



City Council Staff Report

DATE: March 4, 2009 PUBLIC HEARING

SUBJECT: HEARING ON STATEMENT OF EXPENSES AND SPECIAL ASSESSMENT FOR NUISANCE ABATEMENT AT THE PROPERTY LOCATED AT 1507 EAST SAN JACINTO WAY

FROM: David H. Ready, City Manager

BY: Building and Safety Department

SUMMARY:

On September 17, 2008, the City Council conducted a public hearing and following the hearing found the property and residential building located at 1507 East San Jacinto Way to be a nuisance, a substandard building and, by passage of Resolution No. 22337, ordered the same to be repaired, abated or demolished pursuant to the City Council's authority under the California Health and Safety Code, California Code of Regulations, Uniform Housing Code and the Palm Springs Municipal Code. Pursuant to the City Council's direction in Resolution No. 22337, City staff is submitting the report of proceedings and accounting for all costs incurred by the City in obtaining the abatement of the nuisance and substandard conditions at the Property. By adopting the resolution the City Council will authorize City staff to process the filing of the resolution reports to allow for a special assessment to be placed on the property's tax rolls for monies owed to the City.

RECOMMENDATION:

1. Open the public hearing and receive public testimony.
2. Adopt RESOLUTION NO. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CONFIRMING THE REPORT OF PROCEEDINGS AND ACCOUNTING FOR THE PUBLIC NUISANCE ABATEMENT LIEN AND SPECIAL ASSESSMENT LOCATED AT 1507 EAST SAN JACINTO WAY."

BACKGROUND AND ANALYSIS:

On September 17, 2008, following a public hearing, the City Council unanimously passed Resolution No. 22337. This Resolution found the property located at 1507 East San Jacinto Way to be a nuisance and the residential building thereon to be a substandard building. Furthermore, the Resolution order the owner and/or any other interested person or legal entity to abate the nuisance and substandard conditions found on the Property within thirty days of posting a copy of the Resolution on the property.

On September 19, 2008, City staff posted a copy of the Resolution on the Property and also caused the same to be mailed to the property owner and various other individuals and legal entities whom are believed to have an interest in the Property. Pursuant to Section 66 of Title 25 of the California Code of Regulation and the Resolution, the City was deemed to have acquired jurisdiction over the Property if the nuisances and substandard conditions were not abated following the expiration of 30 days after posting a copy of the Resolution on the Property.

On October 21, 2008, City staff conducted an inspection of the Property and discovered all of the nuisances and substandard conditions to still be present on the Property. City staff then applied to the Riverside County Superior Court for the issuance of an Abatement Warrant to authorize the City to enter onto the Property and abate the nuisances and substandard conditions that existed thereon. The Honorable Dale R. Wells, Judge of the Superior Court, reviewed the City's application and all legal documents submitted in support thereof and issued Abatement Warrant number ISW7364 which directed the City and its contractors to enter into the Property and abate the nuisances and substandard conditions thereon following at least 24 hours notice of the issuance of the Abatement Warrant. That same afternoon, City staff posted a notice of issuance of the Abatement Warrant on the Property.

On and between October 23, 2008 and November 3, 2008, City staff and City contractors abated the nuisances and substandard conditions found to exist on the Property, including the complete demolition of the residential structure thereon.

On November 14, 2008, City staff filed with the Riverside County Superior Court the Return to Abatement Warrant number ISW7364.

Pursuant to Division 13, Part 1.5 of the Health and Safety Code, Title 4, Division 3, Part 2, Chapter 10, Article 6 of the Government Code and California Code of Regulations, Title 25, Chapter 1, Subchapter 1, of the State of California and pursuant to Title 11, Chapter 72 of the Palm Springs Municipal Code, the City is entitled to collect all costs and expenses, including attorneys' fees, incurred by the City in obtaining the abatement of the substance of the nuisances and substandard conditions found at the


Property. The approval of this resolution will place a special assessment against the Property and allow the City to collect its costs and expenses incurred.

