

**Statement of Decision by the San Mateo City Council in the matter of the Property Owner Appeal of the
Notice to Pay Relocation Benefits
(330 Villa Terrace)**

Section 1. Introduction

San Mateo Municipal Code (SMMC) Section 7.50.030(a) requires property owners to pay for the relocation of their tenants when the tenants are displaced by City code enforcement activities in response to substandard housing conditions. SMMC Section 7.50.030(b) specifies instances where tenants are not considered displaced due to code enforcement activities, such as where the property owner immediately offers in writing to move the tenant into a replacement dwelling in the same building or complex, provided that additional conditions are met. SMMC Section 7.50.100 provides that property owners may contest a decision regarding relocation payments by appealing to the City Council.

In this case, City Code Enforcement staff received a complaint of a raw sewage leak at 330 Villa Terrace, Unit A (the Property) and observed multiple substandard conditions. The City then issued a notice declaring these conditions to be substandard, ordered the Property to be vacated, and ordered Terry Michaud and Kim Lucia, through their trust (the Property Owner) to pay Martha O'Brien (the Tenant) specified relocation benefits. The Property Owner appealed and, after conducting a hearing on the matter, the City Council denied the appeal and directed the City Attorney to return to the Council with a Statement of Decision for formal adoption.

SMMC Section 7.50.100(c)(1) requires, in relevant part, that "the City Council shall issue a written decision to uphold or cancel all or part of the decision, order, or determination regarding relocation benefits... and shall state the reasons for that decision," and that "[t]he decision of the City Council shall include findings regarding the evidence in the record and submitted at the hearing, as well as the existence of any proper grounds for the order to pay relocation benefits or the notice of penalty or fine." This statement of decision is issued pursuant to these requirements.

Section 2. Applicable Law

SMMC Section 7.50.030 provides, in relevant part, as follows:

- a) A tenant household shall be eligible for relocation payments from a property owner under this chapter if the tenant household is displaced from its dwelling or room due to the City's code enforcement activities. For purposes of this chapter, a tenant household shall be deemed to be displaced from its dwelling or room due to code enforcement activities in either of the following circumstances:
 - 1. The tenant household vacates its dwelling or room (whether or not the property owner requires vacation) after (a) the City or a court has issued a notice to vacate, notice to abate life-threatening condition, or declaration of substandard condition covering that dwelling or room, and (b) the abatement period has expired without correction of the noncomplying condition (if a time period to abate the noncomplying condition is specified in such notice or declaration and the City or court does not order earlier vacation).
- b) Notwithstanding subsection (a) above, a tenant household shall not be deemed displaced due to code enforcement activities in any of the following cases:
 - 1. The property owner offers, in writing, to move the tenant household immediately into a replacement dwelling or room in the same building or complex, and all of the following are true: (a) the replacement dwelling or room comparable in size, condition and amenities to the formerly occupied dwelling or room; (b) the replacement dwelling or room complies with all

applicable zoning, building and housing codes; (c) the replacement rent is no greater than the rent charged for the formerly occupied dwelling or room; and (d) the offer was made prior to the time the tenant household has taken definitive steps to move; ...

SMMC Section 7.50.020 provides as follows:

"Permanent displacement" means the vacating of a dwelling or room by a tenant household due to code enforcement activities when that dwelling or room (or an equivalent dwelling or room in the building or complex), in the judgment of the Enforcement Officer, cannot foreseeably be brought into code compliance or will not otherwise be available for re-occupancy by the tenant household within ninety (90) days from the date of vacating; or when the tenant household and the property owner have agreed that the displacement shall be permanent.

"Tenant household" means one or more individuals who rent or lease a dwelling or room as their primary residence and who share living expenses.

