



MEMORANDUM

DATE: December 1, 2009

TO: Laura Brynwood
Deputy City Attorney

FROM: Thomas R. McMahon
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Attorney

SUBJECT: Landlord Accountability Initiative

In reviewing the process that eventually lead to an Agreed Order to vacate and not reoccupy the property at 2614 N. Balboa several things were noted. The Landlord Accountability Initiative group discussed our processes and this case.

First, it should be noted that 2614 N. Balboa was vacated prior to the agreed date and is now listed for sale. (See link below)

http://www.azmoves.com/Property/PropertyDetails.aspx?PropertyID=584272&WT.MC_ID=40231000000000

In reviewing our experience with 2614 N. Balboa, it was noted that this was the first case referred to the group where a complaint was filed by the City Attorney's Office. There was a general recognition that, as with any new process, there was a 'learning curve'. There was time devoted to establishing the necessary process and pleadings. Processes we developed will serve as a model and template for any future suits. This will make the process more efficient and less time consuming.

The group stressed that 'confrontational meetings' should be scheduled as early as possible and include all responsible City Departments, property owners and managers. In the 2614 N. Balboa case the first confrontational meeting was with a property manager/co-investor. The record owner declined to attend. The property manager/investor later transferred all ownership in the property to the record owner, Mr. Gualtieri, and withdrew from the process. The confrontational process was then re-established with Mr. Gualtieri. This demonstrates the need to establish all possible parties of interest and involve them at initial contact or as soon as practical.

The importance of serving Notices of Violation (NOV) as quickly as possible and the importance of limiting any continuances for compliance except where justified by special circumstances was also noted. Maintaining periodic inspections and visits by TPD during any compliance period is viewed as essential.

Community groups, such as the Neighborhood Support Network, were recognized as an asset in publicizing enforcement efforts, voluntary landlord compliance and pending litigation to encourage overall landlord compliance.

In the case of 2614 N. Balboa, the property owner made some changes and improvements to the property, although ultimately not sufficient. During this period of time a suit was not filed. Property owner's voluntary abatement is recognized as the most desirable outcome. While remediation is occurring a suit will not be filed, except in the most extreme cases where evidence supports an immediate danger to the tenants/community notwithstanding abatement efforts.

Members of the Landlord Accountability Initiative wish to reinforce those principals believed to be essential to an effective protocol:

- a. Identify and work with a limited sample of the current "worst of the worst" properties to effect change where most needed.
- b. 'Worst of the Worst' properties are to be determined based on criminal activity in conjunction with code violations.
- c. Encourage voluntary landlord cooperation through notice(s) of violation, notice of nuisance condition and a 'confrontational meeting'.
- d. Compliance deadlines should be individually established for each property and reflect prompt abatement or enforcement action.
- e. Gather supporting evidence for litigation as was done regarding 2614 N. Balboa. Offer this methodology to assist TPD teams making an initial referral to the Landlord Accountability Initiative group.
- f. Foster the inter-relationship and responsibilities of Code Enforcement Departments, Planning and Developmental Services, the Police Department, City Attorney's Office and Ward offices in reviewing and processing cases.
- g. Recognize that, although a law suit resulted in a successful resolution of the 2614 N. Balboa case through an agreed order, litigation never assures a "win". This is particularly true with a relatively untested remedy, requesting extraordinary relief such as a temporary restraining order. Furthermore, consider that bringing a case where proof is minimal could result in precedential decisions limiting the future use of statutory relief.
- h. Stress Crime Free Multi-Housing participation and lease addendums so that landlords can be held accountable for utilizing eviction to remove tenants responsible for criminal activity in appropriate cases.

The City's experience with 2614 N. Balboa served a valuable purpose in evaluating the processes used by the Landlord Accountability Initiative group. This experience will inform decisions about similar properties in the future and increase efficiency in bringing cases to court. However, any review of the initiative should not be limited to 2614 N. Balboa. Other cases referred to the group have resulted in the voluntary cooperation of landlords, reduction of police call rates and better quality of life for the community at large. A cost/benefit analysis of these cases indicates that favorable results can sometimes be achieved without excessive resources being expended by the City.

TRM/tl