



**CITY OF PACIFIC GROVE**  
300 Forest Avenue, Pacific Grove, California 93950

**AGENDA REPORT**

**TO:** Honorable Mayor and Members of City Council  
**FROM:** Terri C. Schaeffer, Code Compliance Officer  
**MEETING DATE:** April 1, 2015  
**SUBJECT:** Resolution approving recordation of a lien at 505 Grand Avenue  
**CEQA:** The proposed action is not a project under CEQA

**RECOMMENDATION**

Approve a Resolution authorizing placement of a lien on 505 Grand Avenue.

**DISCUSSION**

On August 6, 2014, the owner of 505 Grand Avenue was cited for violations of the Pacific Grove Municipal Code (PGMC). Specifically: PGMC §9.16.030, §1.16.010; International Property Maintenance Code Sections 302.1, 305.5, 308.1, 404.7; and California Building Code Section 105.1. After failing to remedy the violations within the prescribed time, a duly noticed Administrative Hearing was held on September 24, 2014.

On October 28, 2014 the Administrative Hearing Officer issued an Administrative Decision/Order (Attachment 2), which found the Property to be in violation of the Municipal Code, International Property Maintenance Code, and Building Code Sections cited above. The Decision/Order ordered the property owners pay the City \$960 in Administrative costs assessed to the Hearing date.

The Decision/Order also ordered that the administrative penalties continue to accrue at a rate of \$100 per day if by November 14, 2014, proof of compliance was not demonstrated. The Decision/Order specified that \$100 per day penalty be assessed from August 6, 2014 until compliance is met. To date, compliance has not been met. Pursuant to PGMC 1.19.200(a), administrative penalties are limited to \$100,000, exclusive of costs. This total has not been reached.

The time to appeal the Administrative Decision has lapsed. The City has continued to receive complaints related to this property. Complainants demand the City take action; this property in its current condition is imposing significant concerns upon neighbors. City staff met and spoke with the owner and owner representatives on multiple occasions to discuss compliance measures and ongoing complaints. The City has exhausted all efforts to gain compliance with vital building safety and property maintenance standards that are uniformly required of all properties.

Pursuant to the PGMC, the City may place a lien on the property to ensure collection of the amounts owed in penalties and costs. It is recommended that Council adopt the proposed Resolution and direct staff to record a lien on 505 Grand Avenue (APN: 006-486-013-000) in the amount of \$24,758.50, to continue accumulating until compliance is achieved.

**ALTERNATIVES**

1. Decline to adopt the Resolution.
2. Provide alternative direction.

**FISCAL IMPACT**

If a lien is imposed the City will, at a future date, collect penalties in the amount up to \$100,000.

**ATTACHMENTS**

1. Proposed Resolution.
2. Administrative Decision/Order

RESPECTFULLY SUBMITTED:



---

Terri C. Schaeffer

REVIEWED BY:



---

Thomas Frutchey

**RESOLUTION NO. 15-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE  
APPROVING RECORDATION OF A LIEN AT 505 GRAND AVENUE**

**FACTS**

1. On August 6, 2014 the owner of 505 Grand Avenue in Pacific Grove, Jack Van Bebbler (Property Owner), was issued a Compliance Order identifying violations of Pacific Grove Municipal Code Sections 9.16.030, 1.16.010; International Property Maintenance Code Sections 302.1, 305.5, 308.1, 404.7; and California Building Code Section 105.1. A Compliance Date of August 27, 2014 was given to the Property Owners.

2. The Property Owners failed to remedy the violations of the Municipal Code within the prescribed time.

3. A duly noticed Administrative Hearing was held on September 24, 2014.

4. On October 28, 2014, Administrative Hearing Officer Kim Murdock issued an Administrative Decision/Order. Pursuant to the Decision/Order to date, the Property Owners owe payments to the City.

5. The Administrative penalties for the failure to complete the work required by the Order, assessed at \$100 per day for 238 days, from August 6, 2014 through April 1, 2015, plus enforcement costs, yield the following amounts owed:

Total penalties	\$23,800.00
City enforcement costs:	<u>\$ 960.00</u>
<b>TOTAL LIEN</b>	<b>\$ 24,760.00</b>

6. To date, compliance has not been met. Pursuant to PGMC 1.19.200(a), administrative penalties are limited to \$100,000, exclusive of costs.

