

6-4-07

To: Honorable Mayor Chuck Reed
And the San Jose City Council
From: Paul J. Manley
Paul J. Manley Construction
Re: Filing of Formal Complaint on the subjects of
Delinquent Notices / Inspection Practices

Dear Honorable Mayor Chuck Reed
And the San Jose City Council,

I am contacting my Mayor and Council today, one day in advance of our City Council meeting as a courtesy. I have completed all obligations to inform and work with my city. I now embark on the only remaining paths available to resolve the disputes and grievances my city has placed in front of me. My presentation tomorrow will be a formal announcement to my Mayor and Council of my final request.

I am left with the following situation:

- 1) I demand the first phase of information from the City of San Jose: Building Department as well as, Code Enforcement.
- 2) The information must reach me by 5:00 p.m. the 8th of June.
- 3) I will be forced to subpoena this information starting the week of Monday the 11th of June, should my city continue to proceed in the manner it has used to date.
- 4) I will engage in settlement procedures with our new City Manager if a good faith environment is executed by my city.
- 5) I inform my Mayor and Council that the request information is available from Mike Hanna and Code Enforcement in a sixty minute down load of computer information. I also Inform My Mayor and Council that requested information is available (although incomplete) from the building division in two hours of down loading from the city computer. I bring this to Council's attention to show: "reasonable time", has been given.
- 6) I regret to inform my Mayor and Council that an "attention deficit" management approach has been used in the past to handle my request. Specifically: "Mr. Manley I (we) do not understand the subjects". This normally results in sending the problem to the source of the problem that refuses to change their behavior.

Thank you,
Paul J. Manley
Cell: 408-679-7798
PaulJManleyConstruction@Comcast.net
Fax: 408-448-1673

6-4-07

To: Honorable Mayor Chuck Reed
And the San Jose City Council
From: Paul J. Manley
Paul J. Manley Construction
Re: Filing of Formal Complaint on the subjects of
Delinquent Notices / Inspection Practices

Dear Honorable Mayor Chuck Reed
And the San Jose City Council,

I come before my Council for the fifth time in 12 months to request the following information and inform my Council of my intended action.

- 1) I have not received the previously requested citation information from Mike Hanna and the Department of code enforcement.
- 2) I now request all " Building Inspection Notice" cards including the supervisor signature, for the four homes on Paseo Tranquillo. (About 86 documents).
- 3) I shall subpoena the information if my requests continue to go unfulfilled. Do not bother to say, "I can subpoena when ever I want". I am here to inform, I am not here to engage in a man contest.
- 4) Item # one is information the city should not have and does have. Item # two is information the city is suppose to have and does not have. This totals some 50 violations and interferences in the last 12 months.

Previously I have asked my council for comments and questions. No one has inquired. This completes my remarks,

Good-bye,
Paul J. Manley
PaulJManleyConstruction@Comcast.net
Cell: 408 679-7798

5-22-07

To: Mike Hanna

Director of Code Enforcement

From: Paul J. Manley

Paul J. Manley Construction

Re: Citations Files / Delinquent Notice #BL10289

Dear Mike,

As per our phone conversation I am supplying the "Case Search Report" dated 4-16-07, from Peggy Rollis to me.

My demand letter to Council stated:

- 1) Two citations are for the same item just dismissed. They are dated less than 30 days apart.) One of the two citations listed 8-foot tall weeds. I want that picture.
- 2) One listed too many vehicles. I want the picture showing how my neighbor's cars legally parked on the street and how are they my responsibility?
- 3) One citation listed " Stack of debris next to garage". I believe that I removed the structure in 1999. The citation is in 2000.

I demand all file pictures relating to this "Case Search Report". Furthermore, since you informed me that case # 200201528 was a file you were reading from in our phone conversation, but you could not find any of the other items, I must conclude that your department has multiple files on me. I demand those complete files.

Lastly, you said your response would be the next day.