FISCAL ANALYSIS:

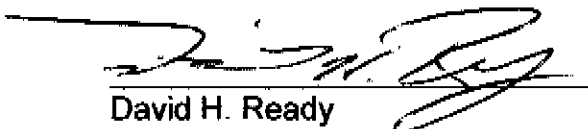
The City has already paid the bills incurred for this abatement. These bills include City Attorney fees, abatement contractor costs, and staff time. If recovered by special assessment liens through the tax rolls, \$ 40,600.65 can be returned to the General Fund.



Don Duckworth, Director of
Building & Safety



Thomas J. Wilson
Assistant City Manager



David H. Ready
City Manager

- Attachments: [Proposed] Resolution
[Proposed] Notice of Lien
Proceedings and Accounting Report for Public Nuisance Abatement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CONFIRMING THE REPORT OF PROCEEDINGS AND ACCOUNTING FOR THE PUBLIC NUISANCE ABATEMENT LIEN AND SPECIAL ASSESSMENT LOCATED AT 1507 EAST SAN JACINTO WAY.

WHEREAS, on September 17, 2008, the City Council of the City of Palm Springs unanimously approved Resolution No. 22337 which found public nuisances to exist on the property described as 1507 East San Jacinto Way, Palm Springs, California and ordered the owner or other interested party to abate the public nuisances within thirty days and if the public nuisances were not abated following the expiration of the thirty days, authorized City staff to abate the public nuisances existing on the property described as 1507 East San Jacinto Way, Palm Springs, California; and

WHEREAS, following the expiration of thirty days after notice was given to the owner and other interested parties concerning the City Council's order in Resolution No. 22337, the City of Palm Springs applied for and obtained an Abatement Warrant (Warrant No. ISW7364) from the Riverside County Superior Court on October 21, 2008 that was issued by the Honorable Dale R. Wells, Judge of the Superior Court; and

WHEREAS, on and between October 23, 2008 and November 3, 2008, the City of Palm Springs, through its City staff and City contractors, executed the Abatement Warrant on the property described as 1507 East San Jacinto Way, Palm Springs, California and thereby removed all public nuisances existing on said property; and

WHEREAS, said property is shown as Assessor's Parcel No. 507-246-004 on the County Assessor's map books (attached as Exhibit A); 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 and other interested parties has refused to comply; and

WHEREAS, pursuant to said code and Division 13, Part 1.5 of the Health and Safety Code, Title 4, Division 3, Part 2, Chapter 10, Article 6 of the Government Code and California Code of Regulations, Title 25, Chapter 1, Subchapter 1, of the State of California, the City there upon abated the public nuisance located on the property described above.

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

SECTION 1. That the City Council hereby approves the report of Proceedings and Accounting (Attached as Exhibit B) of the costs in the total amount of \$ 40,600.65.

SECTION 2. That a special assessment lien in the amount of \$40,600.65 is hereby imposed upon the property herein above described.

SECTION 3. That a certified copy of this Resolution together with a certified copy of the Notice of Lien and the report be filed with the Riverside County Auditor-Controller's office.

SECTION 4. That the Riverside County Auditor-Controller is respectfully requested to enter the amount of the assessment on the County Tax Roll opposite the parcel of land referred to, and that thereafter said amount shall be collected at the same time and in the same manner as ordinary municipal taxes.

SECTION 5. That a certified copy of this Resolution together with a certified copy of the Notice of Lien and the report shall be recorded with the Riverside County Recorder's office.

ADOPTED this ____ day of _____, 2009.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

