



LEAGUE OF CALIFORNIA CITIES PRESENTS:

NEIGHBORHOOD LAW PROGRAMS: HOW CITY ATTORNEY'S OFFICES CAN FIGHT BLIGHT MORE EFFECTIVELY



**Ryan Griffith, Esq. – Attorney & Receiver
Eli Flushman, Esq. – Attorney (Burke, Williams, Sorensen, LLP)
Paige Meyer – Fire Chief (San Ramon Valley Fire District)
Joseph Kreins – Vallejo Police Chief (Retired)**



AGENDA



THE PROBLEMS

- Nuisance Properties
- Public Safety Communication and Prioritization with City Attorney's Office
- Learning to use the Legal Remedies Available

HOW DO NEIGHBORHOOD LAW PROGRAMS CURE BLIGHT, WHAT ARE THEY?

- Neighborhood Law Programs become the communication center for public safety officials to discuss neighborhood nuisances with the City Attorney's Office
- What do Neighborhood Law Programs do? (1) Receiverships; (2) Drug Abatement/Red Light Abatement; (3) Illegal Dumping; (4) Nuisance Litigation; (5) Demolition; (6) Ordinance drafting; (7) Administrative Code Enforcement; (8) Community Engagement
- How much does a Neighborhood Law Program cost to implement?

QUESTIONS AND DISCUSSION

- New Questions?



WHAT NUISANCE PROPERTIES CAN LOOK LIKE



TOOLS AVAILABLE TO NEIGHBORHOOD LAW PROGRAMS

- **Administrative Enforcement** – Usually effective, but when it is not, what can you do?
- **Building and Fire Code Enforcement** – “Red/Yellow” Tagging, and health and safety enforcement
- **Receivership** - Allows a neutral court agent to take control and address the issues with court supervision at no cost to the city. The city is authorized to recover its attorneys’ fees and enforcement costs pursuant to California Health and Safety Code 17980.7(c)(11) and (d)(1); *City and County of San Francisco v. Jen* (2005) 135 Cal. App.4th 305, 311-312.
- **Nuisance/Drug Abatement/Red Light Abatement** – Health and Safety Code § 11570/Penal Code § 11225; *People ex rel. Gwinn v. Kothari*, (2000) 83 Cal. App. 4th 759.
- **Illegal Dumping Prosecution** – Penal Code § 374.3.
- **Eminent Domain**- Complicated but once property is controlled it can be difficult for city to manage (see *Kelo v. City of New London* (2005) 545 U.S. 469, 473) – However, it is a tool to use.
- **City Funded Demolition** – Expensive and often leaves city with a vacant lot, but ultimately abates nuisance. A receiver can demolish nuisance properties. (*City of Santa Monica v. Gonzalez* (2008) 43 Cal. 4th 905, 930.)



WHY NEIGHBORHOOD LAW PROGRAMS ARE NECESSARY

- The legal tools discussed on the prior slide are commonly known to police, fire and code enforcement. However, finding an attorney to file the litigation and follow through with these legal remedies is difficult.
- This is because City Attorney Offices are often extremely busy with union negotiations, defending lawsuits, implementing policies, Public Record Act requests and a variety of other issues. This regularly causes nuisance property issues to end up at the bottom of a city attorney's priority list, which leads to frustration with rank & file public safety officials that must regularly interact with the public who become frustrated with ongoing nuisance properties. Inaction often ends up with frustrated community members contacting city managers, mayors, and/or councilmembers, or writing to the local paper.
- Neighborhood Law Programs can fix this communication gap, because Neighborhood Law Attorneys focus solely on fighting blight, communicating with frustrated neighbors, and building trust among the rank & file public safety officials, and breaking down silos between departments that may not understand or have the time to support one another.
- Neighborhood Law Attorneys also become experts on the various types of anti-nuisance litigation and can file lawsuits and follow through with them.



WHO ARE NEIGHBORHOOD LAW ATTORNEYS?





WHO ARE NEIGHBORHOOD LAW ATTORNEYS?

