



CITY COUNCIL STAFF REPORT

DATE: SEPTEMBER 4, 2013 PUBLIC HEARING

SUBJECT: FILING OF NUISANCE ABATEMENT RESOLUTION REPORT FOR ONE PUBLIC NUISANCE LOCATED AT 688 SOUTH MOUNTAIN VIEW DRIVE.

FROM: David H. Ready, City Manager

BY: Department of Building and Safety

SUMMARY

The City Council will consider a resolution confirming the abatement of a public nuisance for the property located at 688 South Mountain View Drive, and authorizing the City Clerk to file the resolution with the Riverside County Auditor-Controller and to place a special assessment on the property tax roll for the full cost of the abatement.

RECOMMENDATION:

Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CONFIRMING THE REPORT OF PROCEEDINGS AND ACCOUNTING FOR A SPECIAL ASSESSMENT ON 688 SOUTH MOUNTAIN VIEW DRIVE."

STAFF ANALYSIS:

Palm Springs Municipal Code Chapter 11.72 provides the procedures for the abatement of public nuisances, and the subsequent procedures for placing a nuisance abatement lien on the subject property or collection by special assessment on the property.

On June 19, 2013, the City Council continued this public hearing to September 4, 2013. At the June 19, 2013, public hearing, the property owners' representative requested the City Council continue the public hearing for the following reasons:

1. The property owner asserted that proper notice was not provided; and

2. The property owner claimed that the abatement of debris from the property had caused damage to the property owner's fence and sprinkler system.

In 2011, the City's Code Enforcement Division cited the property located at 688 South Mountain View Drive for a public nuisance pursuant to Palm Springs Municipal Code Section 11.72.030 [refuse and waste matter, which by reason of its location and character is unsightly, or interferes with the reasonable enjoyment of property by neighbors, or detrimentally affects property values in the surrounding neighborhood or community]. This was after the Code Compliance Division attempted to gain voluntary compliance pursuant to the City's current policy with respect to code violations of this nature and type.

The public nuisance is evidenced by the photos attached to this staff report.

The property owner did not comply with the public nuisance abatement order from the City's Code official, and ultimately the nuisance was abated by the City, at taxpayer expense, in March, 2012. Additionally, the property owner has not remitted payment to the City for the cost of the abatement in the amount of \$10,264.30, as indicated in the Proceedings and Accounting Report incorporated into the resolution.


With respect to the property owners' assertion regarding notice; PSMC Section 11.72.210 [which mirrors in the applicable sections in the Cal. Govt. Code] requires the Notice be Served to the parties address as it appears on the last equalized assessment roll or supplement roll. Attached to this staff report is the executed Affidavit of Mailing and the Property Detail Report showing the parties address as it appears on the last equalized assessment roll, and the City met the legal noticing requirements.

With respect to the property owners' claim that the City's contractor damaged the fencing; due to the amount of debris required to be removed, the City's abatement contractor was required to roll back the existing chain-link fence and remove the accumulation of debris with a backhoe. The fence was then reattached. The City has no information on the condition of a sprinkler system or if a sprinkler system was under the accumulation of debris, and has no record of a claim being filed.

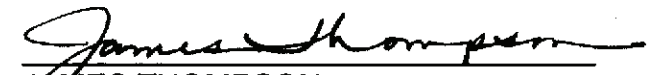
FISCAL IMPACT:

The City has already incurred the full cost of \$10,264.30 to abate the public nuisance. The proposed resolution authorizes the City Clerk to place a special assessment on the property in the amount for full cost recovery to the City, which will be returned to the General Fund.

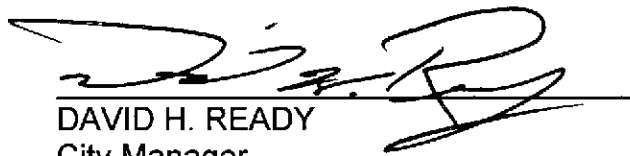
Due to the continuance of this public hearing, it is too late to place this assessment on the tax roll for the coming year 2013-14, and the special assessment will not be placed on the tax roll until the next year 2014-15.



JAMES ZICARO
Director of Building and Safety



JAMES THOMPSON
Chief of Staff/City Clerk



DAVID H. READY
City Manager

Attachments:

- Proposed Resolution [w/Proceedings and Accounting Report]
- Photographs of Public Nuisance Abated
- Notice and Affidavit of Mailing
- Property Detail Report
- Testimony received from June 19, 2013 Public Hearing

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CONFIRMING THE REPORT OF PROCEEDINGS AND ACCOUNTING FOR A SPECIAL ASSESSMENT ON 688 SOUTH MOUNTAIN VIEW DRIVE.

