



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: CONSIDER RESIDENT MANAGER/PROPERTY MAINTENANCE ORDINANCE FORMATS

MEETING DATE: JULY 17, 1991

PREPARED BY: CITY ATTORNEY

RECOMMENDED ACTION: Council consideration and direction re Resident Manager/Property Maintenance Ordinance Formats.

BACKGROUND INFORMATION: Last month, a question was raised during a City Council meeting as to possible approaches to deal with the deterioration of some housing in the City and the associated problems such as crime, drugs, etc. Although the discussion primarily involved multiple family housing on the east side, the problems are also found elsewhere in the City and any attempt to address the situation should probably be done on a City-wide basis. The specific point discussed was the possibility of requiring resident managers for apartment buildings containing more than (for example) eight units.

I was unable to locate any other municipal ordinance requiring a resident manager for apartment buildings. Research also failed to locate any case law on point. However, I believe it may be possible to do so, although the cost to property owners may be substantial.

I have received calls from concerned parties who were of the position that it would not be financially practical to require a resident manager for smaller apartment buildings. A less costly alternative might be to simply require that apartment buildings or other multiple family dwellings be registered with the City and that the City be provided with a name, address and phone number of a locally-available responsible party who could respond in emergencies. This would not necessarily require a resident manager. It would also address concerns expressed by Water/Wastewater Superintendent Fran Forkas (see Attachment A) concerning persons to contact in situations such as broken water mains, overflowing sewers, etc.

As the Council will recall, the City is required under the new General Plan to adopt a "property maintenance" ordinance. Since we are obligated to do so, it may be desirable at this time to also deal with the resident manager issue as part of this property maintenance ordinance.

APPROVED: _____

THOMAS A. PETERSON
City Manager

REC'D paper

After consultation with the League of California Cities and Valley City Attorneys Association, several ordinances from other cities were examined. A comparison of these may be helpful.

For example, the City of Azusa a few years ago adopted a comprehensive three-part ordinance to deal with property maintenance and related problems. This ordinance has components which appear fairly typical of those used elsewhere.

Azusa's plan includes:

1. A "real property records" component. This chapter requires that upon resale of residential property, the seller must give the buyer a disclosure report containing certain information on zoning, variances, restrictions, etc. imposed on that property by the City. The file also serves as an information source for abatement of nuisances and code enforcement by the City.
2. A "residential rental inspection" provision. This component requires registration of rental units with the City, and an inspection program for all rental housing except owner-occupied homes and mobile homes. Under this chapter, the property is inspected every year or when the property is vacated and re-rented to someone else. The inspection is triggered by an application for municipal utility services and is funded by an inspection fee collected from property owners or tenants.
3. The final component is entitled "Abatement of Real Property Nuisances" and allows city abatement of property which is unsafe, a health hazard, or otherwise in a deteriorated state.

The City of Hayward also has a similar program for nuisance abatements, allowing the City to force cleanup of property based on such things as accumulations of dirt, debris, boxes, broken or discarded furniture, junk, lumber, dead or overgrown **vegetation**, etc.

The City of Davis requires periodic inspection of housing and a certificate of occupancy or report of deficiencies upon sale or transfer of ownership. This ordinance does not, however, require registration of rental units or inspection every time tenants change.

All the ordinances I examined had provisions for "due process" hearings or appeals, usually through the city council or planning commission.

Another approach has been used by the City of Stockton. It relies on Health and Safety Code Section 11570, et seq. (Attachment B) to abate property where drugs are sold. The program is run primarily by the Police Department in conjunction with the City Attorney's office. It does require substantial staff time, but could be effective as a last resort for particularly bad situations.

SUMMARY

It appears possible to require a resident manager or the designation of some responsible local party for multiple family housing, although we have no model to work from in drafting such an ordinance. If experience elsewhere is an indication, any ordinance requiring such a resident manager or a stringent abatement program will be the topic of a great deal of public comment and debate.

