



Office of the City Manager

ACTION CALENDAR

November 28, 2006

To: Honorable Mayor and  
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Stephen Barton, Housing Director

Subject: Appeal: Mohamed Mosleh - Imposition of Lien to Recover RHSP Fees

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution denying the appeal of Mohamed Mosleh and rejecting the property owner's objection to the re-inspection fee charged to him for his failure to make timely repairs to his rental property associated with the enforcement of the Housing Code under the Rental Housing Safety Program (RHSP), and approving the special assessment lien on the property as written and approved by the City Manager to be filed with the County of Alameda in order to collect the outstanding debt.

FISCAL IMPACTS OF RECOMMENDATION

The amount of the proposed lien is \$300. This amount reflects the unpaid charges that were billed to Mohamed Mosleh, owner of the rental unit at 2333 9<sup>th</sup> Street #8, Berkeley, California, 94710 through March 1, 2006. The lien amount represents the following RHSP fee charged to Mr. Mosleh for this unit:

- \$300 re-inspection fee to be deposited in revenue account 375-8207-341-9903

All charges are consistent with the RHSP fee schedule adopted by Council. All fees and fines collected through the RHSP are intended to offset the program's expenditure budget in the effort to make the program financially self-sufficient. Therefore, if these charges are waived or reduced, the City will not be reimbursed for these costs.

CURRENT SITUATION AND ITS EFFECTS

Mr. Mosleh is currently delinquent in paying fees incurred through the RHSP. The owner was sent an initial demand for payment on February 21, 2006 in the amount of \$300 (see Attachment 2). A second demand for payment was sent on March 23, 2006 (see Attachment 3). Pursuant to BMC Section 1.24.160 and 1.24.170, the City may proceed to recover its costs via the special assessment lien process if the owner fails to pay the total costs demanded within 45 days after the demand for payment was mailed.

Upon failing to remit payment within the 45 day period, and pursuant to BMC Section 1.24.170.A.3, Mr. Mosleh was sent a Notice of Proposed Lien and Hearing Rights dated May 23,

2006 (see Attachment 4) to notify him that he had an additional 45 days from the date of this notice to pay all delinquent fees to avoid the issuance of a special assessment lien. The notice also advised Mr. Mosleh that, pursuant to BMC Section 1.24.170.A.4, he had 10 calendar days from receipt of said notice to submit a written request to appeal the charges before the City Council. By filing the appeal on June 1, 2006 (see Attachment 5), Mr. Mosleh met the requisite timeframe for filing the appeal.

### BACKGROUND

The RHSP was established by City Council on August 23, 2001 to improve the safety of rental housing conditions in Berkeley (BMC Chapter 12.48). The RHSP incorporates state mandated housing code inspections that are conducted in response to tenant complaints (reactive inspections), and inspections that are performed on multi-unit rental properties with a prior history of code violations or on a random basis (proactive inspections). The proactive inspections are intended to identify potential or existing housing code violations before they become serious health and safety risks to tenants. All inspections are conducted based on the State of California Uniform Housing Code, as adopted by the City with local amendments.

Council adopted the current RHSP fee schedule for re-inspection fees on September 16, 2003 per Resolution No. 62,230-N.S.

The nine-unit rental property at 2333 9<sup>th</sup> Street in Berkeley, owned by Mohamed Mosleh, was initially inspected as part of RHSP's proactive program on August 23, 2005. The inspection found one or more housing code violations in seven of the units plus the common area. Unit #8 was cited for 12 housing code violations as itemized and documented in the inspection report, Attachment 6. During the follow up inspection on November 8, 2005, the Housing Inspector certified that six of the seven units were brought into code compliance. Unit #8 and the common area were not cleared of violations during this re-inspection. As a result, Mr. Mosleh was charged \$300 for the November 8, 2005 re-inspection of unit #8. With respect to the common area, Mr. Mosleh was granted an extension to the time allowed to bring this case into code compliance since the work required a building permit.

On March 2, 2006, the Housing Inspector cleared all outstanding code violations in unit #8 and the common area. In accordance with the adopted fee schedule, Mr. Mosleh has been billed an additional \$300 re-inspection fee for unit #8, which is not included in the lien amount proposed in this report since it was incurred after March 1, 2006. No fee will be charged for the re-inspection of the common area.

