

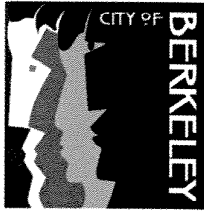
Office of the City Manager

TO BE DELIVERED AGENDA MATERIAL

Meeting Date: July 12, 2005

Item Number: 41

Item Description: Update on 651 Addison Street (Drayage) and Possible Tenant Assistance Options




Office of the City Manager

INFORMATION CALENDAR

July 12, 2005

To: Honorable Mayor and
Members of the City Council

From:  Phil Kamlarz, City Manager

Subject: Update on 651 Addison Street (Drayage) And Possible Tenant Assistance Options

INTRODUCTION

On June 21, 2005 the Council asked the City Manager to report back to Council with an update on the status of the tenants at the Drayage Building and some suggestions regarding the possible disposition and distribution of accrued fines to the tenants, both current and those who have left. This item will provide that update and outline some possible avenues for Council action that could assist the tenants.

BACKGROUND

Original Status of the Property

When the original Notice and Order at the building went out on April 1, 2005 there were estimated to be a minimum of 19 units in residential use and 8 units in commercial use. It is hard to estimate the number of actual residents in the building at that time. Estimates range from the low 20s to over 30 persons. Several of the commercial spaces were subdivided and sub-leased in various ways and were effectively housed both commercial and residential activities. The purely commercial spaces housed a variety of businesses and were not affected by the Notice and Order.

Current Status of the Property

Based on discussions with the tenants and Dr. White (the property owner) it is clear that the majority of residential tenants have left the premises since the Notice and Order was issued. Dr. White negotiated individual terms of departure with those tenants, presumably consisting of monetary compensation. The City had notified both Dr. White and the tenants about the requirements of the City's relocation ordinance that requires such compensation. Staff has been told that Dr. White paid funds in excess of the amount required to tenants who agreed to leave in a timely way. At present there are still 8 residential units occupied by an estimated 10 persons.

On Thursday June 2nd, Dr. White's architect submitted plans and a permit application (05-2328) to "demolish non-code compliant tenant improvements within 20 tenant spaces previously used for residential purposes". Staff reviewed the plans and required some minor revisions. The demolition permit was issued on Friday June 24th. The same day all 8 remaining residential leaseholders were served with 60-day notices to terminate their tenancies.

All commercial tenants had previously been issued 30-day notices to terminate their tenancies. As mentioned above the vacation of these commercial-only spaces was initiated solely by the property owner, not at the City's request. Out of 8 commercial tenants, 1 has left and 5 have negotiated departure dates ranging between now and the end of September. The last 2 have refused to leave and Dr. White intends to proceed with an lawsuit to evict these tenants.

Since the building has remained occupied Dr. White has been continuously required to maintain a 24-hour "fire watch" at the site by the Berkeley Fire Department. In addition, the City continues to fine him \$2500 for each day residency continues at the site.

Assistance to Drayage Tenants.

At the June 21 Council meeting the Councilmembers expressed their concern for the unfortunate plight of the Drayage tenants. They have discovered that the units they have been living in are fire hazards and do not comply with the City's codes. For this reason the Council asked staff to evaluate whether there is some way to provide additional financial assistance to these tenants to help them to relocate. While the primary legal responsibility for relocating the tenants is that of Dr. White who has certain duties under the City's relocation ordinance, the City could provide additional financial assistance.

Given the City's financial situation the Council asked if it would be possible to use the fines levied against the property owner for this purpose since he was responsible for the illegal and dangerous conditions in the first place. These fines go into the General Fund. There is no legal impediment for the Council to allocate money from the General Fund in an equivalent amount should the City actually receive such funds.

To date the property owner has not paid any fines despite the fact that the City has assessed fines totaling \$150,000 between April 1, 2005 and present. It is important for Council to understand that the process of collection may be slow, complicated by a property lien process if the owner refuses to pay. So if Council decides to use fine proceeds as a guide in determining an amount of General Fund assistance for displaced Drayage tenants, staff recommends that it be based on the total amount of fines that are actually collected from the property owner minus some portion to cover estimated staffing costs to date.

FUTURE ACTION

The following are options that Council may wish to consider as ways to target funds to displaced Drayage Building tenants:

Option 1: Monies to Drayage Residents

Monies could be transferred in equal amounts to all leaseholders of record who were resident at the Drayage at the time of the initial Notice and Order. This would include persons who have already left voluntarily and those who haven't. This would insure that persons who complied with the City's Notice and Order are not penalized for doing so. Staff suggests that payments be assigned in equal amounts to each leaseholder -- a simple and clear process -- rather than using a complex formula that considers size of unit or term of residence. Staff also suggests that compensating leaseholders directly is likely to be fairer than attempting to compensate all persons staying at the building -- many of whom were friends or guests of the primary leaseholder.

Option 2: Monies to a Fund to Aid West Berkeley Artists

Put all or some portion of fine revenues (in excess of estimated staff costs) into a fund targeted to subsidize preservation or creation of new artist housing and studio space in West and South Berkeley.

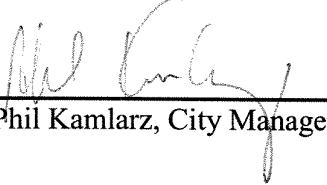
FISCAL IMPACTS

Fiscal impacts may total up to the amount of fines collected from the property owner and include the cost of funds allocated plus any staff time necessary to administer the effort.

CONTACT PERSON

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Approved:



Phil Kamlarz, City Manager