7. The maximum administrative penalty amount has not been reached.

8. The time to appeal the Administrative Decision/Order has expired.

9. The property owner has failed to comply with the Compliance Order and penalties and fines continue to accrue.

10. Section 1.19.260 of the Pacific Grove Municipal Code authorizes liens on real property when a penalty and/or administrative cost imposed by a hearing officer have not been timely paid.

11. In reviewing this matter, the City followed the guidelines adopted the CEQA Guidelines of the State of California, published in the California Code of Regulations, Title 14, Section 15000, et seq. and found this action does not constitute a "Project" as defined by CEQA Guideline section 15378; this is an organizational or administrative activity that will not result in direct or reasonably foreseeable indirect physical changes in the environment.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES RESOLVE AS FOLLOWS:**

SECTION 1. The City Council finds the Facts set forth above to be true and correct, and by this reference incorporates each as an integral part of this Resolution.

SECTION 2. The total amount payable to the City is confirmed, and shall constitute a lien against the property at 505 Grand Avenue (APN: 006-486-013-000) in the amount of \$24,758.50 as of April 1, 2015. Penalties and administrative costs shall continue to accrue until paid in full, to a maximum of \$100,000.

SECTION 3. The City Manager, or his/her designee, is hereby authorized to place additional liens on 505 Grand Avenue for any future unpaid administrative penalties and/or costs authorized pursuant to the Administrative Decision/Order.

SECTION 4. The City Manager is directed to take all action necessary to implement this Resolution.

SECTION 5. This Resolution shall take effect immediately following its adoption.

**PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE**  
this \_\_\_\_ day of \_\_\_\_\_, 2015, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

\_\_\_\_\_  
BILL KAMPE, Mayor

ATTEST:

\_\_\_\_\_  
SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
DAVID C. LAREDO, City Attorney

ADMINISTRATIVE HEARING  
CITY OF PACIFIC GROVE, CALIFORNIA

IN THE MATTER OF

505 Grand Avenue, Pacific Grove, California,  
and Jack Van Bebber.

FILE NO. 12-632

ADMINISTRATIVE DECISION/ORDER

**I.  
STATEMENT OF THE CASE**

This matter came on regularly for hearing before Administrative Hearing Officer Kim Murdock on September 24, 2014 at 10:00 a.m. at the Pacific Grove City Council Chambers, City Hall, 300 Forest Avenue, in the City of Pacific Grove, California (the "City").

Terri C. Schaeffer, Code Compliance Officer ("Compliance Officer"), appeared for the City.

Jack Van Bebber ("Respondent") did not appear.

Also present was Alex Lorca, Deputy City Attorney.

The hearing was held pursuant to Pacific Grove Municipal Code ("PGMC") §1.19 to determine the degree of Respondent's compliance with Compliance Officer's Revised Compliance Orders regarding 505 Grand Avenue/549 Spruce Avenue, Pacific Grove, California (the "Property"), dated August 6, 2014, and violations of International Property Maintenance Code, 2012 ("IPMC") §§302.1, 305.5, 308.1, 404.7, and 704.2, PGMC §§9.16.030 and §1.16.010, California Building Code, 2013 ("CBC") §105.1, and PG Architectural Review Guidelines ("PGARG") 10-12

**II.  
WITNESSES**

Compliance Officer and City Building Official John Kuehl ("Building Official") testified for the City.

Bobby Etheridge, friend of Respondent, and Richard Van Bebber, brother of Respondent, testified on behalf of Respondent.

Jill Kleiss, Dianne Spingarn, Josh Ringle, and Lee Willoughby testified as interested parties.

### III. DOCUMENTS AND EXHIBITS

Prior to the hearing, Code Enforcement Officer submitted a package of documents pertinent to this matter, and sent it to all Parties by Certified and regular mail. This package included:

NOTICE OF HEARING, dated September 12, 2014.

