



CITY OF SAN MATEO

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Agenda Report

Agenda Number: {{item.number}}

Section Name: {{section.name}}

File ID: {{item.tracking_number}}

TO: City Council

FROM: Drew Corbett, City Manager

PREPARED BY: Community Development Department

MEETING DATE: July 20, 2020

SUBJECT:
718 Tilton Avenue – Property Owner Appeal of Relocation Benefits

RECOMMENDATION:

Deny the appeal and uphold the notice to pay relocation benefits to tenants who resided at 718 Tilton Avenue, due to life-threatening and substandard living conditions pursuant to San Mateo Municipal Code Chapter 7.50 “Property Owner Obligations with Respect to Tenants Displaced from Unsafe or Substandard Units”.

BACKGROUND:

History:

The subject property is currently developed with a single-family dwelling, detached garage and two accessory structures. San Mateo County records show that the primary residence and detached garage were built in 1902; the residence is an approximately 900 square foot, three-bedroom, one-bathroom dwelling with a below-grade basement. County records show that the property was purchased by the current owner on December 30, 1985. City records show that between 2009 and the current incident, the Code Enforcement Division has received five complaints of improper occupation of the detached garage, the below grade basement, and accessory structures. Each of these complaints were investigated and confirmed. Records show that as part of those investigations the property owner was contacted and informed verbally and in written notice that habitation of the basement, garage, and sheds is not allowed. In 2013, the property owner was required to obtain a permit to remove unpermitted partition walls that had been erected in the basement to create bedrooms.

On June 6, 2020, San Mateo Consolidated Fire Department (SMCFD) staff responded to a call from a person at a single-family residence at 718 Tilton Ave. due to an electrical outlet inside of the residence actively sparking and producing an odor of burning. Fire crews mitigated the emergency but found evidence of multiple substandard living conditions at the property and requested the assistance of City of San Mateo Building and Code Enforcement Divisions. A joint investigation by Fire Investigator Michael Zambrana, Code Enforcement Manager Christine Civiletti, and Building Inspector Allen Elkins, on the same day revealed that the property was being used by 11 separate households and the condition of the spaces used for habitation were life threatening due to electrical hazards. The conditions were such that the immediate removal of all people and electrical and gas services from the property was necessary. In addition to the immediate electrical hazard, there were substandard living conditions due to lack of required emergency egress, heat, cooking and sanitation facilities, hot or cold running water, and natural light and ventilation.

At the joint inspection, staff observed that the interior of the residential structure had been altered by reconstructing the unpermitted basement walls and erecting new unpermitted walls creating one additional bedroom in the house, modifying it from the permitted floor plan of three bedrooms into four bedrooms. The residence and basement were each being rented by four individual households with multiple occupants in each room.

The below grade basement is accessed at the rear of the dwelling through a hatch door leading to concrete steps down into the basement. The basement is unimproved with concrete floors. There was no required emergency egress, heat, cooking or sanitation facilities, hot or cold running water, natural light and ventilation, all of which are required for human habitation. Staff observed unpermitted makeshift walls that have been erected in the basement serving as partitions creating four separate living spaces. In the basement there were many extension cords that were used to provide electricity to each of the living spaces in addition to exposed electrical wiring and open junction boxes. Fuel-burning appliances (water heater and furnace) that service the residence, were located in one of the spaces occupied by two adults and two small children. There were no separation or safety mitigation measures in place to protect against the hazards posed by the fuel-burning appliances.

There was also a detached garage used a living space that was occupied by three adults and one child. This garage had no heat, cooking and sanitation facilities, or hot and cold running water, which are required for human habitation.

Two accessory structures, used as two additional living spaces, were located within the rear yard. Each structure was occupied by two people, one adult and one child in each. There was no required emergency egress, heat, cooking and sanitation facilities, hot or cold running water, or natural light and ventilation, which are required for human habitation. On the exterior of each structure were electrical extension cords that ran from the basement under main house to provide electricity to the structures.

San Mateo Municipal Code:

San Mateo Municipal Code (SMMC) section 7.14, Property Maintenance and California Health and Safety Code Regulation of Buildings Used for Human Habitation 17920, authorizes the City to order that structures on the properties be vacated immediately. Pursuant to SMMC 7.50, Property Owner Obligations with Respect to Tenants Displaced from Unsafe or Substandard Units, the property owner is required to provide relocation costs to the tenant households.