I await your response,

Paul J. Manley

Fax: 408-448-1673

Cell: 408-679-7798

11-6-06

To: Joe Horwedel
Director of Planning City of San Jose
From: Paul J. Manley
Paul J Manley Construction
Re: Demand Letter

Dear Director Horwedel,

For some months we have communicated about my Paseo Homes and my relation with the City of San Jose: Public Works, Building and Planning Departments. I had asked at the beginning of the Paseo Project for a written response to the two typical and blatant issues that interfered with my Paseo Project as it was clearing the Department of Public Works and Building Department.

Item #1

The Department of Public Works ordered me to change my drawings, to reflect the overhead service of electroliers (existing). The change was demanded after my third plan check, and I was informed that a "special" inspection at the subject property called for the change, (i.e. someone went to the site and called for the correction).

I informed you and Primo De Guzman, of my request for a written response. To date none has arrived. I now submit this demand letter.

Item #2

The Building Department ordered me to have "special inspections" of my Paseo homes (they provided an approved list) on the same day that I picked up my building permits, (for a tidy sum of plus or minus \$100,000.) I informed you and Dennis Richardson of my request for a written response. To date none has arrived. I now submit this demand letter.

Item #3

I recently informed you and Mark Crain of the problems I have endured with Stephen Houlihan. I informed you of the upcoming inspection and the probability of Mr. Houlihan interfering in the form of incorrect inspection practices. Today, (11-6-06) Mr. Crain confirmed my work was correct in original form. I now insist that Mr. Houlihan be removed as an inspector of my Paseo Homes.

Mr. Horwedel, I draw no comfort in the form of my demands. The appreciation I have for you is based on three fundamental observations of you. First, character, your ability to listen and an overriding feeling that you are kind. Second, you are outwardly an intelligent person. Third is vision, a quality that our City Council sees, your ability for vision, "where the city needs to go" and how to get there.

I will have to offer this letter as a last call. I cannot in good faith continue to have each and every step of my project interfered with. I will insist that no future interference take place. I shall not communicate any more warnings.

Sincerely,
Paul J. Manley
4167 Briarglen Dr
San Jose Ca. 95118
(408) 679-7798

**City of San Jose
Case Search Report**

4/16/2007
Page 1 of 1

Case #	Address	Program	Status	C/U Date	Open Date	Close Date	Inspector	2nd Inspector
200523506	0 PASEO TRANQUILLO AV PILE OF WOOD, CHAIR ON VACANT LOT.	General	Closed		06/16/2005 13:33	06/20/2005 12:06	Pierre Schutz	037E
200520041	0 PASEO TRANQUILLO AV 8' HIGH WEEDS AND TRASH (BROKEN CHAIR, LUMBER, FENCE FALLING) ON VACANT LOT 569-53-026 (LOT LEFT OF 4934).	General	Closed		05/24/2005 11:53	07/12/2005 13:16	Pierre Schutz	037E
200417666	4948 PASEO TRANQUILLO 2 HOUSES TO THE LEFT OF CAP IS A VACANT LOT WITH OVERGROWN DRIED VEGETATION - FIRE HAZARD.	General	Closed		04/27/2004 09:53	06/13/2004 13:49	Pierre Schutz	037E
200328920	0 PASEO TRANQUILLO RD EMPTY LOT (THERE USED TO BE A HOUSE ON IT) HAS HIGH WEEDS AND MANY VEHICLES.	General	Closed		07/07/2003 11:07	01/08/2004 12:15	Pierre Schutz	037E
200201528	4500 PASEO TRANQUILLO [SW] BHN ON STREET BLOCKING TRAFFIC. (DEVELOPER IN VIOLATION OF PERMITS).	General	Closed		01/14/2002 09:09	02/04/2002 15:53	Carolyn Slezak	088E
200004873	4928 PASEO TRANQUILLO OVER-GROWN WEEDS; STACK OF DEBRIS NEXT TO GARAGE.	General	Closed		05/11/2000 13:58	05/26/2000 09:05	28	
89001343	4928 PASEO TRANQUILLO PUTTING YW OUT TOO EARLY. CONTINUOUS PROBLEM.	General	Closed		09/29/1998 00:00	02/01/1999 11:08	28	