CODE COMPLIANCE STAFF REPORT, signed by Compliance Officer and dated September 12, 2014. Document alleges violations by Jack Van Bebber of: (1) IPMC §302.1, Exterior property sanitation; (2) IPMC §308.1, Accumulation of rubbish or garbage (Interior and Exterior) (3) PGMC §9.16.030, Accumulating rubbish or garbage; (4) PGMC §1.16.010, Failure to maintain the exterior of the property as required by the City in prior Notices and Orders – misdemeanor; (5) IPMC §305.5, No handrails – interior stairway, (6) IPMC §704.2, Lacks working smoke detectors, carbon monoxide alarms, (7) CBC §105.1, Evidence of unpermitted construction; (8) IPMC §404.7, Kitchen lacks a sanitary food preparation area; and (9) PGARG 10-12, Obtrusive exterior lighting.

**Exhibit 1:** CODE COMPLIANCE REQUEST filed by Jill Kleiss regarding a pink canopy at the Property.  
Dated November 13, 2012

EMAIL from Jill Kleiss to Compliance Officer regarding the awning.  
Dated November 13, 2012

PHOTOGRAPHS of the Property taken by complainant.

**Exhibit 2:** LETTER *Notice of Violation* from Compliance Officer to Respondent regarding explaining violations on the Property.  
Dated November 14, 2012

**Exhibit 3:** LETTER *Follow Up to Notice of Violation* from Compliance Officer to Respondent regarding drive-by site visit.  
Dated November 28, 2012

**Exhibit 4:** CODE COMPLIANCE REQUEST filed anonymously by tenant of the Property regarding multiple issues.  
Dated July 10, 2013

**Exhibit 5:** LETTER *Notice of Violation* from Compliance Officer to Respondent.  
Dated July 12, 2013

- Exhibit 6:** PHOTOGRAPHS of the Property.  
Dated July 16, 2013
- Exhibit 7:** LETTER *Second Notice of Violation and Compliance Inspection Report* from Compliance Officer to Respondent.  
Dated July 22, 2013
- Exhibit 8:** COMPLAINT FORM filed by Jill Kleiss regarding various issues on the Property.  
Dated August 8, 2013
- Exhibit 9:** PRINTOUT of Compliance Officer's appointment with Respondent with handwritten notes.  
Dated October 2, 2013
- PHOTOGRAPHS of the Property.  
Dated October 2, 2013
- Exhibit 10:** PETITION from residents of neighborhood requesting the City to take action on the Property and Respondent.  
Submitted to the City October 16, 2013
- LETTER to Jill Kleiss from Maureen Roddick of the Pacific Grove Police Department Records Release Division.  
Dated October 6, 2013
- Exhibit 11:** LETTER *Second Notice* from Compliance Officer to Respondent, including PHOTOGRAPHS.  
Dated December 18, 2013
- Exhibit 12:** LETTER *Notice of Compliance Order and Notice of Fine* from Compliance Officer to Respondent.  
Dated May 15, 2014
- Exhibit 13:** LETTER *Notice of Revised Compliance Order* from Compliance Officer to Respondent.  
Dated August 6, 2014
- Entered as Exhibits by Compliance Officer at the Hearing:***
- Exhibit 14:** PRESENTATION in notebook from Jill Kleiss regarding the Property and Respondent.  
Dated various

#### IV. DISCUSSION

##### *Testimony of Compliance Officer*

Compliance Officer stated Respondent is the owner of 505 Grand Avenue, a/k/a 549 Spruce Avenue.

Compliance Officer stated that the City has been working with Respondent on the above listed issues since 2012. The Respondent has had trouble maintaining the Property. He accumulates materials on the Property. She has seen some voluntary compliance in that Respondent will comply with specific directions, but other times she felt he was “unable to comply.”

Compliance Officer stated that in 2012, the City received a lot of complaints about Respondent and Respondent’s Property.

Respondent has a history of working on his Property without permits. All complaints in 2012 are in regard to the exterior and all resultant violations herein are to the exterior of the Property.

