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REPORT TO THE CITY COUNCIL

October 12, 2017

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Office of the City Manager

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City Attorney's Office

SUBJECT

Anti-Slum Enforcement Team (ASET) Quarterly Status Report and Update on Rental Housing Improvement Act

RECOMMENDATION

City Manager's Office and City Attorney's Office to provide a quarterly status report briefing the City Council on the Anti-Slum Enforcement Team (ASET) and an update on the Rental Housing Improvement Act.

EXECUTIVE SUMMARY

The Administration, City Attorney's Office (CAO), and Development and Resource Management (DARM) Rental Housing Division staff are working in a coordinated effort to aggressively pursue compliance for egregious violations of rental properties. The CAO has two lawyers (plus one

vacancy), two legal investigators, a paralegal position, and a legal secretary in ASET, plus law clerks to assist with related Code Enforcement Division matters. DARM has hired a Rental Housing Division manager, an ASET supervisor, and six ASET inspectors as of October 2, 2017. The City Manager and City Attorney's Office has committed to provide weekly status report (attached) as well as the quarterly update provided in this report concerning the status of ASET, results obtained, and any additional resources necessary to accomplish the mission.

BACKGROUND

The ASET is dedicated to reducing urban blight and improving the lives of City residents by encouraging voluntary code compliance and initiating legal proceedings focusing on the egregious property owners who chose to ignore applicable health and safety laws. ASET will seek to obtain compliance through intensive and focused code enforcement efforts, including expedited civil litigation and possible criminal prosecution of the worst offenders.

Through the ASET and other supportive ordinances, the City acknowledged there were not sufficient resources and/or strategies needed to effectively address code violations throughout the City. As such, ASET was established to pursue the most egregious violators by utilizing fines, reimbursements and receiverships in order to send a strong message to irresponsible property owners of substandard properties that failing to provide safe and decent rental housing opportunities is no longer acceptable. In order to support this effort, Mayor Swearengin's Fiscal Year (FY) 2017 Budget provided funding to add two lawyers to the CAO in addition to a paralegal and a legal secretary to pursue egregious violators. During that time DARM assigned two dedicated inspector positions from the Code Enforcement Division to ASET. A subsequent amendment, later codified in Mayor Brand's FY2018 budget provided additional funding to add an additional lawyer, two legal investigators, and law clerks to the CAO portion of ASET. DARM also received funding for a new Rental Housing Division, which included one manager and two support staff, who will oversee the ASET Unit (1 supervisor, 4 new inspectors, 2 existing inspectors), and a proactive rental health and safety inspections unit (1 supervisor, 10 inspectors), and a reactive rental housing unit (3 inspectors). This new Division represents 24 new positions in DARM, some positions becoming available beginning October 1, 2017.

RESULTS OBTAINED

Staffing: As of October 2, the DARM ASET division manager, support staff, and the ASET Unit positions (10) have all been filled.

Coordination: The City Manager's Office continues to convene a quarterly cross-sector stakeholder meeting focused on ASET properties. This group includes the CAO, DARM, Fresno Police Department, Fresno Fire Department, the Fresno Housing Authority, and most recently, the County of Fresno. The Administration, DARM, and the CAO continue to coordinate hiring, training, identification of problem properties, and strategies required to obtain compliance.

Problem Properties: The following summaries are examples of results obtained since the last quarterly report to Council.

Examples of Current Active Cases:

- 5035-5049 E. Lane (1,290 Violations)

ASET has completed inspections of all sixteen units and the exterior of this apartment complex. These inspections revealed significant substandard conditions and health and safety issues. A Notice

and Order identifying more than 330 exterior violations was issued on August 31, 2017, giving the property owner until September 30, 2017, to cure the violations. An administrative hearing is scheduled for October 18, 2017. An additional Notice and Order identifying more than 960 interior violations was issued on September 26, 2017, giving the property owner until October 26, 2017, to cure the violations.

- West Shaw Estates at 4954 N. Holt (750+ Violations)

In February of this year, ASET, in conjunction with the Fresno Housing Authority, Fresno Fire Department and Fresno Police Department, began inspecting the condominium complex known as West Shaw Estates. The complex became a target largely due to a request by the Fresno Police Department based on the excessive number and nature of police calls for service. Inspections revealed exterior common area substandard conditions, including illegally occupied structures, electrical theft and damage, unsafe and unpermitted balconies, broken light fixtures, and a swimming pool that required immediate action in order to mitigate potential health and safety issues.