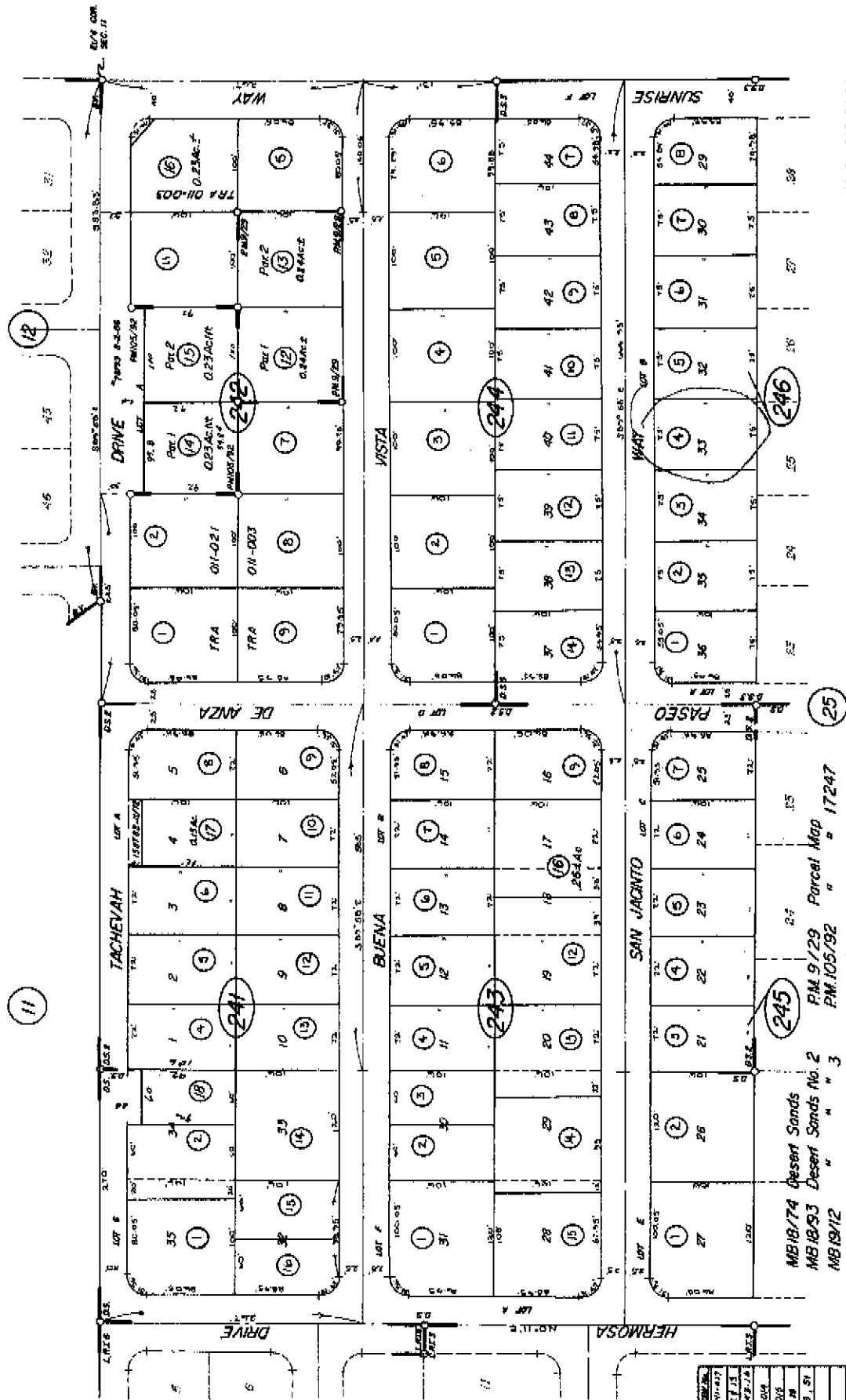
CERTIFICATION

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 the ____ day of _____, 2009, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California



DATE	OLD NO.	NEW NO.	REMARKS
1/11/74	100-003	100-003	
1/11/74	100-003	100-003	
1/11/74	100-003	100-003	
1/11/74	100-003	100-003	
1/11/74	100-003	100-003	
1/11/74	100-003	100-003	
1/11/74	100-003	100-003	
1/11/74	100-003	100-003	
1/11/74	100-003	100-003	
1/11/74	100-003	100-003	
1/11/74	100-003	100-003	

MB 18/74 Desert Sands
 MB 18/93 Desert Sands No. 2
 MB 18/12 " " " 3

PM 9/29 Parcel Map
 PM 10/5/92 " 17247

NOV 1968

ASSESSORS MAP BK 507 PG. 24
RIVERSIDE COUNTY, CALIF.