### RATIONALE FOR RECOMMENDATION

The Housing Code Enforcement Unit of the Housing Department and the Finance Department followed all prescribed regulations and timeframes for conducting inspections, and billing and noticing the property owner of RHSP fees owed. Moreover, the appeal submitted by Mr. Mosleh does not challenge the validity of the housing code violations cited on the subject rental property. Furthermore, granting of exceptions to the policy for charging and collecting fees will negatively impact the RHSP goal of financial self-sufficiency.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Carlos Romo, Housing Inspector Supervisor, (510) 981-5440

Attachments:

- 1: Resolution
2. Initial Demand for Payment to Owner Dated February 21, 2006
3. Second Demand for Payment to Owner Dated March 23, 2006
4. Notice of Proposed Lien and Hearing Rights Dated May 23, 2006
5. Property Owner Request to Appeal Dated June 1, 2006
6. Housing Code Enforcement Inspection Report

RESOLUTION NO. ##,###-N.S.

DENYING THE APPEAL FILED BY MOHAMED MOSLEH AND REJECTING THE PROPERTY OWNER'S OBJECTION TO THE FEES, FINES AND COSTS ASSOCIATED WITH THE ENFORCEMENT OF THE HOUSING CODE ON THE RENTAL PROPERTY LOCATED AT 2333 9<sup>TH</sup> STREET, AND APPROVING THE SPECIAL ASSESSMENT LIEN ON THE PROPERTY TO BE FILED WITH THE COUNTY OF ALAMEDA

WHEREAS, the City Council established the Rental Housing Safety Program (RHSP) on August 23, 2001 (BMC Chapter 12.48); and

WHEREAS, the City Council adopted the current housing code re-inspection fee for the RHSP per Resolution No. 62,230-N.S on September 16, 2003; and

WHEREAS, Council adopted the current late payment and administrative lien fees for the RHSP per Resolution No. 62,990-N.S. on July 12, 2005; and

WHEREAS, Housing Code Enforcement staff inspected the property located at 2333 9<sup>th</sup> Street, #8 in Berkeley and issued a Notice of Violation upon finding one or more housing code violations at said property; and

WHEREAS, subsequent re-inspections at the subject property resulted in re-inspection fees charged to the owner; and

WHEREAS, Mohamed Mosleh is the owner of said property at 2333 9<sup>th</sup> Street, Berkeley, California; and

WHEREAS, Mohamed Mosleh filed a notice of appeal that was received by the City on June 1, 2006, objecting to the fines, fees and costs enumerated in the Notice of Proposed Lien and Hearing Rights dated May 23, 2006; and

WHEREAS, the City Council considered the owner's appeal at it's meeting on November 28, 2006.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley finds that:

1. The re-inspection fees assessed for the property located at 2333 9<sup>th</sup> Street in Berkeley was made in accordance with the RHSP fee schedule as adopted by the City.
2. The proposed lien amount of \$300 is an accurate sum of the administrative citations that were issued, appealed and upheld and final and, thus, is reasonable.
3. The property owner has financial responsibility for these charges, which total \$300.

BE IT FURTHER RESOLVED, that the property owner's objection to the fines, fees, and costs associated with the enforcement of the housing code on the rental property located at 2333 9<sup>th</sup> Street is rejected, that a special assessment lien on the property shall be filed with the County of Alameda; that the City Manager is authorized and directed to take all actions necessary to impose and collect said lien; and that the appeal is denied.



# Attachment 2

Department of Finance  
Revenue Collection  
1947 Center Street  
Berkeley, California 94704

Telephone: 510 981-7200  
Fax: 510 981-7210  
TDD: 510 981-6903  
[finance@ci.berkeley.ca.us](mailto:finance@ci.berkeley.ca.us)

Date: 2/21/06

MOSLEH MOHAMMED  
3198 ADELIN ST VE  
BERKELEY, CA 94703

Customer No: 60446/233322

Type: RI - Residential Inspection

Charge	Date	Description	Amount
	1/20/06	Unpaid Balance (Please ignore if already Paid)	.00
RHSP3	11/08/05	2333 NINTH ST 05-07570, Insp: 11/08/05 Inspection Questions 981-5444; Bill Questions 981-7200	300.00

Please write your customer number on your check.