Section 3. Evidence Presented

At the hearing on this matter, City staff presented documentary evidence and testimony to establish the following:

- a) On January 27, 2022, Code Enforcement staff received a complaint of a raw sewage leak outside of the Property. Code Enforcement Officer II (CEO) Kristen Aiu immediately responded to the site to inspect the exterior and interior of the structure. During the inspection, CEO Aiu observed the following conditions:
 1. The interior of the storage structure had been converted to habitable space without City approval. The alterations included the addition of a bathroom and kitchen with plumbing, mechanical, and electrical improvements.
 2. The electrical system was determined to be an immediate hazard due to hazardous wiring in the main electrical box. This required immediate repair by a licensed electrician and the work has been completed with a permit.
 3. Interior walls were deteriorated especially in the bathroom where moisture had caused mold, rot, and decay of the floor and walls.
 4. There were no working smoke detectors or carbon monoxide alarms.
 5. The interior ceiling was damaged and sagging in various places due to water intrusion from the leaking roof.
 6. The exterior of the structure was severely dilapidated and contained dry rot sewage residue around the sewer clean out.
- b) Due to the immediate hazardous conditions of the electrical panel, the Property Owner hired a licensed electrician to make repairs. A permit was obtained from the City and that work was finalized on February 28, 2022.
- c) CEO Aiu researched City and San Mateo County property records and discovered that the Property is not a legal dwelling unit, and that compliance with the established development review and permitting process was necessary in order to have a third dwelling unit on the property (in addition to the primary home and another dwelling unit).

- d) CEO Aiu determined that the Property could not foreseeably be brought into code compliance within 90 days from the date of an order to vacate. Therefore, the Tenant would be considered permanently displaced due to the substandard living conditions and would be eligible for relocation benefits.
 - 1. On February 14, 2022, a notice was issued to the Property Owner declaring the substandard conditions and ordering the Property to be vacated by no later than February 28, 2022. Included in that notice, pursuant to SMMC Section 7.50.090(a), was an order to the Property Owner to pay the Tenant for permanent relocation in the following amounts:
 - 2. The HUD rate for a one-bedroom unit in San Mateo County (\$2,923) x 3 = \$8,769 (these amounts were modified at the hearing, as noted below).
 - 3. Actual moving costs and related expenses not to exceed \$1,000 to be paid within 60 days of receipt of expenses.
 - 4. An immediate vacation allowance in the amount of \$1,000 because the Tenant received fewer than 30 days advanced notice before being displaced pursuant to SMMC section 7.50.090(d).
- e) The Property is a one-bedroom unit, with interior walls separating the bedroom from the living area.
- f) The Property Owner offered a replacement dwelling to the Tenant, but the dwelling was located in Redwood City and not “in the same building or complex” as the vacated unit. Thus, the offer did not qualify for the exception to pay relocation benefits in SMMC Section 7.50.030(b)(6).

Section 4. Defenses Asserted

At the hearing on this matter, the Property Owner and their counsel argued that they were not required to pay the relocation costs charged on the following grounds:

- a) The Tenant was offered a comparable unit in Redwood City.
- b) The Property was an efficiency unit and not a one-bedroom unit, therefore the HUD rate for an efficiency unit would apply, in the event the City Council determined that the Property Owner’s offer of a comparable unit in Redwood City did not qualify under SMMC Section 7.50.030(b)(6).
- c) The Property Owner was paying taxes on the Property.
- d) The Property Owner and their counsel provided listings of other one-bedroom listings in San Mateo leased below the HUD rate for a one-bedroom unit and asserted these were a better measure for a comparable unit.

Section 5. Findings of Fact

Based upon the evidence presented at the hearing on this matter, the City Council makes the following findings of fact:

- a) On January 27, 2022, Code Enforcement staff received a complaint of a raw sewage leak outside of the Property. Code Enforcement Officer II (CEO) Kristen Aiu immediately responded to the site to inspect the exterior and interior of the structure. During the inspection, CEO Aiu observed the following conditions:
 - 1. The interior of the storage structure had been converted to habitable space without City approval. The alterations included the addition of a bathroom and kitchen with plumbing, mechanical, and electrical improvements.