PROCEEDINGS AND ACCOUNTING REPORT

PUBLIC NUISANCE ABATEMENT

I LOCATION/LEGAL: LOT 33 of DESERT SANDS NO.3, IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 19 PAGES 12 OF MAPS, RIVERSIDE COUNTY, CALIFORNIA

Assessor's Parcel Number: 507-246-004

Address: 1507 East San Jacinto Way, Palm Springs, California

II OWNER OF RECORD: Alejo Rodriguez
1507 East San Jacinto Way
Palm Springs, CA 92262

Note: The property is currently subject to foreclosure proceedings. As such, the City has mailed all notices to 14 separate individuals and legal entities that may have a legal interest in the property. Additionally, all notices have been posted on the property.

III PROCEDURE:

A. Public Nuisance Posting: 8/23/07, 8/1/08, 9/19/08, 10/21/08
B. Non-Compliance: 8/23/2007 through 11/3/2008
C. Bid Solicitation: 6/26/2008, 10/22/2008
D. Obtain Abatement Warrant: 10/21/2008
E. Abatement Work Complete: 11/3/2008
F. Notice of Special Assessment: 02/17/2009

IV: ACCOUNTING:

Abatement: \$ 17,035.00
Administrative: \$ 4,071.42
City Attorney: \$ 19,494.23
Total: \$ 40,600.65


DON DUCKWORTH, CBO
Director of Building & Safety

PLEASE COMPLETE THIS INFORMATION

RECORDING REQUESTED BY:

City of Palm Springs

AND WHEN RECORDED MAIL TO:

NAME: City of Palm Springs

ATTN: CITY CLERK

ADDRESS: P.O. Box 2743

Palm Springs, CA 92263

THIS SPACE FOR RECORDER'S USE ONLY

NOTICE OF LIEN

Pursuant to the authority vested in the undersigned by Division 13, Part 1.5 of the Health and Safety Code, Title 4, Division 3, Part 2, Chapter 10, Article 6 of the Government Code and California Code of Regulations, Title 25, Chapter 1, Subchapter 1, of the State of California, the undersigned did on and between the 23rd day of October, 2008 and the 3rd day of November, 2008, cause a nuisance to be abated on the real property hereinafter described; and the undersigned did on the 4th day of March, 2009, by action duly recorded in its official minutes as of that date, assess the cost of abatement, and the same has not been paid nor any part thereof; and the City of Palm Springs does hereby claim a lien on the real property for the net expense of the doing of the work in the sum of \$ 40,600.65, and the same shall be a lien upon the real property until the sum, with interest at the rate of 6 percent per annum, from the 4th day of March, 2009 has been paid in full and discharged of record. This lien shall, for all purposes, be upon parity with the lien of State, county, and municipal taxes. The real property hereinbefore mentioned, upon which a lien is claimed, is that certain piece or parcel of land lying and being in the City of Palm Springs, County of Riverside, State of California, and particularly described as follows: 1507 East San Jacinto Way, Palm Springs, California, Assessor's Parcel Number 507-246-004.

DATED: MARCH 4, 2009

CITY OF PALM SPRINGS

ATTEST:

BY: _____

DON DUCKWORTH, CBO
Director of Building and Safety
City of Palm Springs, California

JAMES THOMPSON
City Clerk
City of Palm Springs, California

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

AFFIDAVIT OF MAILING
NOTICE OF ASSESSMENT

I, the undersigned, declare as follows:

1. I am employed by the City of Palm Springs as a Department Secretary for the office of the City Clerk.
2. On February 17, 2009, I served, postage prepaid, via (1) first-class mail and (2) certified mail, return receipt requested, a full, true and correct copy of City of Palm Springs Notice of Assessment for the property located at 1507 San Jacinto, Palm Springs by placing a full, true and correct copy thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.
3. I placed said envelopes for collection and mailing, following ordinary business practices, at the business offices of the City of Palm Springs, and addressed as shown on the attached service list, for deposit in the United States Postal Service. I am readily familiar with the practice of the City of Palm Springs for collection and processing correspondence for mailing with the United States Postal Service, and said envelopes will be deposited with the United States Postal Service on said date in the ordinary course of business.
4. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 17th day of February, 2009 at Palm Springs, California.