Compliance Officer stated that follow-up inspections were performed in 2012, with some items corrected and progress in some of the cleanup. She stated that Respondent tends to fill a trailer with materials and lets it sit in front of the house for a couple of days until he takes it to the dump. She stated that this process creates a lot of havoc in the neighborhood.

In 2012-2013 Compliance Officer performed routine site visits. She stated that she understood Respondent had some medical conditions and wasn’t always at the Property. Compliance Officer stated that she gave Respondent “leeway,” but each time she received a complaint, she responded and consulted with Respondent and anyone else who was available.

Compliance Officer stated that in the Summer of 2013 Respondent had a friend helping him, which seemed to make the situation better. Compliance Officer stated that she observed progress into the Fall of 2013.

It is Compliance Officer’s opinion that at some point “he became overwhelmed” with cleanup and caring for the Property.

Compliance Officer stated that the Property is a single-family dwelling and a rental unit. She stated there have been problems with the tenants in the rental unit. Compliance Officer stated that she consulted with Respondent in the Spring of 2014 and urged him to find a property manager, and assistance cleaning the Property.

Compliance Officer stated that when Respondent received specific requests in person, Respondent was willing, but “unable to comply.”

In May of 2014 Compliance Officer felt the situation was overwhelming for both Respondent and the neighborhood, so she issued the Compliance Order.

In June, Compliance Officer stated that ensuring the safety of the rental unit was her greatest concern, so she requested an interior inspection. There were also additional complaints regarding the Property in general so Compliance Officer requested a complete inspection of all buildings on the Property and requested Building Official to accompany her.

Respondent was compliant and consented to the complete inspection.

Compliance Officer stated that in their July 30, 2014 inspection, Compliance Officer and Building Official noted several violations of IPMC and PGMC and now believe these violations must be corrected in order for the Property to continue being occupied.

Compliance Officer stated that the City has not posted "unsafe to occupy" notices on the Property but has been clear that compliance is necessary.

Compliance Officer stated that as a result of the Compliance Order, Respondent's family and friends contacted her to say they have been assisting Respondent. The deadline was August 27, 2014. Compliance Officer stated she was aware that Respondent was not able to meet that deadline but wanted to see progress at the Property.

The City does not have photographs of the Property since those taken on July 30, 2014.

***Testimony of Jill Kleiss***

Ms. Kleiss lives at 507 Grand Avenue, and distributed Exhibit 14.

Ms. Kleiss stated that she lives has lived next door to Respondent since December of 2001.

*In regard to the violations at issue in this Hearing, Ms. Kleiss stated as follows:*

Respondent is involved in on-going construction, including installing a light that shined into her home. Respondent took down the light, but the light issues continue to be a problem.

That the photos reflect an area that has been cleaned up.

*In regard to problems not at issue in this Hearing, Ms. Kleiss stated as follows:*

Every night at 10 pm she asks Respondent to stop making noise, which Respondent agrees to. People come and go through Respondent's gate in the middle of the night, waking her. They stay for five minutes at a time, then leave.

The tenants Respondent rents to have caused excessive noise and have nuisance dogs. He rented a downstairs unit to someone who used the kitchen in the upstairs unit. The house next to hers "burnt down" because of a fire of unknown origin.

Respondent also managed property on Surf Avenue in Pacific Grove. She has photographed the same vehicle at the Property and the Surf property. Ten to twelve dump trucks and trailers filled with garbage have been parked both around the Property and in the Surf Avenue

neighborhood over the past two weeks. In 2010, Respondent was told to move vehicles out of the Surf Avenue area.

Respondent scraped lead-based paint off his historic home, exposing the neighborhood to lead paint dust. Ms. Kleiss called the EPA, but the house was repainted and there were no consequences for Respondent. The dust made her and the tenants living on the Property sick.

Ms. Kleiss requested that the Hearing Officer find a way to alleviate these problems.

***Testimony of Bobby Etheridge***

Mr. Etheridge is a friend of Respondent.

Mr. Etheridge stated that a truck has been parked in front of the Property because he's been putting material in it. Mr. Etheridge insisted that it leaves the Property and doesn't come back. He stated he has records to show everything he's taken away.

Mr. Etheridge stated that they intend to fully comply with the City's Order. They will call for another inspection so they can "move forward with doing more corrections."