- **Recent Law School Graduates** - This ensures that the Neighborhood Law Attorneys will be young, scrappy, and hungry to take on new challenges. They also demand less compensation than more seasoned attorneys.
- **Two Year Terms** - Typically Neighborhood Law Attorneys agree to two-year contracts with the city, which provides NLP attorneys with motivation to hit the ground running to accomplish as much as possible in a short time.
- **NLP Attorneys in the Community** - NLP Attorneys need to be good public speakers as they will often engage the community and speak to neighborhood groups in the community, such as the County Realtor Association, Soroptomist Societies, Bar Associations, and other community groups. NLP attorneys become liaisons to the community and help build trust within the community by listening to community concerns and implementing legal solutions.
- **What is in it for NLP Attorneys?** – Gaining experience out of law school is often difficult, but NLP programs provide a unique experience that allows young lawyers to get hands on leadership and litigation experience, which is invaluable. Providing such attorney’s this opportunity can be a gateway to a longer career in municipal law.



WHO DO NLP ATTORNEYS WORK WITH?

NUISANCE PROPERTIES IMPACT EVERY CITY AND NLP ATTORNEYS BECOME THE POINT TEAM TO HELP THE VARIOUS DEPARTMENTS ADDRESS NUISANCE PROPERTIES

- **CODE ENFORCEMENT** - NLP Attorneys work with code enforcement to abate properties where typical enforcement procedures are ineffective (i.e. *deceased owner/abandoned property/hoarder.*)
- **POLICE** - NLP Attorneys work with police to resolve properties with numerous calls for police service. (i.e. *drug houses/nuisance hotels/illegal businesses.*)
- **FIRE AND FIRE PREVENTION** - NLP Attorneys work with fire departments to abate fire dangers (i.e. *fire damaged buildings/hoarders/combustible debris.*)
- **BUILDING/PLANNING** - NLP Attorneys work with building and planning departments to gather evidence and abate properties with illegal construction or unlawful uses (e.g. clandestine cannabis cultivation).
- **COMMUNITY** - It is not uncommon for these problem properties to involve several departments and a community can become frustrated with who to contact. NLP Attorneys can be the department to contact regarding resolving major nuisance properties and engage the community on how solutions are being implemented.



NLP PROGRAMS INCREASE COLLABORATION

VARIOUS DEPARTMENTS WANT COLLABORATION, AND NLP PROGRAMS HELP ACHIEVE IT, BECAUSE ABATING NUISANCE PROPERTIES BRINGS PEOPLE TOGETHER



EXAMPLES OF COLLABORATION

- **Nuisance Property (14 Code Enforcement Citations/2 Inspection Warrants)**
- **24 Calls for Police Service/Numerous Arrests**
- **2 Fires/Numerous Fire Hazards**
- **Community Upset and Frustrated with Nuisance Conditions**
- **NLP Attorneys File Receivership Lawsuit: Solano County Case FCS042567**





EXAMPLE OF COLLABORATION

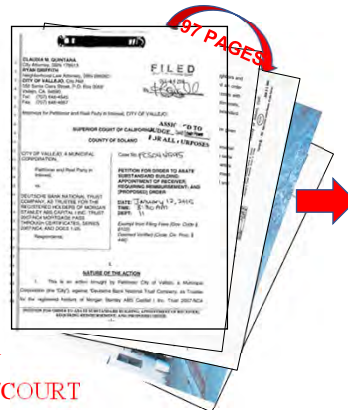


Neighborhood
Problem Start Date

Unknown



Start of Case
Sept 11, 2013



CITY
ATTORNEY/COURT
FINAL
DOCUMENTATION
97 PAGES



End of Case
Jan 12, 2015



COLLABORATION CONTINUED



- 97 page lawsuit required records from fire, code, and police, which are necessary to obtain judicial approval for a receivership.
- Once you obtain a receivership order, all departments need to work together.
 - You need police to clear the property of illegal occupants, fire to abate dangers, and code/building to document building code violations.
- Once a property is cleared and violations are documented, attorneys report to court and receiver can repair property.
- Property at issue was valued at **\$67,000** when lawsuit was initiated
- After repairs it sold for **\$210,000**.
- City was awarded **\$10,000** for attorneys' fees and enforcement costs



NLP PROCESS FROM PROBLEM TO ABATEMENT

- Step 1: Receive Complaints and Evaluate Properties
 - NLP Intake Form, SeeClickFix app, from staff, Carrier Pigeon
- Step 2: Verify complaint and determine if property needs NLP involvement
- Step 3: Develop legal strategy and start building a case
 - Engage owner
 - Build Record
 - Speak with community, witnesses, other involved people
- Step 4: Take appropriate legal action (e.g. Receivership)
- Step 5: Continue to monitor the property for any post abatement follow up



NLP TOOL RECEIVERSHIP

Receivership allows cities to petition a court to appoint a receiver to take control of nuisance properties and use equity from dangerous properties to repair them. Most cases result in equity being taken from mortgage holder banks. (See Health and Safety Code § 17980.6 & 17980.7; *City of Santa Monica v. Gonzalez* (2008) 43 Cal. 4th 905.)