DOLORES STRICKSTEIN
Department Secretary for the Office of the City Clerk
City of Palm Springs

MAILING LIST

1. BNC Mortgage, Inc.
c/o Corporation Service Company which will do business in California as CSC –
Lawyers Incorporating Service (Agent for service)
PO Box 526036
Sacramento, CA 95852
2. First American Loanstar Trustee Services
A subsidiary of First American Title Insurance Company
c/o Timothy P Sullivan (Agent for service)
1 Forest American Way
Santa Ana, CA 92707
3. Mortgage Electronic Registration System, Inc. (MERS)
c/o Al Seastrand (Agent for service)
2216 16th Street
Sacramento, CA 95818
4. Commonwealth Land Title Company
c/o Steven F. Bauer (Agent for service)
55 S. Lake Ave. Suite 600
Pasadena, CA 91101
5. Lehman Brothers Bank, FSB
P.O. Box 19656
Irvine, CA 92623-9656
6. Robert Thomas
7074 Ohio River
Mira Loma, CA 91752
7. U.S. Bank National Association, as Trustee for
Structured Asset Investment Loan Trust, 2006-BNC3
c/o Ms. Jeanne M. Escobedo, Agent for Service
60 Livingston Avenue
EP-MN-W540
St. Paul, MN 55107
8. Alejo Rodriguez
13608 Parise Drive
La Mirada, CA 90638
9. Alejo Rodriguez
c/o Joey Flournoy
23864 Continental Drive
Canyon Lake, CA 92587

10. Joey Flournoy
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Canyon Lake, CA 92587
11. Wells Fargo Bank, National Association
c/o Corporation Service Company (Agent for service)
P.O. Box 526036
Sacramento, CA 95852
12. Structured Asset Securities Corporation
c/o The Prentice-Hall Corporation System, Inc. (Registered Agent)
2711 Centerville Road, Suite 400
Wilmington, DE 19808
13. Wells Fargo Home Mortgage
Property Preservation – Violations Department
1 Home Campus
MAC X2303-03B
Des Moines, IA 50328
14. Melissa Wilson
Property Preservation – Violations
Wells Fargo Home Mortgage
1 Home Campus
MAC X2303-03B
Des Moines, IA 50328
15. Address Unknown
Alejo Rodriguez
County Administrative Center
4080 Lemon Street
Riverside, CA 92501
16. Matthew L. Koons, Operations Processor
Wells Fargo Home Mortgage
1 Home Campus
MAC #2303-048
Des Moines, IA 50328



City of Palm Springs

Office of the City Clerk

3200 E. Tahquitz Canyon Way • Palm Springs, California 92262
Tel: (760) 323-8204 • Fax: (760) 322-8332 • Web: www.palmsprings-ca.gov

NOTICE OF HEARING ON SPECIAL ASSESSMENT FOR NUISANCE ABATEMENT

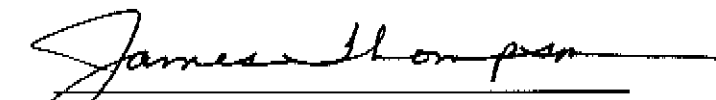
The owner of the property situated at 1507 East San Jacinto Way, Palm Springs, California, described as Assessor Parcel Number 507-246-004, and any other person or legal entity having interest in the property hereinbefore mentioned, is hereby notified to appear before the City Council of the City of Palm Springs at its meeting to be held Wednesday, March 4, 2009, at City Hall, Council Chamber, 3200 East Tahquitz Canyon Way, Palm Springs, California at the hour of 6:00 p.m., or as soon thereafter as the owner or any other interested party may be heard to consider whether a special assessment shall be assessed against said property for the nuisance abatement activities conducted by the City of Palm Springs to abate the public nuisances which existed on said property.

The proposed amount for the special assessment is \$40,600.65. During the hearing, the City Council for the City of Palm Springs will consider any objections or protests to this proposed special assessment. Please note that should the special assessment be confirmed against the property hereinbefore mentioned, the property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure to receive this notice. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

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 (mail or hand delivery) to:

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

This 17th day of February, 2009.


James Thompson, City Clerk
City of Palm Springs, California

PROCEEDINGS AND ACCOUNTING REPORT

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