

RESOLUTION NO. _____

Resolution Of The City Council Of The City Of Emeryville Setting a Public Hearing For February 20, 2018, at 7:16 P.M., At City Hall Council Chambers, 1333 Park Avenue, Emeryville, CA, To Consider A Report from the Acting Public Works Director Related To Costs Incurred by the City of Emeryville In the Matter of the Appeal From Notice and Order of Intention to Demolish Property Owned by Andre Carpiaux, 1264 Ocean Avenue, Emeryville CA (APN 049-1469-008), Case No. ADBC 15-001; And To Consider Authorizing Charging a Special Assessment Against The Property To Recover The Costs; And Directing the City Clerk To Take Related Actions

WHEREAS, on July 30, 2015, the Chief Building Official for the City of Emeryville issued a Notice and Order regarding violations of the 1994 Uniform Code for the Abatement of Dangerous Buildings at 1264 Ocean Avenue, Emeryville, CA ("**Property**"), and ordering the property owner to abate the violations; and

WHEREAS, the property owner, Mr. Carpiaux, took no action to begin abatement of the violations; and

WHEREAS, on October 19, 2015, the Chief Building Official issued a subsequent Notice and Order regarding violations of the 1994 Uniform Code of the Abatement of Dangerous Buildings, and ordering the demolition of the structure on the Property; and

WHEREAS, Mr. Carpiaux appealed this Notice and Order to demolish ("the **Appeal**"); and

WHEREAS, pursuant to Chapter 12 of Title 8 of the Emeryville Municipal Code in effect at the time of the Appeal (relevant code is now Chapter 16 of Title 8 of the Emeryville Municipal Code), the City Board of Appeals through a subset of the Board of Appeals, the Board of Examiners, heard the Appeal as provided by the 1994 Uniform Code for Abatement of Dangerous Buildings; and

WHEREAS, at the conclusion of the hearing, the Board of Examiners found numerous violations of the Uniform Code of the Abatement of Dangerous Buildings, and found that "rehabilitation of the premises is not only logistically infeasible, but would [create] a greater economic burden to Mr. Carpiaux than demolition and construction of a new structure."; and

WHEREAS, the Board of Appeals adopted the recommended decision of the Board of Examiners to uphold the Notice and Order to demolish the structure on the Property at a public meeting held on August 23, 2016 ("**Final Decision**"); and

WHEREAS, on August 25, 2016, Mr. Carpiaux was served with the Final Decision; and

WHEREAS, on December 22, 2017, the City obtained an abatement warrant in Alameda Superior Court Case No. 2017-3912 for the purposes of implementing the Final Decision by demolishing the structure and carrying out related nuisance abatement activities ("**Abatement Warrant**"); and

WHEREAS, pursuant to Government Code section 38773.5, the City may adopt an ordinance to establish a procedure to make the cost of the abatement of a nuisance upon a parcel of land a special assessment against that parcel; and

WHEREAS, Chapter 9 of the 1994 Uniform Code for the Abatement of Dangerous Buildings, in effect at the time of the abatement proceedings, and adopted by Ordinance No. 95-101, sets forth the procedures to recover the costs of abatement as a special assessment against the Property; and

WHEREAS, pursuant to Section 901 of the 1994 Uniform Code for the Abatement of Dangerous Buildings, the City Clerk received a report from the Acting Public Works Director detailing the expenses the City incurred to abate the nuisance at the Property, which the City Clerk presented to the City Council ("**Report**") at the February 6, 2018, City Council meeting; and now therefore be it

RESOLVED, pursuant to Section 902 of the 1994 Uniform Code for the Abatement of Dangerous Buildings, the City Council directs the City Clerk to set a public hearing for February 20, 2018, to begin at 7:16 p.m. or as soon as possible thereafter at City Hall Council Chambers, 1333 Park Avenue, Emeryville, CA 94608 at which the City Council will consider the Report and any written protests or objections to the Report, and will consider authorizing a special assessment to be charged against the Property to recover the City's costs incurred in abating the nuisance at the Property; and, be it, further

RESOLVED, the City Council directs the City Clerk to cause notice to be delivered to the individuals identified in the Report, and any other related actions.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, February 6, 2018, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

MAYOR

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

CITY ATTORNEY