Please FAX to Paul Manley @ (408) 448-1673

BUILDING INSPECTION NOTICE

B-Complete; E-Complete; M-Complete; P-Complete

Permit #: 06 - 0131117 - R S

LI:

Supervisor Tel: (408)-535-7785

Preferred:

Confirmation #: 00376396

Received: 07/10/2006 By: Phone

Scheduled: 07 / 11 / 06

Tract: 3-13842P(A)

Lot: 4

of Units: 0

Map: 37, 55

Address: 4928 PASEO TRANQUILLO SAN JOSE

Contact: PAUL MANLEY-OWNER

Phone: 408*679*7798

ETA Call: Y

Owner: MANLEY PAUL J AND CAMILLE L

Cellular: (408)679-7798

Contractor:

Folder Name: MANLEY (BEPM 100%) NEW SFR

Subtype: Single Family

Work Proposed: New Construction

Comments: AWARE OF POLICY

Related Permits:

Next Inspections Suggested

Insp Time: : :

Inspection time listed at the left includes 10 minutes travel time.

Next Inspections Suggested

Number of Units: 01

Time inspection completed

Code	Description	O K	P A	C N	N R	N F	Code	Description	O K	P A	C N	N R	N F
1 2 1	Slab Plumbing			/									

Inspection Code: OK = Approved, PA = Partial Approval, CN = Correction Notice, NR = Not Ready, NN = Not Necessary, RF = Re-Inspection Fee Due

Remarks: ① SLAB: 0 SINK CHANGE SENTER TO COMBED AND MAINTAIN SLOPE, ALL ELSE OK AND 2 OF THE C.I. CLEANOUT WILL BE CHANGED TO ABS PENETRATING FIRE WALL

You have a total of 57 hour(s) remaining on this project as of Monday, July 10, 2006 12:21:27 PM.

Inspector's Signature: S. Manley Print: S. Manley Date: 07/11/06 Page: of

BUILDING INSPECTION NOTICE

B-Complete; E-Complete; M-Complete; P-Complete

Permit #: 06-013106-RS

LI: Greg Ross

Supervisor Tel: 408-535-7763

Confirmation #: 00465724

Received: 05/11/2007 By: Phone

Preferred: Scheduled: 05/15/07

Tract: 3-13842P(A) Lot: 1 # of Units: 0 Map: 37, 55

Address: 4926 PASEO TRANQUILLO SAN JOSE

Contact: PAUL - PAUL MANLEY CONST

Phone: 408-679-7798

ETA Call: Y

Owner:

Contractor: PAUL MANLEY MANLEY, PAUL J CONSTRUCTION

(408)448-1673

Folder Name: MANLEY (BEPM 100%) NEW SFR Subtype: Single Family

Work Proposed: New Construction

Comments: CANCEL 2PM

Related Permits: BEMP06-013112

Next Inspections Suggested

Insp Time: : 30
Number of Units: 01

Inspection time listed at the left includes 10 minutes travel time.

Time inspection completed

Code	Description	O K	P A	C N	N R	N N	R F	Code	Description	O K	P A	C N	N R	N N	R F
918	Electrical Final			•											
911	RELEASE	•													

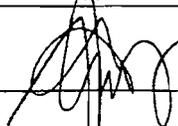
Inspection Code: OK = Approved, PA = Partial Approval, CN = Correction Notice, NR = Not Ready, NN = Not Necessary, RF = Re-Inspection Fee Due

Remarks:

918 - CN - ALL DISCONNECT CLEARANCE OR FUSE PROTECTION

911 - RELEASE - OK

You have a total of 12.5 hour(s) remaining on this project as of Monday, May 14, 2007 10:52:36 AM.

