

TO: James L. App, City Manager
FROM: Bob Lata, Community Development Director
SUBJECT: Tilting Block Fence, 800 Block of Niblick Road
DATE: May 18, 2004

Purpose: To provide information regarding a tilting masonry wall at the 800 block, south side of Niblick Road.

- Facts:**
1. The block fence/sound wall in question was constructed in 1985, as a condition of developing Tract 876.
 2. Since its construction, the wall has tilted, leaning to south into the rear yards of four (4) property owners.
 3. A record of survey completed by the City shows the block fence to be located outside of the public right of way on private property.
 4. In 1996, then Fire Chief Doug Hamp notified the adjacent property owners of the potential hazard should the wall eventually fall into their rear yards.
 5. In June of 2003, concerns were again raised by City Officials regarding the tilting wall causing the Building Division to contact the property owners to request the wall be repaired or replaced.
 6. On July 14, 2003, letters were sent to the property owners requesting the wall be stabilized or replaced by January 31, 2004 (six months from the date of the letter).
 7. Inspections conducted on January 31, 2004, determined no work to mitigate the condition noted in the July 14, 2003 letter had been implemented. As a result, a Notice and Order was forwarded to the attention of the property owners. The Notice established, that unless repairs to the wall were completed within sixty (60) days (specifically April 5, 2004) from the date of the notice (specifically February 3, 2004), the matter would be forwarded to City Council for abatement.
 8. Two properties located at 911 and 915 Austin Court subsequently secured permit to construct masonry pilasters at the respective properties to brace the wall against further movement. Under the permit, they have 180 days to complete the work.
 9. The properties located at 903 and 907 Austin Court have not secured permits to mitigate the potential hazard.

**Analysis
and**

Conclusion: Because the wall tilts toward the property owners and away from the right-of-way, the threat to individuals using the sidewalk is minimal. However, the wall does constitute a hazard to the property owners or other individuals accessing the rear yards of the properties.

In the opinion of City Attorney Mike Seitz, the City would not have an exposure should a failure occur.

In accordance with the Notice and Order, Council could find the wall to be a nuisance and direct it be repaired by the property owner within a specified time frame. Should the property owners not facilitate repairs, Council can direct staff to make the necessary repairs and the cost of such would be added to the tax roll for the property until repaid.

Policy

Reference: Section 17.04 of the Municipal Code

Fiscal

Impact: Should it become necessary for the City to abate the nuisance by removal/replacement of the wall adjacent to the two (2) properties who have not secured permits, the estimated cost associated with this option, given prevailing wage, is approximately \$40,000.00.

- Options:**
- a. Confirm the Notice and Order by declaring the wall a nuisance and establishing a date of October 29, 2004, for completion of the abatement/repair of the respective wall sections. Failure to address the wall by the October date will result in the City completing the work and the cost becoming a tax lien upon the property.
 - b. Direct the Building Official to withdraw the Notice and Order, informing the property owners by written notice of the potential hazard should the wall fail, further suggesting the property owners address the wall on their own accord and consider the matter closed.
 - c. Amend, modify, or reject the above options.

Attachments:

1. Vicinity Map
2. Letter for 903
3. Notice and Order for 903

Rigoberto Lopez
903 Austin Court
Paso Robles, Ca 93446

July 14, 2003

Subject: Tilting wall at rear property lines 903, 907, 911, 915 Austin Court

Dear Mr. Lopez:

The purpose of this letter is to make you aware of the City's concern regarding the condition of the masonry fence/sound wall at the rear of the properties located at 903, 907, 911 and 915 Austin Court adjacent to Niblick Road. Since its construction in 1985, the wall has gradually settled and is presently leaning into the rear yard of these properties. The degree of lean raises safety concerns should the wall ultimately fail and potentially fall into an occupied rear yard.

The wall resides out of the public right-of-way five feet from the sidewalk on the properties noted above. As such, it is not subject to maintenance by the City. Rather, its maintenance would be the responsibility of the property owner(s). It is the City's hope that the effected property owners will work together to replace or stabilize the masonry fence/sound wall, prior to January 31, 2004.

Should you have any questions regarding this letter, please contact this office at (805) 237-3850.

Sincerely,

Doug Monn
Building Official

C: Bob Adams, Code Enforcement
Mike Seitz
Dennis Cassidy

February 3, 2004

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rigoberto Lopez
903 Austin Court
Paso Robles, Ca 93446

NOTICE AND ORDER

1. Pursuant to Chapters 17.04 of the Paso Robles Municipal Code and the Uniform code for Abatement of Dangerous Buildings, adopted by reference therein, you are hereby notified that on June 6, 2003, building inspectors from the Paso Robles Building Division conducted an inspection of the northern most boundary of property commonly known 907 Austin Court Street (APN 009-463-003) (hereinafter the property) after receiving a report from the Paso Robles Police Department that potentially a dangerous condition existed at this property. The 2003 Assessor's tax roll lists you as the owner of the property.

2. During the inspection, the following conditions and defects were found to exist at the property:

A. Violation of the Uniform Code for Abatement of Dangerous Buildings , Section 302, sub-sections 5, 6, 7, 10:

5. Whenever any portion of a building or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or property.

6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of the specified in the Building code for new buildings or similar structure, purpose, or location without exceeding the working stresses permitted in the Building Code for such building.

7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls of other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

10. Whenever the exterior walls or other vertical structure members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

By reason of the conditions and defects specified above, the property has been found to be subject to abatement as defined in Chapter 302 of the Uniform Code for the Abatement of Dangerous Buildings..

1. On July 14, 2003, a letter was sent to your attention (copy attached) requesting you stabilize or replace the masonry fence prior to January 31, 2004. As of the filing of this notice and order, no work has been performed.

2. You are hereby ordered forthwith to complete all work associated with this notice and order shall be completed not later than Sixty (60) calendar days from issuance of this notice (April 5, 2004).
3. If the required repair work is not commenced within the time specified above, the Building Official for the City of Paso Robles may cause the property to be secured against entry and the nuisance abated by the City of Paso Robles. Any costs related thereto would become the responsibility of the property owner and may result in a lien being placed against the property or its owner.
4. The decision of the Building Official contained herein ordering the above-prescribed action may be appealed to the City Council by any person having title or legal interest in the property by preparing a written appeal and filing it with the Building Division of the City of Paso Robles, 1000 Spring Street, Paso Robles, CA 93446 within thirty (30) days from date of this Notice and Order. Failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.
5. If an appeal is filed, the appellant may present any relevant evidence and may be, but need not be, represented by legal counsel. The Uniform Code for the Abatement of Dangerous Buildings outlines the appeal procedures and is available for examination in the Building Division at the address referenced above.

If you have any questions concerning this Notice and Order, please call me at (805) 237-3850. Thank you for your prompt attention to this matter.

Doug Monn

Building Official

Attachments: Copy of Chapter 17.04 of the City of
Paso Robles Municipal Code adopting
the Uniform Code for the Abatement of Dangerous Buildings
Letter of July 24, 2003

c: Bob Adams
Bob Lata
Steve Perkins
Building File
Mike Seitz

VICINITY MAP ~ TILTING BLOCK FENCE
800 BLOCK OF NIBLICK ROAD

