

Daily Journal

www.dailyjournal.com

TUESDAY, MARCH 16, 2021

PERSPECTIVE

City attorneys: generate revenue, prevent crime and reduce blight

By Ryan Griffith

Almost every city has abandoned, vacant, fire damaged, or otherwise dilapidated properties. Often these properties blight neighborhoods for years, while endangering communities, driving down property values, and harming neighborhood morale. The neighborhood hopes and expects the city to fix the situation. Unfortunately, most citizens are unfamiliar with government departments and assume the city will just figure it out.

Perhaps citizens should expect more from their government. Hopefully, one day the government will run without any flaws, defects or other deficiencies. Unfortunately, in 2021, while city governments do a great deal, like every other company, individual and organization, city governments have imperfections, which need improvement.

As it relates to nuisance properties, the problem requires exploration and explanation before resolution can be reached. For now, let us assume we are a neighbor next to a nuisance property that has been burned down for months. At this property, transients dump trash and occasionally spend the night while doing hard drugs and often engaging in dangerous behavior. The burned down property becomes a daily eyesore. The transients, debris and unsanitary conditions then start endangering your community. This is obviously a problem, but who do you call?

Usually the property is vacant, so one does not think to call the police. The property has been fire damaged, but no active fire is there, so the fire department is incorrect as well. Perhaps the building department can assist. Yes, the building department can inspect and red-tag the building. However, other than adding a

red-sign to the building, which will likely become litter in a few days, the red tag does little to scare off transients that do not actually live there. In fact, the red sign alerts transients that nobody is responsible for the property, which attracts more danger.

If the police, fire and building departments cannot fix the property, who can? The answer may surprise you. The city attorney can seek judicial relief by using records from police, fire and building departments. One of the most effective remedies a city attorney's office has in their arsenal for nuisances is Health and Safety Receiverships. Of course, other actions such as Drug Abatement Act lawsuits (Health and Safety Code Section 11570 et seq.), red light abatement (Penal Code Section 11225 et seq.), nuisance (Civil Code Section 3480 et seq.) and vacant property ordinances, eminent domain, and a number of other remedies are available to city attorneys as well.

With that introduction it seems the problem can be solved by the city attorney through a number of legal paths. However, espousing legal theories about how things can be dealt with and actually doing the legal work are two very different things. While city attorney offices have the ability to handle nuisance properties, that is rarely their primary concern. City attorney offices handle labor negotiations with police unions, fire department unions, defend civil lawsuits against the city, draft city legislation, and handle numerous other legal issues. One of the keys to running a city attorney's office successfully is prioritizing — and the nuisance property that has sat vacant for three years probably will not become a top priority until tragedy strikes. This is what happened with the Ghostship Fire in Oakland, which resulted in 36 deaths.

However, a few cities, such as Vallejo, decided the "deal with it later" or "lack of resources" arguments were not good enough for their citizens. Vallejo created its Neighborhood Law Program in 2013. The program was built to hire two attorneys right out of law school for two-year terms at a very reasonable salary. The program was short term and would only be renewed after its initial two years if it was successful. The program would focus solely on blight issues and was for all intents and purposes a way to utilize civil litigation to fight crime, blight and neighborhood nuisances. I and another attorney, now with Burke Williams Sorenson, were hired to create the program right out of law school. Vallejo had just filed municipal bankruptcy and was one of the largest cities to do so. The city attorney's office had little time to focus on neighborhood nuisances, or to even guide the new Neighborhood Law Program. However, recent law school grads are young, scrappy, hungry and eager to find ways to build their resume. My partner and I went to work and created a program that became extremely effective and is now thriving.

A key remedy utilized by the Neighborhood Law Program was the Health and Safety Receivership. Health and Safety Code Section 17980.6, 17980.7. However, the city attorney and her assistant city attorneys had no time to learn and implement receivership programs and lawsuits. The new attorneys, however, had time to learn and implement new programs, one such program started by drafting a receivership request for qualifications. This led to the discovery of several excellent receivers and receivership litigation was a tremendous success in Solano County. To date, Vallejo has rehabbed over 50

nuisance properties through the receivership process. In addition, the program addressed homeless encampments, building code ordinances, fire inspections, and an array of other neighborhood nuisances that were neglected by the city. The program was such a success in its first year that my partner and I were named the Solano County Young Lawyers of the Year for 2013.

In addition to being great for neighborhoods, almost every nuisance abatement statute allows cities to recover attorney fees and enforcement costs. In receivership, for example, a city is entitled to all its attorney fees and enforcement costs. To date Vallejo has recovered over \$1,000,000 through its receivership program alone, which more than covers the cost of the Neighborhood Law Program salaries.

In short, Neighborhood Law Programs are a way to get young lawyers experience to deal with nuisances that senior attorneys do not have time for. Furthermore, more often than not the program pays for itself. The Neighborhood Law Programs also help build trust between the city and its constituents, as well as helps citizens learn the roles of the various city departments. ■

Ryan Griffith is an attorney and associate receiver at Bay Area Receivership Group.