Inspector's Signature:  Print: A DROGERS Date: 05/15/07 Page: of



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Joseph Horwedel

SUBJECT: PAUL MANLEY'S REQUEST
FOR PUBLIC RECORDS

DATE: June 7, 2007

Approved

Kay Wines

Date

7/8/07

BACKGROUND

On June 6, 2007, Mr. Paul Manley appeared before the Mayor and City Council and stated that, "I have not received requested citation information from Mike Hanna(sp) from the Department of Code Enforcement." Mayor Reed referred this public record request to the Rules Committee for further discussion.

ANALYSIS

The Department of Planning, Building and Code Enforcement has received a number of verbal and written comments from Mr. Paul Manley including the recent requests for information and we have provided the information requested.

In a letters dated November 6, 2006 and November 21, 2006 the Building Division received letters from Mr. Manley regarding several homes he was building on Paseo Tranquillo. Dennis Richardson, the Building Official responded on December 3, 2006 (Attachment 9) to the written and verbal inquiries from Mr. Manley about the inspector correction notices issued for the project.

In a letter dated June 4, 2007, Mr. Manley stated

"2) I now request all "Building Inspections Notice" Cards including supervisor signature, for the four homes on Paseo Tranquillo. (About 86 documents)."

Building staff on June 7th provided PDF copies to Mr. Manley of the 84 inspection notices he requested by email and hard copies were left for pick up at the Building Division lobby.

On April 12, 2007, Code Enforcement Division staff received a call from Mr. Paul Manley regarding a delinquency notice that he received from the Finance Department advising that Administrative Citation BL010289 was past due and requesting that he remit \$298.75. Mr. Manley advised staff that he did not own the property described on the Administrative Citation,

RULES AND OPEN GOVERNMENT COMMITTEE

Subject: Paul Manley's Request for Public Records

June 7, 2007

Page 2

which listed the violation address as Paseo Tranquillo and requested dismissal of the Citation. (A copy of Administrative Citation BL010289 is attached and referenced as Attachment 1).

On April 13, 2007, Code Enforcement Division staff advised Mr. Manley that Administrative Citation BL010289 was dismissed due to an administrative error. (A copy of Code Enforcement Administrator Peggy Rollis' letter to Mr. Manley, dated April 13, 2007, is attached and referenced as Attachment 2).

On April 16, 2007, Code Enforcement Division staff faxed Mr. Manley a copy of the Case Search Report, pursuant to Mr. Manley's verbal request for copies of all Code Enforcement information pertaining to property he owns. (A copy of the Case Search Report, dated April 16, 2007, is attached and referenced as Attachment 3).

On April 17, 2007, Mr. Manley appeared before the Mayor and City Council during the Open Forum portion of the agenda. Mr. Manley submitted a letter to the Mayor and City Council, which stated that "Code Enforcement has provided a history of citations against me. I demand to have a copy of the pictures Miss Rollis referred to in the citations." In addition, he listed the following requests and concerns:

1. Two citations are for the same item just dismissed. They are dated less than 30 days apart. One of the two citations listed 8-foot tall weeds. I want that picture.
2. One listed too many vehicles. I want the picture showing how my neighbor's cars legally parked on the street and how they are my responsibility?
3. One citation listed "Stack of debris next to garage." I believe that I removed the structure in 1999. The citation is in 2000.

(A copy of Mr. Manley's letter to the Mayor and City Council, dated April 17, 2007, is attached and referenced as Attachment 4).

On April 30, 2007, Code Enforcement Division staff provided Mr. Manley with copies of all photographs depicting the conditions on Paseo Tranquillo that resulted in the issuance of Administrative Citation BL010289. (A copy of Deputy Director Mike Hannon's letter to Mr. Manley, dated April 30, 2007, is attached and referenced as Attachment 5).

On May 22, 2007, Code Enforcement Division staff received a letter from Mr. Manley wherein he provided a copy of the Case Search Report, which staff had previously faxed to him, and repeated his previous request for the following information:

1. Two citations are for the same item just dismissed. They are dated less than 30 days apart. One of the two citations listed 8-foot tall weeds. I want that picture.
2. One listed too many vehicles. I want the picture showing how my neighbors cars legally parked on the street and how they are my responsibility?
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RULES AND OPEN GOVERNMENT COMMITTEE

Subject: Paul Manley's Request for Public Records

June 7, 2007

Page 3

(A copy of Mr. Manley's letter to Mike Hanna, dated May 22, 2007, is attached and referenced as Attachment 6).

