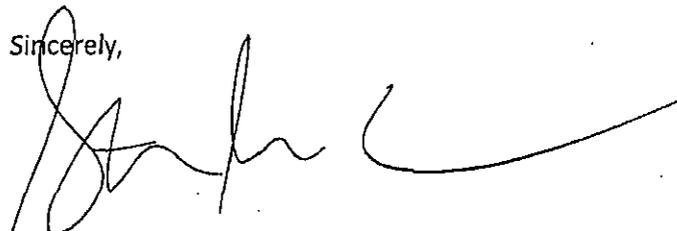
6114 La Salle Ave #595, Oakland, CA 94611 Ph:510-749-4880 Fx 510-225-2527

Email:steve@eddringtonandassociates.com

goal should be no more than 30 days to negotiate and agree to a lien waiver and compliance plan and no more than 30 days to process a refund.

Economic impact: It is in the city's best interest to put properties back into productive use and start benefitting from the increased tax assessment and other fees. When a dilapidated property is brought back into productive use, it usually raises the neighborhood property values and allows for higher sale prices there. Case in point: The property being discussed had an increased assessment of \$160,000 due to being remodeled and put back into productive use which equates to an annual increase in property taxes to the city of \$2,257.92 or a 25 month payback for the city based on the lien waiver. Also, hundreds of dollars were paid in delinquent garbage liens and over \$10,000 was generated in city transfer taxes and permit fees. Finally, local contractors were employed and supplies were purchased locally which created direct and indirect jobs and revenue in Oakland. In short, lien waivers are a smart tax revenue strategy and a win/win for both the City and individuals willing to invest in Oakland.

Sincerely,



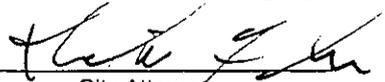
Steven Edrington

510-749-4880

Email: steve@eddringtonandassociates.com

Introduced By **FILED**
OFFICE OF THE CITY CLERK
OAKLAND
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Approved For Form And Legality


City Attorney

Councilmember

OAKLAND CITY COUNCIL

RESOLUTION No. _____ **C.M.S.**

**RESOLUTION APPROVING A \$3,902.44 REFUND TO STEVEN EDRINGTON OF
CODE ENFORCMENT LIENS AND FEES PREVIOUSLY ASSESSED AGAINST
THE PRIOR OWNER FOR THE REHABILITATION OF A FORECLOSED AND
PUBLIC NUISANCE HOME LOCATED AT 7520 CIRCLE HILL DRIVE**

WHEREAS, Mr. Steven Edrington, the former owner of the single family dwelling located at 7520 Circle Hill Drive, purchased said property, identified by the Alameda County Assessor as parcel no. 040A-3443-033-00, for valuable consideration with the highest bid tendered in a public auction in May 2011 on the front steps of the Alameda County Court House by the foreclosing holder of the Deed of Trust; and

WHEREAS, pursuant to Oakland Municipal Code section 15.08.130, all tendered bids included payment to the City of Oakland of two (2) code enforcement liens, identified by the Alameda County Clerk-Recorder as series nos. 2009-117877 and 2009-323252 and by the City's Permit Tracking System as lien nos. L031090 and L032220 with face amounts totaling \$5,089.10 plus accruing interest, which had been included by the Alameda County Assessor in the General Tax Levy for collection as a special assessment on behalf of the City; and

WHEREAS, pursuant to Oakland Municipal Code section 15.08.130, said parcel had an additional code enforcement lien, recorded by the Alameda County Recorder on August 11, 2010, series no. 2010-230952, and identified in the City's Permit Tracking System as lien no. L033288 with face amount of \$2,198.40, which was not yet included with the General Tax Levy for collection, and therefore, was not paid in said foreclosure auction; and

WHEREAS, pursuant to Oakland Municipal Code section 15.08.350, said dwelling had been declared Substandard and a Public Nuisance by the Building Official of the City Of Oakland in February 2009; and

WHEREAS, following the denial of an appeal of said declaration by the prior owner in a public hearing conducted by an independent Hearing Officer, said declaration was recorded by the Alameda County Clerk-Recorder on May 10, 2010, series no. 2010-135307; and

WHEREAS, pursuant to Oakland Municipal Code section 1.12.080, said Hearing Officer also denied the appeal by said prior owner of the assessment by the Building Official of administrative citations totaling \$2,500; and

WHEREAS, pursuant to Oakland Municipal Code section 15.08.130, a Prospective Lien to secure payment by a future purchaser of said administration citations and code enforcement assessments, prior to the recording of liens, was recorded by the Alameda County Clerk-Recorder on February 20, 2009, series no. 2009-054494; and

WHEREAS, in November 2011, Mr. Edrington filed applications with the Building Official for permits (RBI103812, etc.) to rehabilitate said substandard dwelling and detached garage; and

WHEREAS, pursuant to Oakland Municipal Code section 15.04.065, Mr. Edrington paid permit fees totaling \$5,705.80 and lien no. L033288 totaling \$2,198.40 and Compliance Plan fees totaling \$1,704.04 with his applications for said rehabilitation permits; and

WHEREAS, in November 2011, Mr. Edrington and the Assistant City Administrator executed a Compliance Plan, included herewith as *Exhibit A*, which set forth conditions for completing said rehabilitation work and for waiving the payment of said administrative citations and for refunding the payments of said code enforcement lien and compliance plan fees; and

WHEREAS, Mr. Edrington completed said rehabilitation work well within the time duration set forth in said Compliance Plan and sold the dwelling to an owner-occupant on January 31, 2012; and

WHEREAS, said sale provided transfer tax fees totaling \$5,100 for the City and a 47% increase of said parcel's assessed valuation for the Alameda County Assessor; now, therefore, be it

RESOLVED: That a refund to Steven Edrington in an amount of \$3,902.44 for lien no. L033288 (totaling \$2,198.40) and Compliance Plan fees (totaling \$1,704.04) previously paid by him is hereby approved; and be it

FURTHER RESOLVED: That the City Administrator, or his or her designee, is hereby authorized to execute a Refund Request by Mr. Edrington for said approved amount.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2012

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL,
SCHAAF, AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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

EXHIBIT A

Community and Economic Development Agency
Building Services Division

Compliance Plan

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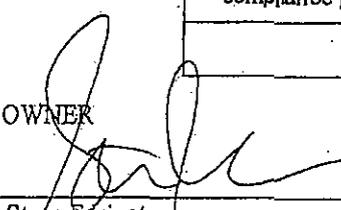
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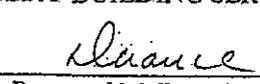
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total	\$2,500	\$ 3,902.44

OWNER


Steve Edrington

11/1/11
date

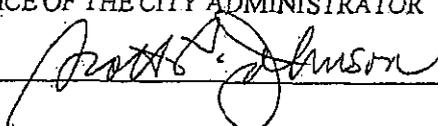
CEDA- BUILDING SERVICES


Raymond M. Derania

11-01-2011
date

OFFICE OF THE CITY ADMINISTRATOR

BY



10/31/11
date