



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: June 21, 2016

TO: Mayor and Councilmembers

FROM: City Attorney's Office

SUBJECT: Authorization of Legal Services Agreement with Silver & Wright, LLP

RECOMMENDATION:

That Council authorize the City Attorney to execute a legal services agreement with Silver & Wright, LLP in an amount not to exceed \$65,000 for special counsel services on certain residential receivership and code enforcement actions.

DISCUSSION:

The City Attorney is seeking Council authorization to engage special counsel who will assist with complex enforcement actions aimed at remediating dilapidated and dangerous conditions in residential properties.

The City's Housing Element recognizes that code enforcement actions are essential to assuring safe residential buildings. The City Attorney's Office therefore supports Building and Safety staff in their efforts to enforce a wide range of state and local building codes. Our collective goal is to achieve consistent and ongoing maintenance and preservation of the City's housing stock in order to assure that Santa Barbara residents are not exposed to unsafe or substandard housing conditions.

Santa Barbara Municipal Code section 1.28.040 grants the city attorney broad and independent authority to commence court actions and other proceedings to achieve the "abatement, removal or enjoinder" of municipal code violations and public nuisance conditions. We use that independent authority routinely in civil nuisance and criminal prosecution matters. We believe that more sophisticated legal tools are necessary to achieve safe housing on certain properties in the City. One of the more sophisticated enforcement tools is a receivership action pursuant to the California Health and Safety Code.

The California Health and Safety Code authorizes the use of a court-ordered receivership on residential properties when:

- The owner fails to comply with a notice of violation; and,
- The state or local code “violations are so extensive and of such a nature that the health and safety of residents or the public is substantially endangered.”

In a receivership action, the court appoints an independent receiver who must have the “expertise to develop and supervise a viable financial and construction plan for the satisfactory rehabilitation of the building.” The receiver is empowered to exercise “full and complete control of the substandard property” and to “employ a licensed contractor as necessary to correct the conditions cited in the notice of violation.” The receiver is empowered to fund the housing rehabilitation by collecting any rents due and by borrowing against the property (the debt is secured by a recorded lien). The receiver is paid in the same manner, and the prevailing party is entitled to its attorneys’ fees.

The process is initiated by the City giving the property owner notice to abate the violations within a prescribed period of time. Once that time has expired, the City can petition the superior court to appoint a receiver who will bring the property into compliance. Residential properties are eligible for receivership when they show evidence of structural hazards, improper wiring and plumbing, accumulation of vegetation, junk, garbage or conditions that constitute health and safety hazards, and any nuisance.

BUDGET INFORMATION:

The City Attorney’s Office budget has sufficient funds to cover this expense. The attorneys’ fees will be recoverable as expenses when the City prevails.

SUBMITTED BY: Ariel Pierre Calonne, City Attorney

APPROVED BY: Ariel Pierre Calonne, City Attorney

APPROVED BY: City Administrator's Office