On June 4, 2007, Deputy Director Michael Hannon telephoned Mr. Manley to clarify some misinformation as described in Mr. Manley's May 22, 2007 letter. Mr. Hannon advised Mr. Manley that only one citation had been issued and reminded him that the citation had been dismissed. Furthermore, Mr. Hannon advised Mr. Manley that all photographs depicting the violation resulting in the issuance of Administrative Citation BL010289 were provided to him on April 30, 2007. Finally, Mr. Hannon advised Mr. Manley that staff reviewed all complaints for property owned by him and that no photographs, as described in items number 1 and 2 above, were taken since no administrative enforcement action was pursued.

Also on June 4, 2007, Mr. Manley produced two letters to the Mayor and City Council, wherein he stated, "...I inform my Mayor and Council that the request information is available from Mike Hanna and Code Enforcement in a sixty minute down load of computer information," and "...I have not received the previously requested citation information from Mike Hanna and the Department of code enforcement." *(A copy of Mr. Manley's letter to the Mayor and City Council, dated June 4, 2007, is attached and referenced as attachment 7).*

On that same date, Code Enforcement Division staff faxed a letter to Mr. Manley advising him that all public information requested has been provided. *(A copy of Deputy Director Michael Hannon's letter, dated June 4, 2007, is attached and referenced as attachment 8).*

On June 7, 2007, Code Enforcement Division staff discovered that several photographs, not associated with Administrative Citation BL010289, were inadvertently misfiled and not previously provided to Mr. Manley. Staff has subsequently provided copies of these photographs to him.

CONCLUSION

Department staff has responded to, and provided Mr. Manley with, all public record information, as requested, with the exception of information exempted pursuant to Government Code Section 6254 (f) which specifically exempts investigative information, such as the name of the complainant or the Inspectors field notes, etc. in order to preserve the confidential information from complaining parties



Joseph Horwedel, Director
Planning, Building and Code Enforcement

Attachments

For questions please contact Michael Hannon, Deputy Director, at (408) 277-4703.

CITY OF SAN JOSE-ADMINISTRATIVE CITATION

Attachment 1

Planning, Building and Code Enforcement
170 W San Carlos Street, San Jose, CA 95113

Violation Address:
PASEO TRANQUILLO AV

SAN JOSE MUNICIPAL CODE VIOLATION(S):

<u>CODE NO</u>	<u>DESCRIPTION</u>	<u>DATE</u>
17.72.030	Blighted Property Compliance with Chapter	06-09-2005

Comments: 17.72.545. Failed to remove accumulations of solid waste from an area visible from any street or in an area accessible to the public.

WARNING: Failure to correct the above listed violations within 10 days of issuance of this citation will result in an additional citation in the amount of \$500.00.

Citation issued by:

Inspector: Pierre Schutz 037E

Citation No: BL010289

Citation Date: 06-10-2005

File Number: 200520041

Department: Planning, Building
and Code Enforcement

TERMS: NET-BILL BECOMES DELINQUENT 30 DAYS AFTER CITATION DATE UNLESS OTHERWISE NOTED. A PENALTY OF 10% & INTEREST OF 1/2% PER MONTH WILL BE ADDED TO ANY DELINQUENT BALANCE.

For questions regarding payment, call (408) 277-3315.

For questions regarding this citation, call (408) 277-4528.

Call (408) 277-3299 to set up hearing.