Mr. Etheridge stated that he plans to oversee and "make certain that it continues to be that way."

Mr. Etheridge stated that the photographs presented represent work in progress and he would like to have the City come and see the progress being done.

When asked about on-going oversight, Mr. Etheridge stated that he couldn't speak to the management part, but that he can help maintain the Property.

When asked about Respondent's inability to keep his promises, Mr. Etheridge stated there would be better screening of any tenants.

Mr. Etheridge stated that one would have to put "their ear to the wall" in order to hear people making noise on the stairs. He stated that he opens and closes the gate quietly and doesn't understand Ms. Kleiss' complaint. He also stated that he solved that problem of the light shining into Ms. Kleiss' house.

***Testimony of Lee Willoughby***

Ms. Willoughby lives at 1241 Shell Street near Respondent's property on Surf Avenue.

*While Ms. Willoughby did not testify regarding violations at issue in this Hearing, she did have comments about problems not at issue with the Hearing, as follows:*

She and her husband retired to Pacific Grove and experienced issues comparable to those occurring at 505 Grand, particularly regarding vehicles. She had contacted the City numerous times and the police finally towed a house car from a lot belonging to the Van Bebbers. She stated that people living in it came and went.

She stated that the black trailer belonging to Respondent returned to her neighborhood.

***Testimony of Dianne Spingarn***

Ms. Spingarn lives at 511 Grand Avenue.

*In regard to the violations at issue in this Hearing, Ms. Spingarn stated as follows:*

Two weeks prior to the Hearing, Respondent parked a truck across the street from her with a ladder to the top of the truck. She didn't know the purpose of the trucks but they are always there and full of garbage.

Junk trucks came and went before Respondent started cleaning up. The issue with junk trucks has been on-going, and she is skeptical that it will be resolved now.

Unsafe-looking vehicles are parked across the street from her home. She had not been aware of all the vehicles mentioned in Ms. Kleiss' paperwork, but there are lines of trucks that come in "full of junk." These trucks have not been used to clean out junk in the past; they come full of garbage and stop at the house, sometimes overnight and sometimes for a few hours.

*In regard to issues not at issue in this Hearing, Ms. Spingarn stated as follows:*

She and her husband retired to Pacific Grove in May of 2014, and was unaware of the complaints against Respondent before moving in.

No one at the house has been rude to her and the people are pleasant. She talked to a very nice lady who claimed that Respondent hires her to work for him.

Two small dogs run out from the Property and leave animal waste. The brown dog, even while under the control of the nice lady has lunged at her and acts in an aggressive way that frightens her.

***Testimony of Josh Ringle***

Mr. Ringle is a past tenant of Respondent.

*In regard to the violations at issue in this Hearing, Mr. Ringle stated as follows:*

During his tenancy there were nothing but problems with Respondent not maintaining the Property.

Respondent's large Doberman defecates "absolutely everywhere" and it takes a long time for Respondent to clean up after her.

There was constantly a lot of just junk in front of the house. He's seen an ATM machine, an old refrigerator, old furniture, debris, and wood.

*In regard to problems not at issue in this Hearing, Mr. Ringle stated as follows:*

He had someone come and test what he thought was mold growing on the ceiling because Respondent claimed it was soot from a previous fire, and it was confirmed to be mold. When he talked to Respondent about it, Respondent evicted them.

He also witnessed Respondent stripping the lead paint down to the bare wood, and that the lead paint dust blew into his home. Mr. Ringle stated that Respondent did nothing in response to his objections. He stated that it has been difficult to contact Respondent as he usually had to go through someone working for Respondent who relays the information without results.

Respondent lets his Doberman roam around unsupervised. He's seen the big dog walk up to strangers, and although she's a very sweet dog, she needs training. The dog defecates in the neighborhood without cleanup.

At one or two in the morning Respondent would start working downstairs with power saws and heavy hammering. They called the police on numerous occasions to get Respondent to quiet down or cease operation during the early morning hours.

While he was growing up, he and his mother complied with all requests to maintain their house. It's unfair that Respondent is not held to the same standards, and would like to see something done about it.