The Impact of Receivership

RG



**In 2015 the receivership program created \$1.1M of property value
(\$2M in property value from 2013 - 2015)**

Property Value Case Study		
	As-Is Value	Est. Sale Price
Webb St.	\$90,000	\$248,500
Hazelwood St.	\$112,000	\$263,500
Magazine St.	\$103,000	\$221,000
Totals	\$305,000	\$733,000
Gain in value		+ \$428,000



Bay Area Receivership Group

EF



NLP TOOL NUISANCE LITIGATION

- Public Nuisance Lawsuits are used when a property is used in such a way as to obstruct the free use of property of an entire neighborhood.
- Proving your case
 - Need adequate evidence to bring your claim
 - Speculation is not sufficient
 - Reputation in the community is relevant and admissible
 - Use the reports and records of the Police Department, as well as the reports and investigations conducted by other departments and divisions.
 - We do utilize logs made by citizens where they are willing to be a witness



HOW NLP PROGRAMS BENEFIT THE CITY

- Public Nuisance Laws
 - Public Nuisance (Cal. Civ. Code § § 3479 et seq.)
 - Anything which is an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property, which affects at the same time an entire community.
 - Drug Abatement Act (Cal. Health and Safety Code § § 11570 et seq.)
 - Building or place used for selling, serving, storing, keeping, distributing, giving away, or manufacturing a controlled substance.
 - Red Light Abatement Act (Cal. Penal Code § § 11225 et seq.)
 - Building or place used for illegal gambling, lewdness, assignation, or prostitution.

PUBLIC NUISANCE *per se*



- Zoning Violation and Unlawful Business
- 20 + people unlawfully living on industrial lot
- Drugs, Fights, and other violations of the Vallejo Municipal Code
 - 100's of hours of staff time
- NLP obtained Temporary Restraining Order and Preliminary injunction

EF



Bay Area Receivership Group

EF



NLP PROCESS: VOLUNTARY COMPLIANCE

- Voluntary compliance is a significant cost-saving strategy for Cities. Property owners take responsibility to abate nuisance conditions with minimal City involvement, saving staff time, which allows City resources to be focused elsewhere.

- Engage owners

- Letters
- Phone calls
- Informal meetings



- Provide reasonable deadlines
- Can formalize compliance in agreement





COMMERCIAL PROPERTIES

- **Nuisance Liquor Stores**
 - Work with Alcohol Beverage Control. They can force some immediate changes
 - Engage property owners and operators.
 - They want a clean community too. It is good for business.
- **Nuisance Hotels**
 - Enforce compliance with all of the municipal code
 - Transient Occupancy Tax, Building Code
 - Work with police to obtain evidence of drugs, prostitution, or other nuisance activity
- **Unlawful Businesses**
 - Work with other divisions to make sure proper use, valid business license (and is for the type of business actually being run).
 - Internet Gambling Establishment: Like to pretend they are internet cafés or computer repair businesses



HOW NLP PROGRAMS BENEFIT THE CITY

- Abate Major Nuisance Properties
- Improve Collaboration and Communication Within City
- Improve Communication Between City and Community
- Nuisance Abatement Actions Usually Include Cost Recovery Provisions, Which Increase City Revenue
- Improve property values!!!



COMMON PROBLEM PROPERTIES NLP RESOLVES

- A) Deceased Owner Issues
- B) Zombie Foreclosure Issues
- C) Owners in Bankruptcy
- D) Hoarder Issues/Owner Mental Health Issues
- E) Abandoned Properties
- F) Slumlords/Crime Issues
- G) Illegal Dumping



IMPLEMENTING NLP PROGRAM

NEW PROGRAMS OFTEN SOUND GREAT, BUT HAVE UNFORESEEN ISSUES. WHAT ARE SOME ISSUES NLP PROGRAMS HAVE AND HOW CAN THEY BE DEALT WITH?

