

(R-87-1657)

RESOLUTION NUMBER R- 267854

ADOPTED ON MAR 10 1987

WHEREAS, on December 18, 1986, January 9, 1987 and January 20, 1987, representatives of the Building Inspection Department and the Fire Department of The City of San Diego, and the County of San Diego Health Department inspected certain real property and improvements located at 3237-43 Commercial Street, San Diego, California, more particularly described as follows:

Lots 9, 10, 11, 12 and 13 in Block 135 of Central Park in the City of San Diego, County of San Diego, State of California, according to the Map thereof No. 435, filed in the office of the County Recorder of said San Diego County, November 9, 1887;

and

WHEREAS, the inspectors observed on the premises an accumulation of discarded furniture, mattresses, and household appliances, abandoned vehicle remnants, lumber, and other refuse or waste materials consisting of rags, discarded clothing, paper, empty boxes and cans; and

WHEREAS, the accumulation of such materials poses a fire hazard and is a violation of Uniform Fire Code Section 11.201(a), which prohibits accumulation of combustible or flammable waste materials; and

WHEREAS, the accumulation of such materials poses a health hazard and is a violation of San Diego Municipal Code Section 44.0350, which prohibits such accumulation because it offers a prime environment for harboring rats and other vermin; and

WHEREAS, the accumulation of such materials is also a violation of San Diego Municipal Code Section 44.0107, regulating the disposal of garbage and refuse material; and

WHEREAS, the inspectors observed that there is no fence or barrier surrounding the property; and

WHEREAS, the accumulation of junk and rubbish on the property and the lack of a fence or barrier to prevent or discourage additional littering is a violation of San Diego Municipal Code Section 44.0119, which requires property owners to maintain their premises free from waste material and to erect fencing or other means of discouraging access to the premises for the purpose of littering or illegal dumping; and

WHEREAS, the inspectors observed that a concrete foundation and retaining wall from a former structure are still remaining on the property, along with lumber and other debris from the former structure; and

WHEREAS, the existence of the foundation, retaining wall, and lumber and debris from a former structure constitutes a safety hazard and is a violation of San Diego Municipal Code Section 91.0605, which regulates demolition of structures and requires that any remaining excavation or depression be restored to the level of the adjacent ground and that all debris from the structure be removed from the site; and

WHEREAS, the inspectors have documented their findings in written reports and have compiled a photographic exhibit of their findings of violations and hazards existing on the property, on file in the office of the City Clerk as Document No.

RR- 267854; and

WHEREAS, the premises described above has been found by inspectors of the Building Inspection Department and the Fire Department of The City of San Diego, and the County of San Diego Health Department to be in violation of the San Diego Municipal Code and to constitute a hazard to public safety, health and welfare for the reasons cited above; and

WHEREAS, the owner of the above-described property, Harrison X. Cole, was notified of these findings and directed to abate the nuisance; and

WHEREAS, the owner of the above-described property is currently in custody at Patton State Mental Facility and no executor for his affairs has been identified; and

WHEREAS, the San Diego Municipal Code Section 11.16 provides procedures for summary abatement of San Diego Municipal Code violations constituting a public nuisance; and

WHEREAS, a public nuisance is defined therein as (b) "any condition caused, maintained or permitted to exist in violation of any provisions of this Code which significantly obstructs, injures, or interferes with the reasonable or free use of property belonging to a neighborhood, community or any considerable number of persons"; and

WHEREAS, in accordance with San Diego Municipal Code Section 11.16(c) (1), the Building Official has determined that conditions on the property at 3237-43 Commercial Street constitute a public nuisance as defined by San Diego Municipal Code Section 11.16 cited above, and has caused a written notice to be issued to the owner to abate such nuisance; and

WHEREAS, the notice conformed with the requirements specified in San Diego Municipal Code Section 11.16(c)(2); and

WHEREAS, the notice was served on the owner by regular mail in accordance with San Diego Municipal Code Section 11.16(c)(3)B.; and

WHEREAS, as provided for in San Diego Municipal Code Section 11.16(c)(4), upon failure of the owner or his agent or the person in possession of the property to remove or correct the conditions described in the notice by the date specified, a representative of the Building Official has referred the matter to the City Council for a noticed public hearing and has made all notifications required by ordinance; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the residential premises described above are declared to be a public nuisance.

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized and directed to administratively abate the nuisance no sooner than seven days from the adoption date of this resolution on the residential premises located at 3237-43 Commercial Street by demolition and removal.

BE IT FURTHER RESOLVED, that an amount not to exceed \$5,540.00 from the Building Inspection Enterprise Fund (Fund 41300, Dept. 1300, Org. 3423, Acct. 4222, J.O. 3433) is hereby authorized to be expended for such demolition work.

BE IT FURTHER RESOLVED, that a record of the cost of all such work performed shall be transmitted to the City Council, which shall consider the same to be paid and levied as a special assessment against the property.

APPROVED: JOHN W. WITT, City Attorney

By Thomas F. Steinke
Thomas F. Steinke
Deputy City Attorney

TFS:ta:556
02/17/87
Or.Dept:Bldg.Insp.
Aud.Cert:8700147
R-87-1657
Form=r.none

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE AC 8700147

ORIGINATING DEPT. NO.: 1300

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount \$ 5,540.00 Fund 41300

Purpose Authorizing expenditure of funds for declaring the lot at 3237-43 Commercial Street a public nuisance.

Date February 12, 19 87

By: *Lillian Magaña*
AUDITOR AND COMPTROLLER'S DEPARTMENT

| ACCOUNTING DATA | | | | | | | | | | |
|-----------------|-------|------|------|------|---------|-----------|-------------------|------------|----------|------------|
| ACCTG. LINE | CY PY | FUND | DEPT | ORG. | ACCOUNT | JOB ORDER | OPERATION ACCOUNT | BENF/EQUIP | FACILITY | AMOUNT |
| 1 | | | 1300 | 3423 | 4222 | 003433 | | | | \$5,540.00 |
| | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| TOTAL AMOUNT | | | | | | | | | | \$5,540.00 |

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said moneys now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed \$ _____

Vendor _____

Purpose _____

Date _____, 19 _____

By: _____
AUDITOR AND COMPTROLLER'S DEPARTMENT

| ACCOUNTING DATA | | | | | | | | | | |
|-----------------|-------|------|------|------|---------|-----------|-------------------|------------|----------|--------|
| ACCTG. LINE | CY PY | FUND | DEPT | ORG. | ACCOUNT | JOB ORDER | OPERATION ACCOUNT | BENF/EQUIP | FACILITY | AMOUNT |
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| | | | | | | | | | | |
| TOTAL AMOUNT | | | | | | | | | | |

FUND OVERRIDE

AC-361 (REV 3-86) Note: Contingent upon approval of FY'87 Appropriations Ordinance AC 8700147

R- 267854

MAR 10 1987

01626

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MAR 10 1987

Passed and adopted by the Council of The City of San Diego on....., by the following vote:

| Council Members | Yeas | Nays | Not Present | Ineligible |
|------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Abbe Wolfsheimer | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bill Cleator | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Gloria McColl | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| William Jones | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ed Struiksmma | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mike Gotch | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Judy McCarty | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Celia Ballesteros | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Mayor Maureen O'Connor | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By *June G. Blackwell* Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-267854 Adopted MAR 10 1987

RECEIVED
CITY CLERK'S OFFICE
1937 FEB 18 PM 4: 19
SAN DIEGO, CALIF.

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