<u>CURRENT</u>	<u>1 DAY</u>	<u>30 DAYS</u>	<u>60 DAYS</u>
300.00			

Due Date: 3/23/06

Payment Due: 300.00  
Total Due: \$300.00

..... Please detach and return with remittance .....

Date: 2/21/06 Due Date: 3/23/06  
Make Check Payable To:

City of Berkeley  
ATTN: Residential Inspection  
1947 Center Street  
Berkeley CA 94704

From:  
MOSLEH MOHAMMED  
3198 ADELIN ST VE  
BERKELEY, CA 94703

Customer No: 60446/233322  
Total Due \$300.00



# Attachment 3

Department of Finance  
Revenue Collection  
1947 Center Street  
Berkeley, California 94704

Telephone: 510 981-7200  
Fax: 510 981-7210  
TDD: 510 981-6903  
[finance@ci.berkeley.ca.us](mailto:finance@ci.berkeley.ca.us)

Date: 3/23/06

MOSLEH MOHAMMED  
3198 ADELINE ST VE  
BERKELEY, CA 94703

Customer No: 60446/233322

Type: RI - Residential Inspection

Charge	Date	Description	Amount
	2/21/06	Unpaid Balance (Please ignore if already Paid)	300.00
RHSP3	3/02/06	2333 NINTH ST 05-07570, Insp: 03/02/06 Inspection Questions 981-5444; Bill Questions 981-7200	300.00

Please write your customer number on your check.

CURRENT	1 DAY	30 DAYS	60 DAYS
300.00	300.00		

Due Date: 4/24/06

Payment Due: 600.00  
Total Due: \$600.00

----- Please detach and return with remittance -----

Date: 3/23/06 Due Date: 4/24/06  
Make Check Payable To:

City of Berkeley  
ATTN: Residential Inspection  
1947 Center Street  
Berkeley CA 94704

From:  
MOSLEH MOHAMMED  
3198 ADELINE ST VE  
BERKELEY, CA 94703

Customer No: 60446/233322  
Total Due: \$600.00



Housing Department  
Housing Code Enforcement

**SENT CERTIFIED AND REGULAR MAIL**

May 23, 2006

MOSLEH MOHAMMED  
3198 ADELINE ST VE  
BERKELEY, CA 94703

**RE: NOTICE OF PROPOSED LIEN AND HEARING RIGHTS**

Dear Property Owner(s):

According to records on file with the City of Berkeley Finance Department, you are delinquent in providing payment for fee-related inspections conducted through the Housing Code Enforcement Program. These inspections were performed on your rental property after you were notified of housing code violations that needed correction and the schedule for reinspecting your property. Additionally, during the enforcement process, the Finance Department billed you for each reinspection pursuant to the fee schedule adopted by the Berkeley City Council (Resolution No. 62,230-N.S., September 16, 2003).

The subject rental property is identified as follows:

Property Address: 2333 NINTH ST 8  
Parcel Number: 056- -1934-024-00  
Case Number: 05-00007644  
MR/Alt. Number: 000060446-000233324

For at least two 30-day billing cycles, the Finance Department has notified you of your obligation to pay the reinspection fee and applicable late payment fees. (Attached are copies of these notices demanding payment.) As a result, more than 45 days has passed since the City's first demand for payment was issued.

As a result of your failure to remit such payment, the City is hereby notifying you, as well as any other owner of record, of its intent to attach a *special assessment lien* against the above listed property. The amount of delinquent fees currently owed is set forth again below.

TOTAL FEES OWED                      \$300.00

Please note that the above amount represents fees incurred through the February 2006 billing cycle. You will continue to be billed and obligated to pay any additional fees incurred after this billing cycle.

2333 NINTH ST

May 23, 2006

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**Pursuant to BMC Section 1.24.170.A.3, you are also hereby notified that you have 45 days from the date of this Notice to pay the total delinquent fines, costs and fees listed above to avoid issuance of a special assessment lien.**

As of March 2006, County Records indicate that you are the recorded owner(s) of the property at the above address.