This property is unique in that it is a condominium complex consisting of more than 200 units having individual ownership versus an apartment complex with a single owner. The West Shaw Estates Homeowners Association (HOA), however, is responsible for common area repairs and maintenance. As such, Notice and Orders were issued to the HOA for in excess of 750 common area violations. Administrative Citations were subsequently issued to the HOA for a total of \$162,750. The HOA has appealed the citations and an administrative hearing is scheduled for October 30, 2017. Given the size and number of units at West Shaw Estates, this property has and continues to require significant amounts of time, staff and resources throughout 2017.

- 1367 E. San Ramon
- 6540 N. Winery

A Petition to Appoint a Health & Safety Receiver was granted by the Superior Court concerning properties at 1367 E. San Ramon and 6540 N. Winery owned by Brian Rosene and others. Mr. Rosene owns a number of properties in the Fresno area and has had a history of code violations, including a vacant home where five people were killed as a result of the home catching on fire. There have been significant, unsuccessful attempts over the years and more recently to locate Mr. Rosene. The newly appointed Receiver plans to sell 1367 E. San Ramon “as-is” requiring the buyer to cure the code violations. Additionally, the Receiver seeks court approval to cure the code violations on Winery before its sale.

- 4853 E. University (129 Violations)

This property is a vacant and abandoned five unit apartment complex that is regularly broken into and used by squatters and transients. ASET has filed a petition for the appointment of a receiver after an inspection found 129 violations of the Health and Safety Code and the Fresno Municipal Code. The City’s Petition will be heard on December 19, 2017.

- 1115 W. Simpson
- 1203 W. Simpson

These two properties consist of a twenty-two unit apartment complex (1115) and a sixteen unit apartment complex (1203) located side by side. The complexes are owned by two different owners, but contain many of the same types of substandard housing issues, some of which are caused by transients and squatters. ASET sent letters to each property owner in order to discuss the health and safety violations that are present at each property. Each property owner has contacted ASET, and

progress is being made to address the violations. Inspections are scheduled to be completed in October. This is an example of an approach that targets a problem area, rather than one property at a time. Additionally, it encourages voluntary compliance by property owners before litigation. In the future, a joint meeting with both property owners present may be held in order to discuss methods for remedying shared problems.

Examples of Recently Completed Cases:

- 4538 E. Olive and 1131 N. Jackson (Clay) (225 Violations)

After more than one year of work, ASET obtained a court ordered health and safety receivership, the first ever in Fresno County, for properties at 4538 E. Olive and 1131 N. Jackson owned by Guadalupe Fernandez. At the time of the initial inspection, these properties had more than 200 code violations throughout thirteen units. The process of compliance and ultimately a receivership was initiated as part of the Strike Team on Problem Properties (STOPP), prior to ASET being approved. The Court appointed a receiver to take control of the property, obtain funding for repairs, make the repairs, and sell the property to fund the receiver's costs, liens, and hard-costs incurred by the City. Compliance has been achieved, and the property has been sold. The rehabilitated rental units meet all health and safety regulations.

- 530 N. Weber (also known as Hotel California) (1,043 Violations)

The City received reports of substandard conditions and lack of heat at the Hotel California at 530 N. Weber, and quickly pursued enforcement efforts in late December 2016 and January 2017. The property was ordered to be vacated, largely because of defective wiring that was a fire hazard. ASET provided legal assistance for the relocation of tenants. The owner has made full repairs and has paid a settlement to the City for costs associated with relocation and administrative time.

- 2307 N. Maroa (20 Violations)

ASET filed a petition for receivership regarding this vacant single family home with code violations and significant police calls for service. A settlement was reached with the property owner curing the violations and City's enforcement costs paid.

Additional actions resulting in settlements and compliance are set forth in the weekly ASET status report.

LAW CLERK ASSIGNMENTS

Law Clerks have successfully petitioned the Fresno Superior Court to issue inspection and abatement warrants. They have also assisted various DARM enforcement staff in gaining voluntary compliance through discussions with mortgage lenders, issuing demand letters pre-litigation, and drafting civil complaints. They are also handling administrative appeals of Fresno Police Department Management of Real Property Ordinance (MORPO) citations.