WHEREAS, the City has abated proceedings concerning a public nuisance located on the property described as 688 South Mountain View Drive, Palm Springs, California ("Property"); and

WHEREAS, the Property is shown as Assessor's Parcel No. 680-055-006 on the County Assessor's map books as of 06/19/2013; and

WHEREAS, the Director of Building & Safety has reported that notices required in accordance with Chapter 11.72 of the Palm Springs Municipal Code have been given and that the owner has failed to comply; and

WHEREAS, pursuant to the Palm Springs Municipal Code, the City abated the public nuisance located on the Property.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby approves the Report of Proceedings and Accounting of the cost to abate the public nuisance on the Property in the total amount of \$10,264.30.

SECTION 2. A special assessment in the amount of \$10,264.30 is hereby imposed upon the Property.

SECTION 3. A certified copy of this Resolution and the Report of Proceedings and Accounting shall be filed with the Riverside County Auditor-Controller's office.

SECTION 4. The County Auditor-Controller is respectfully requested to enter the special assessment in the amount of \$10,264.30 on the County Tax Roll for the Property, and thereafter said amount shall be collected at the same time and in the same manner as ordinary municipal taxes.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 4TH DAY OF SEPTEMBER, 2013.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on September 4, 2013, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

PROCEEDINGS AND ACCOUNTING REPORT

PUBLIC NUISANCE ABATEMENT

I. LOCATION/LEGAL:

Assessor's Parcel Number: 680-055-006
Address: 688 South Mountain View Drive

II. OWNER OF RECORD: Homer & Cynthia L. Rivera

III. PROCEEDURE:

- A. Public Nuisance Posting: 08-22-2011
- B. Non-Compliance: 02-06-2012
- C. Bid Solicitation: 02-22-2012
- D. Notice to Proceed: 02-22-2012
- E. Work Completion: 03-09-2012
- F. Billing: On 05-09-2012, owner billed \$10,264.30 to cover Abatement cost and City administrative costs.
- G. Non-Payment: As of 06-19-2013, the bill remained Outstanding.

IV. ACCOUNTING:

Abatement :	\$7,387.75
Administrative:	<u>2,876.55</u>
Total:	<u><u>\$10,264.30</u></u>



James Zicaro
Director of Building & Code Enforcement



03/08/2012 07:46

07





03/08/2012 07:47





City of Palm Springs

Office of the City Clerk

3200 E. Tahquitz Canyon Way • Palm Springs, CA 92262

Tel: (760) 323-8204 • Fax: (760) 322-8332 • TDD: (760) 864-9527 • Web: www.palmspringsca.gov

NOTICE OF PUBLIC HEARING

CITY COUNCIL
CITY OF PALM SPRINGS

PUBLIC NUISANCE ABATEMENT

Homer & Cynthia L. Rivera
688 South Mountain View Drive
APN: 680-055-006

NOTICE IS HEREBY GIVEN that the City Council of the City of Palm Springs, California, will hold a public hearing at its meeting on June 19, 2013. The City Council meeting will begin at 6:00 p.m., in the Council Chamber at City Hall, 3200 E. Tahquitz Canyon Way, Palm Springs.

The purpose of the hearing is to consider a special abatement lien to be placed on the individual property tax roll for monies owed to the City of Palm Springs in the amount of \$10,264.30.

Response to this notice may be made verbally at the public hearing and/or in writing before the hearing. Written comments may be made to the City Council by letter (mail or hand delivery) to:

Mr. James Thompson, City Clerk
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

If any individual or group challenges the action in court, issues raised may be limited to only those issues raised at the public hearing described in this notice or in written correspondence at or prior to the meeting. Notice of Public Hearing is being sent to the property owner of the subject property. An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to James Zicaro, Director of Building & Safety, 760-323-8242.

Si necesita ayuda con esta carta, por favor llame a la Ciudad de Palm Springs y puede hablar con Nadine Fieger (760) 322-8364 ext. 8758.


James Thompson
City Clerk

**CITY OF PALM SPRINGS
PUBLIC HEARING NOTIFICATION**



**CITY CLERK'S DEPARTMENT
James Thompson, City Clerk**

City Council
Meeting Date: June 19, 2013
Subject: PUBLIC NUISANCE ABATEMENT

AFFIDAVIT OF MAILING

I, Nadine T. Fieger, Code Compliance Officer, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was mailed to each and every person as listed below on May 8, 2013, in a sealed envelope, with postage prepaid, and depositing same in the U.S. Mail at Palm Springs, California.

(5 notices)

I declare under penalty of perjury that the foregoing is true and correct.


Nadine T. Fieger
Code Compliance Officer

Mailed to:

Homer & Cynthia L. Rivera, 688 South Mountain View Drive, Palm Springs CA 92264

Jason F. Murer, 2185 North Junipero Avenue, Palm Springs CA 92262

George Vance, PO Box 389, Rancho Mirage CA 92270

Hannah Harrow Sacks Trust, 211 South Spalding Drive, Beverly Hills CA 90212

Joan M. Archibald Davis, 16900 Enchanted Place, Pacific Palisades CA 90272



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NOTICE OF CONTINUANCE

NOTICE IS HEREBY GIVEN that the Meeting of June 19, 2013, Item No. 1.A.