2. The electrical system was determined to be an immediate hazard due to hazardous wiring in the main electrical box. This required immediate repair by a licensed electrician and the work has been completed with a permit.
 3. Interior walls were deteriorated especially in the bathroom where moisture had caused mold, rot, and decay of the floor and walls.
 4. There were no working smoke detectors or carbon monoxide alarms.
 5. The interior ceiling was damaged and sagging in various places due to water intrusion from the leaking roof.
 6. The exterior of the structure was severely dilapidated and contained dry rot sewage residue around the sewer clean out.
- b) Due to the immediate hazardous conditions of the electrical panel, the Property Owner hired a licensed electrician to make repairs. A permit was obtained from the City and that work was finalized on February 28, 2022.
 - c) CEO Aiu researched City and San Mateo County property records and discovered that the Property is not a legal dwelling unit, and that compliance with the established development review and permitting process was necessary in order to have a third dwelling unit on the property (in addition to the primary home and another dwelling unit).
 - d) CEO Aiu determined that the Property could not foreseeably be brought into code compliance within 90 days from the date of an order to vacate. Therefore, the Tenant would be considered permanently displaced due to the substandard living conditions and would be eligible for relocation benefits.
 - e) On February 14, 2022, a notice was issued to the Property Owner declaring the substandard conditions and ordering the Property to be vacated by no later than February 28, 2022. Included in that notice, pursuant to SMMC Section 7.50.090(a), was an order to the Property Owner to pay the tenant for permanent relocation in the following amounts:
 1. The HUD rate for a one-bedroom unit in San Mateo County $(\$2,923) \times 3 = \$8,769$.
 2. Actual moving costs and related expenses not to exceed \$1,000 to be paid within 60 days of receipt of expenses.
 3. An immediate vacation allowance in the amount of \$1,000 because the tenant received fewer than 30 days advanced notice before being displaced pursuant to SMMC section 7.50.090(d).
 - f) At the City Council hearing, CEO Aiu clarified that the HUD rate for a one-bedroom unit was \$2,631, and not \$2,923 as stated in the notice to the Property Owner. CEO Aiu also explained that the Property was in fact a one-bedroom unit and not an efficiency unit as claimed by the Property Owner, because a wall separated the bedroom from the living area. Accordingly, the appropriate amounts the Property Owner must pay are as follows:
 1. (The HUD rate for a one-bedroom unit for three months) + (immediate vacation allowance):

$$(\$2,631 \times 3 \text{ months}) + (\$1,000) = \$8,893.$$
 2. In addition, the Property Owner is required to pay up to \$1,000 in actual moving costs and

reasonable expenses incurred by the Tenant as substantiated by reasonable probative documentation.

- g) The HUD rate is the correct measure for a one-bedroom unit pursuant to SMMC Section 7.50.090(a).
- h) Payment of taxes on the Property by the Property Owner is irrelevant to the substandard condition of the property, the Property Owner's obligation to maintain the Property in accordance with all applicable laws and regulations, and the Property Owner's obligation to make specified payments pursuant to SMMC Chapter 7.50.
- i) The Property Owner offered a replacement dwelling to the tenant, but the dwelling was located in Redwood City and not "in the same building or complex" as the vacated unit. Thus, the offer did not qualify for the exception to pay relocation benefits in SMMC Section 7.50.030(b)(6).

Section 6. Conclusion

Based upon the findings above, the City Council denies the appeal of the Property Owner and affirms the notice ordering the Property Owner to pay the sum of \$8,893 for relocation expenses inclusive of an immediate vacation allowance. The Property Owner is also ordered to pay up to an additional \$1,000 for actual moving costs and reasonable expenses incurred by the Tenant as substantiated by reasonable probative documentation.

Section 7.

The Property Owner (Terry Michaud and Kim Lucia, through their trust), as the appellant, is informed that the time within which judicial review of this decision may be sought is governed by Section 1094.6 of the California Code of Civil Procedure.

Rick Bonilla, Mayor

Date