#### ***Testimony of Richard Van Bebber***

Mr. Van Bebber is Respondent's brother from Tracy, California.

Mr. Van Bebber stated that he and his father, Earl Van Bebber, came in from Tracy to mitigate the problems. He stated they are hauling away materials, are renting a place to store things until they can be disposed of, and are committed to attending to all details until finished, inspected and fully compliant. He stated he is hopeful that a property management company will help them get good tenants and restore the neighborhood to what it should be.

Hearing Officer asked Mr. Van Bebber about long-term supervision. He stated that he is committed to not letting Respondent fall back into his old patterns and not repeat the same issues down the road.

Mr. Van Bebber stated that he and his father had been aware of some of the on-going problems because of the property at 1239 Surf, and that his father invested in quite a lot of property in that neighborhood. Mr. Van Bebber stated that he himself is a retired journeyman plumber and put the plumbing in the apartment in back of the house on 549 Spruce, and is committed to preventing these problems from happening again.

When asked how they would accomplish this, Mr. Van Bebber stated that they have a storage building to hold everything, and from which they will dispose of it all.

#### ***Additional Testimony of Jill Kleiss***

*In regard to problems not at issue in this Hearing, Ms. Kleiss stated as follows:*

There are three letters in Exhibit 14 regarding the sewer lines. The first from the neighbor adjacent to Respondent on Spruce Avenue which discusses a sewage problem with the neighbors on Fountain Avenue. The second is from Leah Vargas, former tenant, that mentions Respondent's house being tied into the 508 Fountain house. The third is from Joseph Weiss wondering if the issue at 508 Fountain might also be affecting his sewer line.

She has a letter from a neighbor regarding Lulu the dog, as well as what that looked like one of Respondent's homeless workers involved in a drug exchange.

#### ***Additional Testimony of Compliance Officer***

Compliance Officer stated that there are permits in the file on the Property that a legal auxiliary unit was added above the garage. The county assessor calls the Property a duplex, but it's a single-family dwelling with a rental unit above the garage.

When Hearing Officer asked if there were any other possible living spaces on the Property, Building Official requested the opportunity to speak about the Property.

#### ***Testimony of Building Official***

Building Official stated that this Hearing was called to address specific items that fall under the jurisdiction of the Building Department and which can be inspected to determine if they are in or out of compliance.

Building Official stated that he's most concerned about public safety. He stated that he has been in the building and there were no direct public safety items that made the Property not habitable at the time of inspection. He stated he's concerned about the lack of working smoke alarms and carbon monoxide alarms.

Building Official stated that when an inspection is done on a property that has an accumulation of material, it's difficult to determine what's supposed to be there and what isn't. He also stated that the accumulation of material interferes with emergency personnel being able to access the Property and would like specific compliance dates for both exterior and interior areas, as well as a follow-up inspection date.

Building Official also requested an accurate floor plan of the entire Property, including the rental unit, so the Building Department will have a record of the uses for which the Property has been approved.

Building Official stated that an inspection may reveal additional items requiring compliance once accumulated material has been removed and there is full access to all areas.

Building Official stated that he's been working on issues at the Property for a long time and that the family's support and cooperation has been invaluable.

**V.  
FINDINGS OF FACTS**

1. Respondent keeps trash and debris in and around the Property. [Exhibits 1, and 5 through 14, testimony of Compliance Officer, testimony of Building Official]
2. When served with official Notice, Respondent has been cooperative and removes some trash and debris, eventually replacing it with other trash and debris. [Exhibits 5, Testimony of Compliance Officer, testimony of Jill Kleiss]
3. Respondent keeps trash and debris in trailers parked on or near the Property, and elsewhere in the City. [Exhibits 10 through 14, testimony of Compliance Officer, testimony of Jill Kleiss]
4. An interior stairway on the Property does not have handrails. [Exhibit 13]
5. The Property lacks working smoke and carbon monoxide alarms. [Exhibit 13, testimony of Building Official]
6. The Property has a kitchen lacking a sanitary food preparation area. [Exhibit 13]
7. Respondent does construction work on the Property without a permit. [Exhibits 1 through 4, and 13-14, testimony of Compliance Officer, testimony of Jill Kleiss]
8. Respondent installed an obtrusive exterior light fixture. [Exhibits 13 and 14, testimony of Jill Kleiss]

**VI.  
DETERMINATION OF ISSUES**

As to the scope of the Hearing, it was called to determine Respondent's compliance with the violations alleged in the Revised Compliance Orders dated August 6, 2014. The Hearing Officer decides whether the alleged violations brought before him or her have occurred, sets deadlines for correction and compliance, and imposes penalties if compliance is not met.