SACRAMENTO VISIT

City officials and ASET members were hosted by the City of Sacramento's staff and legal team in May to discuss the City of Sacramento's version of ASET. This trip brought insight into another jurisdiction's process and potential strategies the City of Fresno might consider. Interestingly, it confirmed some of the ASET strategies currently in use were similar to what has been effective in Sacramento. Many topics were discussed, including increased cooperation with police agencies, the use of different types of injunctions, health and safety receiverships, and department organizational structures.

OBSERVATIONS

ASET is coming up on its one year anniversary and is still evolving. With significant successes already achieved, it is important to recognize that there is still much work remaining. As in all levels of government, staffing changes and open positions have delayed ASET from reaching its full potential. However, we are pleased to report again that on October 2, 2017, all DARM positions have been filled. Regardless, the process of identifying and focusing on the worst violators to obtain the best return on investment for occupants of rental housing continues.

As ASET develops, it is constantly learning from its experiences and seeking new methods of obtaining compliance. With some of Fresno's high volume property owners, ASET has sent letters highlighting the substandard conditions of their properties and has requested in-person meetings to discuss compliance with the owners. This approach educates property owners that have neglectfully allowed their properties to deteriorate about their legal obligations, and facilitates compliance. This process also educates ASET on other problem properties in neighborhoods.

Community outreach and education is a continuing goal. ASET's legal experts are in the process of developing a "Walk and Talk" program, modeled after the City of Santa Maria, in order to reach additional residents in the community, initially focusing on those in areas of successful projects. They have also developed brochures that it intends to distribute in the community to educate both tenants and landlords about their rights and responsibilities. The ASET legal team is also working on memos and potential trainings regarding the use of the Management of Real Property Ordinance, (MORPO) by police in appropriate situations. These community outreach methods also include education about the Proactive Rental Housing Inspection Program.

To accomplish ASET's mission of targeting the most egregious violators of residential rental properties with substandard living conditions, the members of the team, staff and CAO, need to be readily available and able to move quickly to identify, inspect, document, and prosecute violations. The introduction of the legal investigator position has aided ASET in responding more efficiently to concerns from Councilmembers and the community. There is more work to be done, however, to improve efficiency and increase the number of properties and units that can be targeted. Options to accomplish this may include, but are not necessarily limited to:

1. Continue to work with the City Manager's Office concerning resource allocation.
2. Provide training opportunities to allow for greater expertise and efficiency.
3. Continue to refine collaboration between ASET team members to maximize results.
4. Continue to reexamine changes to the FMC that may assist in prosecution, collection, and obtaining compliance.
5. Increase collaboration between ASET and the police officers assigned to certain neighborhoods. The ASET legal team is in the process of scheduling a meeting with all of the POP officers to open up this communication and proactively address problem properties.
6. Increase focus on vacant properties. These blighted properties attract crime. Yet, thorough compliance by current owners or a change in ownership there is a possibility to provide significant additional affordable housing.
7. Set up communication with the County of Fresno regarding tax sales of delinquent properties and other significant tax issues that ASET has encountered.
8. As the Proactive Rental Housing Inspection Program is implemented, coordinate between those inspections and ASET to identify additional targets.
9. Publicize results to deter other property owners from maintaining slum conditions.

10. Educate the community, owners and tenants, as to their rental housing rights and responsibilities.
11. Collaborate with other agencies and organizations to identify problems where we can maximize our return on investment.

RENTAL HOUSING DIVISION - RENTAL HOUSING IMPROVEMENT ACT - UPDATE

The purpose of the Rental Housing Division is to address the issue of substandard rental properties, promote greater compliance with health and safety standards and to preserve the quality of Fresno's neighborhoods and available housing opportunities. The goal is to work with property owners to achieve compliance of health and safety code violations that are a threat to the occupant's safety, structural integrity of the building, and have a negative impact on the surrounding neighborhoods.

The Rental Housing Division includes three units: 1) ASET 2) Rental Housing Improvement Program 3) Reactive Rental Housing. The purpose of this update is to provide a summary of activities and updates related to the Rental Housing Improvement Act that will implement a proactive, health and safety inspection program referred to as the Rental Housing Improvement Program. The following information includes several updates related to the Rental Housing Improvement Program.

Website: The City's Rental Housing Division website is active, although not fully developed. It contains information available to the public related to the status of the Rental Housing Division as well as links to the Rental Housing Improvement Act and other materials. The website will ultimately include a link to the Rental Registry, a Frequently Asked Questions document, sample forms and checklists, as well as informational resources for both landlords and tenants.