**APPROVING AND FILING OF NUISANCE ABATEMENT LIEN FOR
PUBLIC NUISANCE LOCATED AT 688 SOUTH MOUNTAIN VIEW
DRIVE:**

The City Council of the City of Palm Springs continued the hearing to Wednesday, September 4, 2013, Council Chamber, 3200 E. Tahquitz Canyon Way, at 6:00 p.m., or as soon thereafter as possible.

AFFIDAVIT OF POSTING

State of California)
County of Riverside) ss.
City of Palm Springs)

I, James Thompson, City Clerk of the City of Palm Springs, California, certify this Notice of Continuance was posted at or before 6:00 p.m., June 20, 2013, as required by established policies and procedures.



James Thompson
City Clerk

Property Detail Report for:



688 S MOUNTAIN VIEW DR, PALM SPRINGS CA , 92264-1111

Owner Information:

Owner Name: **RIVERA, HOMER & CYNTHIA L**
 Mailing Address: **688 MOUNTAIN VIEW DR, PALM SPRINGS, CA, 92262-**
 Vesting Code: **JOINT TENANTS** Phone Number:

Location Information:

Legal Description: **LOT 12 BLK E MB 020/063 THE DESERT TR**
 County: **RIVERSIDE** FIPS Code: **06065** Census Trct/Blk: **044804 / 1**
 APN: **680-055-006** Alternative APN:
 Twship-Rnge-Sect: **--** Legal Book/Page: **680-05 /** Map Ref:
 Legal Lot: **12** Legal Block: **E** Tract No:
 Subdivison: **DESERT TRACT**

Last Market Sale Information:

Sale Date: **07/01/1996** Sale Price: **\$69,000** 1st Mtg Amount:
 Sale Doc No: **1996-0267537** Price Per SqFt: **\$40** 1st Mtg Int Type:
 Transfer Doc No: **267537** Price Per Acre: 2nd Mtg Amount:
 Multi/Split Sale: 1st Mtg Doc No: 2nd Mtg Int Type:
 Sale Type: **SALES PRICE COMPUTED FROM TRANSFER TAX**
 Deed Type:
 Title Company:
 Lender:
 Seller Name:

Property Characteristics:

Building Area: 1,720	Total Rooms:	Construction:
Living Area: 1,720	Bedrooms: 2	Heat Type: CENTRAL
Garage Area:	Baths: 2.0	Air Cond: CENTRAL
Basement Area:	Fireplace:	Roof Type:
Parking Type:	No of Stories: 1	Roof Material: GRAVEL/ROCK
Yr Built/Effective: 1958 /	Quality:	Style:
Pool Code:		

Tax and Value Information:

Assessed Value: \$89,451	Assessed Year: 2012	Est Market Val: \$158,500
Land Value: \$20,736	Property Tax: \$1,161	Assessor Appd Val:
Improvement Value: \$68,715	Improvement %: 76.82	
Total Taxable Value:	Tax Exemption: CA HOMEOWNER	

Site Information:

Assessor Acres:	Zoning:	Land Use: 163
Assessor Lot SqFt:	No of Buildings:	Land Use Desc: SFR
Assessor Lot W/D: /	Res/Comm Units: 1	County Use Code: R01
Calculated Acres: 0.2321	Sewer Type:	
Calculated Lot SqFt: 10,110	Water Type:	

Not in Fault Zone Hazard
In One Mile Industrial Commercial Zone
Not in 100yr. FEMA Flood Zone
Not in Dam Inundation Hazard
Not in Wildland Fire Hazard
Not in Severe Fire Hazard

Cindy Berardi

From: cravenslaw @dslextreme.com <cravenslaw@dslextreme.com>
Sent: Tuesday, June 18, 2013 4:58 PM
To: CityClerk
Subject: Homer Rivera APN 680-055-006 Special Abatement Lien Case CE130350

This E-mail is to let you know that I represent Homer Rivera in the above matter. Please note that Homer Rivera only has a life estate in the above parcel. He is divorced from Cynthia L. Rivera and she does not live at the property. When he dies, the property reverts back to her.

She has not been given proper notice in this matter. My client has no idea where she resides at this time. Please recess the matter until Ms. Rivera has been given proper notice.

Please also realize the Mr. Rivera survives on social security and a very small alimony payment from Ms. Rivera and can in no way pay this assessment. He also feels that the previous contractor that cleared his parcel contributed to the now problem.

Please let me know what followup is necessary.

--

Leonard Cravens, Esq.
Indio, CA
760-342-1810 (v)
760-418-8023 (f)