As to the issues of this Hearing, based upon a preponderance of evidence and testimony presented, Pacific Grove Municipal Code, State law, and in accord with PGMC §1.19.190, I make the following determinations:

1. By reason of Findings of Facts 1, 2, and 3, Respondent is found to be in violation of IPMC §§302.1 and 308.1., and PGMC §9.16.030.
2. By reason of Findings of Facts 1, 2, and 3, Respondent is found to be in violation of PGMC §1.16.010.
3. By reason of Finding of Facts 4, Respondent is found to be in violation of IMPC §305.5.
4. By reason of Finding of Facts 5, Respondent is found to be in violation of IPMC §704.2.

5. By reason of Finding of Facts 7, Respondent is found to be in violation of CBC, 2003 §105.1.
6. By reason of Finding of Facts 7, Respondent is found to be in violation of IPMC §404.7.
7. By reasons of Finding of Facts 8, Respondent is found to be in violation of PGARG, 10-12. While there was conflicting testimony regarding this issue, it took the form of he said/she said with no firm evidence on either side. Given that both sides do not contest the original installation of the light, it is to ensure that if the issue still exists, it will be abated.

Note: Many of the experiences and conditions described in the evidence and testimony of neighbors and interested parties cannot be considered in this matter as they were not noticed in the Compliance Officer's Revised Compliance Orders.

It was promising, however, that Respondent's family and friends attended the Hearing and were witness to the evidence and testimony. With their encouragement and support, perhaps Respondent can be assisted in addressing some those issues not before the Hearing Officer, and even preventing them in the future. Pacific Grove is a town with small lots and close proximity. The notion of being a good neighbor is not just a nicety, but a necessity.

Two issues outside the purview of this Hearing seem to impact the safety of the Property and therefore should be addressed at greater length.

First, there is some question as to whether or not problems with the sewer lines still exist. It is recommended that Respondent take the time to resolve this question.

Second, the Hearing Officer finds persuasive the evidence and testimony of Jill Kleiss and Josh Ringle regarding Respondent sanding paint from his buildings without following EPA guidelines for testing and safe removal, and without warning his tenants and neighbors. According to the EPA, lead paint dust can remain within a building for a long time, exposing Respondent, tenants and unwary visitors to the inhalation of lead dust.

It is strongly suggested, for health and safety reasons, that Respondent either provide documentation that the paint he sanded did not contain lead, or hire a certified professional to test all areas of the Property for lead paint dust contamination and take whatever abatement steps may be recommended.

## **VII. ORDERS**

1. Respondent is ordered to cause completion of all work require to correct all violations on the Property specified in the Notice of Revised Compliance Order (August 6, 2014). This shall include obtaining any required building permits necessary to correct the violations. Respondent shall contact the City upon completion of corrective work to schedule an inspection. Corrective work shall be completed no later than Friday, November 14, 2014.

2. Respondent's failure to comply by the deadline shall result in administrative penalties of \$100 per day from the date of the Notice of Revised Compliance Order (August 6, 2014), until the date that this Order is complied with, up to a maximum of \$100,000.
3. Respondent is ordered to pay City its administrative costs, subject to proof by City.
4. This decision is effective and final on the date below.

Dated: October 28, 2014

  
\_\_\_\_\_  
Kim Murdock  
Administrative Hearing Officer

This decision may be appealed in accord with PGMC Chapter 1.20.010. To obtain judicial review of this decision, a petition for review must be filed with the Monterey Superior Court in accordance with the timelines and provisions set forth in Section 1094.6 of the California Code of Civil Procedure.