To pay the amount due, please contact the Finance Department directly and be advised that only cash, money order, cashier's checks, or Visa/MasterCard will be accepted for payment. Personal checks will not be accepted. The Finance Customer Service Center is located at 1947 Center Street in Berkeley (open Monday - Friday, 9:00am - 4:30pm). You may pay by phone with a Visa or MasterCard by calling the Finance Customer Service Center at (510) 981-7200 between the hours of 8:30 a.m. - 4:30 p.m.

**Pursuant to BMC Section 1.24.170.A.4, you have 10 calendar days from the receipt of this Notice to request a hearing before the Berkeley City Council and to file objections to the costs. Failure to request an appeal within 10 days constitutes a waiver of your right to appeal the amount specified above.**

The City Council will not be deciding whether the basis or the amount of the underlying fees is valid. Rather, the Council will only determine whether the fees were issued and processed in the manner authorized by law and that the proposed lien is an accurate reflection of them.

**To file a hearing request, contact the City Clerk in writing, stating the reason why you believe the amount of the proposed lien is incorrect.**

If you fail to either remit the total amount demanded above within 45 days of this notice or request a hearing within 10 days of receipt of this notice, the City will notify the County Auditor and direct it to place a *special assessment lien* on your property for the total amount set forth above. The amount of the lien may then be collected at the same time and in the same manner as property taxes are collected.

If you have any questions regarding the contents of this notice, please contact this office at (510) 981-5444.

Sincerely,

Carlos Romo  
Housing Inspector Supervisor

Mohamed Mosleh  
3198 Adeline ST.  
Berkeley, CA 94703

CITY OF BERKELEY  
CITY CLERK DEPT  
06 JUN -1 PM 4:45

6-1-06

CITY OF BERKELEY

PROJECT ADDRESS  
2333-9TH ST BERKELEY CA

I HAD TO REPAIR SEVEN UNITS ALSO  
SOME OUTSIDE REPAIRS. I HAD TO GET PERMITS  
FOR THE WALL HEATER'S REPAIRS, WATER HEATER  
REPAIRS, VENTS REPAIRS, RELOCATING THE WATER HEATER'S  
TO MEET THE NEW CODE.

WE ASKED THE H.C.E INSPECTOR FOR MORE TIME  
TO DO THE JOB, AND HE SAID NO.

THANK YOU

Mohamed Mosleh  
(510) 334-6158

City of Berkeley  
 Housing Code Enforcement  
 2180 Milvia Street, 2<sup>nd</sup> Floor  
 Berkeley, California 94704

Tel: (510) 981-5444  
 Fax: (510) 981-5450  
 TDD: (510) 981-6903

## Housing Code Enforcement REQUEST FOR RRIP BILLING ADJUSTMENT

Berkeley property owners who wish to dispute a Housing Code Enforcement fee should complete this form and mail it to the address listed above. Please attach a copy of your billing statement.

Requested by: Mohamed Mosleh 4-24-06  
 Name of applicant (print) Date of request  
2333-9th St. Berkeley, CA 60446/233322  
 Project address 60446/233324  
 Case number  
 \$ ALL  
 Adjustment amount

I hereby request an adjustment of fees for an inspection made as follows:

Date(s) of Inspection: ALL ALL ALL

Reason for Adjustment: AFTER THE INSPECTION BY H.C.E. I RECEIVED A LIST OF REPAIRS, IN THE LIST IT CALLED FOR WALL HEATER PERMITS AND REPAIR. IT CALLED FOR WATER HEATERS REPAIRS WITH CITY PERMITS, WE HAD TO CHANGE SOME WATER HEATER, RARE SOME OF THEM FROM THE FLOOR, CHANGE THE LOCATIONS, CHANGE THE VENTS, DRAINS, WATER LINES. WE HAD 7 UNITS AND OUTSIDE OF THE BUILDING TO REPAIR SOME TENANT ALSO WANTED MORE WORK THEN ORDERED BY THE CITY H.C.E. THIS TURNED OUT TO BE A BIG JOB FOR US. I CALLED THE INSPECTOR, AND ASKED HIM FOR MORE TIME HE SAID NO. I'LL COME OUT TO INSPECT ANYWAY. I DIDNT WANT TO GET INTO ANY PROBLEM WITH