City Response:

Base on the hazardous and substandard conditions observed at the property, City staff determined that electric and gas services needed to be immediately removed until the conditions can be made safe. Each structure and space that was being used for habitation was posted and vacated immediately. City staff required the property owner to provide temporary housing for the tenants at a location within the City of San Mateo. Three of the 11 households were amenable to the temporary relocation, while the rest chose to stay with family or friends. Pursuant to SMMC 7.50.090, in the Notice to Abate (ATT-4), the property owner was ordered to immediately pay \$7,591 to each tenant that was residing in the noncomplying dwellings (basement, shed, and detached garage) and additional reimbursement for actual moving costs and related expenses not to exceed \$1,000 within 60 days.

Appeal:

The property owner has appealed the notice requiring the payment of relocation costs to the tenants. The property owner states that the occupants were not tenants but were trespassing on the property. The property owner claims the tenants did not have permission to be at the property and that the property owner had no knowledge of the living conditions that were occurring on their property.

Analysis:

During the June 6th incident the property owner, Shiu Narian (S. Narian), and his adult son, Praveen Nirian (P.Narian), met with City staff at the property. S. Narian first stated to Code Enforcement Manager Civiletti that he was not aware of the tenants living in the accessory structures or the basement at his property and that according to the lease only Nidia Lanton (Nidia) and her family were supposed to be living in the house. S. Narian also said that his son helped him take care of the property and conducted monthly interior and exterior inspections. Both Mr. Narians later acknowledged they knew Nidia did not reside at the property. P. Narian stated that he had been to the property in January and told the occupants they had to leave because the property was going to be sold. S. Narian advised Civiletti that he had verbally instructed Nidia in January that she must remove the occupants from the property. S. Nirian was asked why he had not followed through with the evictions in January, but he did not provide an explanation. He stated he was now waiting until after the current COVID-19 emergency to evict the tenants. P. Nirian later stated that he had discovered the current living conditions

sometime in November or December 2019. P. Narian stated that he had sent a written eviction notice to Nidia immediately after he had observed the living conditions but could not produce a copy of the notice. P. Narian also spoke with Fire Investigator Michael Zambrana and told him that he had observed people living in accessory structures and the basement in November or December 2019 and that he visits the property monthly (ATT-1). Further, tenants reported paying monthly rent of \$800 per space for the basement (four spaces), \$1,200 per room inside of the dwelling (four rooms), and \$1,800 for the detached garage. One accessory structure tenant paid \$600, while the tenant of the second accessory structure paid \$700. Staff believes the amount of monthly rent collected from the tenants was over \$11,000.

Based on the history of similar property violations and documented communications between the property owner and Code Enforcement Staff, the property owner was aware that habitation of accessory structures and the below grade basement were unsafe living conditions and unlawful. Moreover, the property owner has knowingly disregarded other safety requirements such as constructing and reconstructing the basement walls and allowing these unsafe conditions to repeat multiple times from 2009-2020. Based on the conversations with S. Narian, P. Narian, and the master tenant Nidia Lanton, it is clear that the property was being used to house at least 11 different households (17 adults & 5 children) in conditions deemed by SMMC 7.14 & California Health and Safety Code 17920 to be unfit for human habitation. The Code states when a structure or equipment is found by the code official to be unsafe for human occupancy, such structure shall be condemned. Therefore on June 6, 2020, all of the structures on the property were posted and ordered to be vacated until such time that they are made safe.

Conclusion:

The property owner, by their own admission, has known about the unsafe conditions since December of 2019. These conditions were allowed to continue for six months until City staff vacated the property on June 6, 2020. Therefore, staff believes the property owner is responsible to pay the required relocation benefits to the tenants as outlined in the Notice of Life Threatening and Substandard Conditions.

BUDGET IMPACT:

There is no budget impact related to this report. If Council finds that City funds should be used to provide relocation benefits to the tenants, the money would be allocated from the Emergency Relocation Assistance Fund that was established to advance tenant assistance in urgent situations and then billed to the property owner.

ENVIRONMENTAL DETERMINATION:

This appeal is not a project subject to CEQA, because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. (CEQA Guidelines Section 15378(b)(5).)

NOTICE PROVIDED

All meeting noticing requirements were met.

ATTACHMENTS

Att 1 - Fire Investigation Report
Att 2 - Field Observation Building
Att 3 - Code Enforcement Case Notes
Att 4 - Notice to Abate
Att 5 - Site Photos
Att 6 - Potential Witnesses
Att 7 - Property Owner Appeal
Att 8 - Tenant payments and space rented
Att 9 - Property owners appeal

STAFF CONTACT

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