Ordinances in place elsewhere seem to commonly utilize one or more of the following components:

1. Registration of rental units;
2. Periodic inspection of housing, triggered by a sale, a change in occupancy, or complaint;
3. "Nuisance" ordinances to abate weeds, trash, or dilapidated housing as a method of promoting property maintenance.

State law addressing nuisances in general or properties where drugs are sold may also be useful. These statutes also have the advantage of allowing an award of court costs.

The effectiveness of any such program should be balanced against the effort required. I believe cities such as Hayward and Azusa fund full-time employees whose exclusive duties are to administer these programs. Hayward's program was funded with \$200,000 in Community Development Block Grant money, as I understand it.

An ordinance requiring only that each apartment building have a resident manager and/or that designates certain conditions as "nuisances" would be fairly simple to administer on a complaint-response basis. However, to set up a rental registry and "inspection upon transfer" program in Lodi would probably require a substantial dedication of resources. Community Development Director James Schroeder has indicated he would need additional staff if this is to be done. Information he received indicated there are about 60 escrow closings per month in Lodi which would require inspections under one possible scenario.

Actual abatement of buildings under nuisance or drug laws would also be a time-intensive task from the standpoint of both the Police Department and the City Attorney's office, since this would require a lawsuit be filed for each. I spoke with the Stockton Deputy City Attorney handling abatements who estimated that his preparation time alone (not including actual trial) was 15 hours per project.

The Council may wish to set this matter for a shirtsleeve session and give some initial guidance as to the types of draft ordinance it would like to see brought back. Because of the numerous options available, no attempt was made to draft an ordinance for consideration at this time.

Consider Resident Manager/
Property Maintenance Ordinance Formats
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FUNDING: Unknown at this time.



Bob McNatt
City Attorney

BM/vc

MEMORANDUM, City of Lodi, Public Works Department

JUN 17 1991

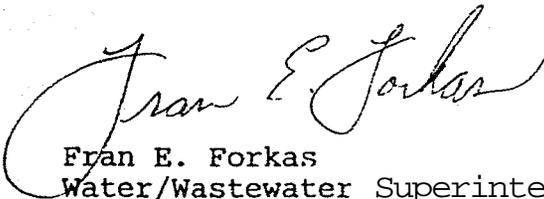
City Attorney's Office

TO: Sob McNatt, City Attorney
FROM: Water/Wastewater Supervisor
DATE: June 14, 1991
SUBJECT: Drafting of Ordinance Requiring Resident Manager
of Apartment Building with Eight Units or Greater

Per our phone conversation the following items should be considered the responsibility of a "Resident Manager" in the draft Ordinance you've been requested to develop. These are frequent problems that occur at apartment complexes.

- Overflowing domestic sewers which create health risks to tenants and usually spill into the storm system.
- Wasting of water (i.e., malfunctioning controllers, broken sprinkler heads, etc.).
- No or little fire hydrant maintenance (i.e., caps, chains, painting, pasts, etc.).
- Little or no on site storm system maintenance or supervision (i.e., allowing dirt and debris to be deposited, crankcase oil, etc.).
- Often no individual or insufficient garbage receptacles.
- Tenant vehicle blocking or partially blocking alleys.

If you wish to discuss these points please contact me at extension 680.



Fran E. Forkas
Water/Wastewater Superintendent

FEF/ts

cc: Public Works Director
Street Superintendent
Assistant Water/Wastewater Superintendent

ARTICLE 3. ABATEMENT ATTACHMENT B

Section

11671.6. City attorneys or city prosecutors; actions to abate nuisances.

11573.5. Prior acts or threats of violence; protection of witnesses; closure of premises, tenant assistance

11575.5. Evidence of nuisance

Cross References

Costs and attorney fees for prevailing party in injunction action under this article, see Civil Code § 3496.

§ 11570. Nuisance

Every building or place used for the purpose of unlawfully selling, ~~selling~~, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog specified in this division, and every building or place wherein ~~or~~ upon which ~~those~~ acts take place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(Amended by Stats.1986, c. 590, § 1; Stats.1986, c. 1043, § 1.5.)

Additions or changes indicated by underline; deletions by asterisks * * *