- Implementing a NLP Program takes time and time is limited in cities. (i.e. for the police, code, and fire to pull reports and records for NLP litigation takes time. In Vallejo, Annuitants were used to pull records.)
- Communities and even cities themselves believe too many departments exist. Therefore, adding another division can be controversial. Therefore, it is important to have the NLP Program engage in outreach and create a fluid intake process. (Vallejo created an intake form to resolve nuisance properties.)
- Setting realistic expectations. Young attorneys can be ambitious and may overpromise and under deliver. This is especially true, because attorneys have no control over what a judge/jury may do. Young attorneys should also not commit other departments to engage in work that they have not agreed to. (i.e. obtaining a Nuisance Judgment might be big deal for new NLP Attorney, but NLP Attorney needs to develop relationships with police before telling them to enforce the Judgment.) In fact, it helps to work with police to craft language so enforcement can be clear.



IMPLEMENTING NLP PROGRAM

RG

ADDITIONAL IMPLEMENTATION STRATEGIES

- Communication is key and having bi-weekly meetings to discuss issues with the various departments can be helpful to ensure the program is being effectively used. (Of course, adding another meeting takes time, but if done properly they can help abate major nuisances and make everyone look good.)
- Communicating with leadership and community. In Vallejo, the NLP team worked on a bi-weekly report to explain what they were working on and what they had accomplished, which was explained to the community. Additionally, every few months the NLP attorneys would present to City Council to explain strategies and goals, as well as listen to the leadership team on what should be focused on.



NLP IMPLEMENTATION COST

RG

- NLP Attorneys are recent law school graduates that work for a reduced salary and are on two year contracts. Therefore, the financial commitment is not the same as a Deputy or Assistant City Attorney.
- Furthermore, NLP Attorneys often pay for themselves, because they fight crime/blight using civil litigation and there are numerous cost recovery provisions in Nuisance Abatement cases.
 - A) Health and Safety Code § 17980.7(c)(11) & (d)(1) Receivership attorney's fees and costs recovery; *City and County of San Francisco v. Jen* (2005) 135 Cal. App 4th 305, 311.
 - B) Civil Code § 3496; *People v. Bhakta* (162 Cal. App. 4th 973).
 - C) As a result of the numerous attorney provisions more often than not NLP Programs end up paying for themselves, but of course there is no guarantee of that.
 - D) Improving property values also has impact of improving tax base within the community.



Bay Area Receivership Group

SUCCESS!!! YOUNG LAWYERS OF THE YEAR

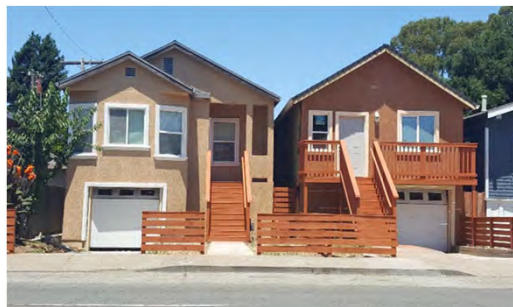


EF



Bay Area Receivership Group

SUCCESSFUL ABATEMENTS



EF



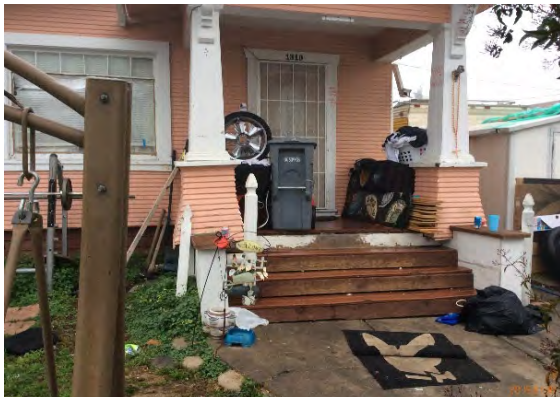
SUCCESSFUL ABATEMENTS



EF



SUCCESSFUL ABATEMENTS



EF



CONTACT INFORMATION

Ryan Griffith: Attorney & Receiver rgriffith@bayarearg.com

Website www.bayarearg.com

Main Office Phone (510) 995-0158

Eli Flushman: Attorney, Burke, Williams, Sorensen, LLP

Website <https://www.bwslaw.com/>

Email: eflushman@bwslaw.com

Office Phone: (415) 755-2609

Fire Chief Paige Meyer: San Ramon Valley Fire District

Police Chief Joseph Kreins (Retired): Vallejo Police Department