Applicant's signature: Mohamed Mosleh  
(510) 334-6158  
 Phone number

Mailing address  
3198 ADELIN ST.  
BERKELEY, CA - 94703

For office use only	MR # _____	Alternate # _____
Inspector _____	Recommended:	
	<input type="checkbox"/> Yes \$ _____	<input type="checkbox"/> No \$ _____
Date: _____		
Comments: _____		
Supervisor _____	<input type="checkbox"/> Yes \$ _____	<input type="checkbox"/> No \$ _____
Comments: _____		



Housing Department

Code Enforcement

September 21, 2005

Notice of Investigation

APN 056- -1934-024-00

Case # 05-00007644

MOHAMED MOSLEH  
3198 ADELIN STREET

BERKELEY, CA 94703

Subject: NOTICE OF INVESTIGATION PURSUANT TO THE RENTAL HOUSING SAFETY PROGRAM (RHSP); BMC 12.48; BUILDING AT -- 2333 NINTH ST 8, Berkeley, California

Dear Owner(s):

The above subject property was inspected on August 23, 2005 as part of the City of Berkeley's Rental Housing Safety Program to determine compliance with the Uniform Housing Code as adopted by the City of Berkeley (BMC Chapter 19.40). Attached to this letter is a list of the violations that were identified during this inspection.

To determine compliance with this Notice of Investigation, a reinspection has been scheduled for:

Date: **November 08, 2005**

Time:  AM = 9:30 am-12:00 noon

PM = 1:00 pm-4:00 pm

At that time we expect to have access into the building/unit in order to determine whether or not repairs have been made. If all the defects have been corrected, there will be no fee for the reinspection and you will be given a Notice of Compliance. If you receive a Notice of Compliance you will then be exempt from the City's Annual Safety Self-Certification requirement for a three-year period.

If all defects have not been corrected by the time of the reinspection, the City of Berkeley Housing Code allows for subsequent reinspections until all repairs have been corrected and verified, you will be charged in accordance with the enclosed fee schedule for the reinspections. Your cooperation in obtaining the necessary permits and completing all repairs as expediently as possible will be to our mutual benefit. Permits can be obtained at:

Permit Service Center  
2120 Milvia Street  
Berkeley, CA 94704  
Phone: (510) 981-7500

If either you or the applicable tenant(s) wish to appeal the determination as set forth in Chapter 19.44 of the Berkeley Municipal Code, please feel free to contact our office. Failure to file the referenced appeal within 30 days of this Notice of Investigation shall constitute a waiver of any objections to said determination and of the right to an administrative hearing and adjudication, and the order shall therefore be final and binding. Your appeal request will initially be considered by the appointed RHSP Hearing Officer.

If you have any questions concerning this Notice of Investigation, please contact the Housing Inspector, at (510) 981-5444, between 8:00 am - 9:00 am and 4:30 pm - 5:00 pm.

Sincerely,



DAVID ROWL  
Housing Inspector

Enclosure(s)

CC: Tenant

INVEST05.DOC

CITY OF BERKELEY  
Housing Code Enforcement  
2180 Milvia Street, 2nd floor  
Berkeley, California 94704  
(510) 981-5444

Case Details

Date: 09/21/2005

Case #: 05-00007644  
Subject: 2333 NINTH ST 8

Of the original 12 violations, 0 have been cleared.  
The remaining violations are:

1. COB ORD, DOOR/DOOR LOCKS/HINGE  
Exterior door(s) and/ or locking hardware are damaged or missing or the exterior door hinge(s) has a removable pin.  
BMC 19.28, SEC.1003.3.1.8 and BMC 19.80  
Repair or Replace.  
Locking Devices, Hinges and Striker Plates shall meet the requirement as specified in BMC 19.80.050,  
and for designated Hotels and Apartment Houses BMC 19.80.060 shall apply.  
\*\*\*- In the living room a double cylinder dead bolt lock was noted on the entry door. To correct, replace double cylinder lock with single cylinder dead bolt lock.
2. LIVING RM, CEILING/WALL DAMAGE  
The Walls/Ceiling are deteriorated/damaged, or failing.  
BMC 19.40, CHAPTER 6, SEC. 601.1  
Repair or Replace.  
\*\*\*- In the living room a crack was noted in the wall above the entry door. To correct, repair crack in wall and prime/paint.
3. KITCHEN, COUNTERTOP  
Countertop is deteriorated/rotted, or ceramic tile/caulk is deteriorated creating a un-sanitary condition.  
BMC 19.40, CHAPTER 6, SEC. 601.1  
Repair or Replace.  
\*\*\*- In the kitchen back of countertop was noted to be open. To correct, caulk the back of countertop to seal gap.
4. KITCHEN, WALL/CEILING DAMAGE  
Walls and/or Ceiling are deteriorated or damaged.  
BMC 19.40, CHAPTER 6, SEC. 601.1

Date: 09/21/2005

Case #: 05-00007644

Subject: 2333 NINTH ST 8

Repair or Replace under Permit.

\*\*\*- In the kitchen the paper was noted to be peeling on the wall next to stove and lower north corner east wall. To correct, repair loose wall paper.

5. BATHROOM, DOOR

Door is damaged and/or inoperable.

BMC 19.40, CHAPT.6, SEC.601.1

Repair or Replace.

\*\*\*- In the bathroom the door was noted to be peeling on front and a hole was noted in the rear. To correct, repair or replace door and ensure proper operation.

6. BATHROOM, LAVATORY/PLUMBING

Lavatory base cabinet is rotted and is structurally weak, or the basin is broken, or faucets are faulty and leak, or the drain waste line is leaking. BMC 19.40, CHAPT.5, SEC.505.7

Repair or Replace.

\*\*\*- In the bathroom the sink was noted to be cracked. To correct, replace sink and ensure proper operation.

7. BATHROOM, SHOWER/TUB ENCLOSURE

Shower/tub modular enclosure is deteriorated/separating from the wall. BMC 19.40, CHAPT.5, SEC.505.7

Replace or Repair the Modular Enclosure.

\*\*\*- In the bathroom the tub enclosure wall panel was noted to be cracked and chipps were noted in the tub. To correct, replace the crack wall panel and repair/cover chipps in tub.

8. BATHROOM, WALL/CEILING DAMAGE

Walls and/or Ceiling are deteriorated or damaged.

BMC 19.40, CHAPTER 6, SEC. 601.1

Repair or Replace.

\*\*\*- In the bathroom the paper was noted to be peeling from the walls. To correct, secure paper to walls or remove and prime/paint.

9. BEDROOM, ELECTRIC COVER PLATES

Cover plates are missing over outlets and/or switches.

Date: 09/21/2005

Case #: 05-00007644

Subject: 2333 NINTH ST 8

BMC 19.40, CHAPTER 7, SEC. 701.2

Install Cover Plates.

\*\*\*- In the west bedroom the light switch cover plate was noted to be cracked. To correct replace the cracked cover plate.

10. BEDROOM, WALL/CEILING DAMAGE

Wall(s) and/or Ceiling are damaged/or deteriorated.

BMC 19.40, CHAPTER 6, SEC. 601.1

Repair or Replace.

\*\*\*- In the west bedroom the wall under the window was noted to be pulling away. To correct, secure wall to studs and seal.

11. BEDROOM, WALL/CEILING DAMAGE

Wall(s) and/or Ceiling are damaged/or deteriorated.

BMC 19.40, CHAPTER 6, SEC. 601.1

Repair or Replace.

\*\*\*- In the west bedroom the paint was noted to be peeling at the light fixture. To correct, remove peeling paint and prime/paint.

12. BEDROOM, WINDOW(S)

Window(s) are broken or inoperable or the Emergency Escape Window has been eliminated.

BMC 19.40, CHAPT.5, SEC.504.3 AND CHAPT.6, SEC.601.2 AND CHAPT.8, SEC.801

Repair or Replace.

\*\*\*- In the west bedroom inspect window drain and ensure proper operation of window.