Database and Registry Development: The City contracted with Bitwise Industries/Shift3 to develop a database of potential rental properties and a user interface that will be available on the City's Website. Bitwise is estimating that the database and registry interface will be available for beta testing before the end of October 2017. Once the beta testing is complete, the City will launch the registry and begin an outreach effort to inform potential rental property owners of the requirement to register. Both property owners and property management firms will be able to register, providing street address, accessor's parcel number, number of units, property owner local contact information, etc.

There are no fees to register a rental property. However, there will be penalties for failure to register or late registration once properties have been properly notified of the requirements.

Once the registry is populated, and staff has evaluated applications for exemptions, registered properties will be listed by numbered street names on the City's website. This will allow residents and interested community stakeholders to search for registered properties. The City will pursue properties that are not properly registered.

Communications and Outreach: Staff will work with the Administration to ensure that an effective and efficient communications and outreach strategy is in place to notify potential property owners of the requirement to register and the upcoming health and safety inspection program. Outreach will include a letter mailing campaign, email outreach, website postings, local media announcements, and coordination with community stakeholders, social media, and more.

Staffing: The inspection function will be conducted by DARM staff, not a third party. DARM is

working with the Personnel Department to fill the Supervisor and inspector positions associated with the Rental Housing Improvement Program (1 supervisor, 10 inspectors) some becoming available beginning October 1, 2017. The Rental Housing Division manager and support staff positions have recently been filled. The manager, Letty Shamma, brings extensive inspection experience to the Rental Housing Division.

Policies and Procedures: Staff is finalizing the policies and procedures for the implementation of the Rental Housing Inspection Program, including, but not limited to a program overview, associated fees, the registration process, the inspection process, the self-certification program, related sample letters and checklists, the exemption process and more. Ms. Shamma visited the City of Sacramento and shadowed their rental housing inspection team. This training opportunity was invaluable and has contributed to the implementation of Fresno's program.

Training: A comprehensive training program for the Rental Housing, Code Enforcement, and Neighborhood Revitalization Division inspectors will be implemented as appropriate. Currently several low to no cost opportunities are being made available. For example, on October 4 training was held on safety, ethics, and communication. The training was conducted by the City's Code Enforcement Manager, Tim Burns. Mr. Burns is a California Association of Code Enforcement Officers (CACEO) instructor and will also be conducting a code enforcement academy in Visalia beginning October 23. This academy is the first module of three, and covers the basic foundation and principals of Code Enforcement. This class is intended for anyone who's interested in the career of Code Enforcement or a beginner technician. Several new code enforcement inspectors will be participating in the training; this does not impact ASET or the Rental Housing Improvement Program as all inspectors in these units are experienced inspectors. With sufficient resources, DARM's goal is to provide applicable testing or academies for all enforcement inspectors. The successful completion of the academy modules will result in formal training and certification. Additional low-to-no cost, and/or internal trainings that have recently been made available, or are scheduled include SPCA Animal Control training on dog behavior and safety in the field, Pacific Gas and Electric gas and electricity awareness training, and Development Code training. As staff is hired for the Rental Housing Improvement Program health and safety inspection trainings will be customized in addition to the training mentioned above.

Health and Safety Inspections: The Rental Housing Improvement Program will include baseline health and safety inspections as outlined in the Rental Housing Improvement Act. All residential rental properties shall be subject to a baseline inspection, pursuant to a random sampling formula, to determine whether or not violations of Health and Safety Standards exist. The City will make available online a sample rental inspection checklist, which shall clearly define and describe criteria applied to determine whether or not violations of Health and Safety Standards exist on rental properties.

The goal is for the health and safety inspections to take approximately 15 minutes per unit, determining if the unit has passed or failed the inspection. Once hired, staff will begin a "soft-launch" of the health and safety inspection program, which will allow for refinement of the operational procedures, and technology while the registry is being fully populated. Staff anticipates the hard-launch or the full implementation of the Rental Housing Improvement Program to be well under way by early 2018.

Please see the attached draft process map, draft inspection items, and/or the Rental Housing Improvement Act for additional details on the inspection process.

Attachments: Current Weekly ASET Status Report (09/29/2017)
Rental Housing Improvement Act - Draft Process Map
Rental Housing Improvement Act - Draft Inspection Items