TOTAL DUE FOR THIS CITATION

\$250.00

ADDITIONAL INFORMATION LOCATED ON BACK

Make all checks payable to "City of San Jose" for the total amount due. Mail your remittance with the bottom portion of this citation to:

CITY OF SAN JOSE-TREASURY/A.C.U.
801 N FIRST STREET ROOM 217
SAN JOSE CA 95110

Detach at line

Return bottom portion with payment

**CITY OF SAN JOSE
ADMINISTRATIVE CITATION**

Citation No: BL010289

Citation Date: 06-10-2005

Department: Code Enforcement

Amount Due: \$250.00

**MANLEY PAUL J AND CAMILLE L
4167 BRIARGLEN DR
SAN JOSE CA 95118-1805**

AMOUNT PAID \$ _____

April 13, 2007

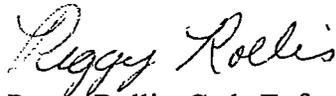
Paul and Camille Manley
4167 Briarglen Drive
San Jose, CA 95118

Dear Mr. and Mrs. Manley:

RE: 4928 PASEO TRANQUILLO / CITATION BL010289

Thank you for contacting Code Enforcement and allowing us the opportunity to investigate the circumstances surrounding the issuance of a delinquent notice to you for the above property. Per our discussion on Thursday, I have reviewed your request for dismissal of Administrative Citation #BL010289, and have dismissed the citation, which I determined to have been issued in error. In addition, I have forwarded a request to the Finance Department, asking for the removal of the penalty and interest charges on your account. The Finance Department will manually remove these charges as soon as possible.

Thank you, again, for bringing this matter to our attention. Should you have any further questions or concerns, please feel free to contact me directly at (408) 277-5565.



Peggy Rollis, Code Enforcement Administrator
Planning, Building and Code Enforcement

PR:sck

cc: Michael Hannon, Deputy Director ✓

1-01-1995 0:46AM
APR-16-2007 11:04

FROM
CITY OF SAN JOSE

408 277 3290

Attachment 3

City of San Jose Case Search Report

4/16/2007
Page 1 of 1

Case #	Address	Program	Status	C/U Date	Open Date	Close Date	Inspector	2nd Inspector
200523506	0 PASEO TRANQUILLO AV PILE OF WOOD, CHAIR ON VACANT LOT.	General	Closed		06/16/2005 13:33	06/20/2005 12:08	Pierre Schutz	037E
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200417668	4948 PASEO TRANQUILLO 2 HOUSES TO THE LEFT OF C/P IS A VACANT LOT WITH OVERGROWN DRIED VEGETATION - FIRE HAZARD.	General	Closed		04/27/2004 09:53	05/13/2004 13:49	Pierre Schutz	037E
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200004873	4928 PASEO TRANQUILLO OVER-GROWN WEEDS; STACK OF DEBRIS NEXT TO GARAGE.	General	Closed		05/11/2000 13:58	05/26/2000 09:05	28	
99001343	4928 PASEO TRANQUILLO PUTTING YW OUT TOO EARLY. CONTINUOUS PROBLEM.	General	Closed		09/29/1998 00:00	02/01/1999 11:08	28	

Please FAX to Paul Manley @ (408) 448-1673

TOTAL P. 02

4/17/07
OPEN FORM

4-17-07

To: Honorable Mayor Chuck Reed
And the San Jose City Council
From: Paul J. Manley
Paul J. Manley Construction
Re: Filing of Formal Complaint on the subject of
Delinquent Notice #BL10289

cc: Kay Winer

Dear Honorable Mayor Chuck Reed
And the San Jose City Council,

My name is Paul J. Manley and, I come before my Council today for the third time in less than 12 months to lodge a formal complaint regarding notice "BL1028". I received a Demand from The Finance Department last week. I made contact with Code Enforcement, Mike Hanna's staff, and Peggy Rollis. I also contacted Ed Shikada of the City Managers office and Joe Horwedel's office, at Mr. Shikada's request. Lastly I have been in contact with the Finance department thru Robyn Molina and Dave M Pherson. Mr. Mc Pherson has informed me and provided a document (today) showing all fees removed from my account as of today.

I find the conduct I encountered to be deplorable and consistent with way my City continues to do business. I must share that I have little faith left; I feel it has been driven from me. I have been told that an apology would be considered after a review to see if I am a liar and a cheat. The person who made this comment thinks we have that type of relationship. We don't.

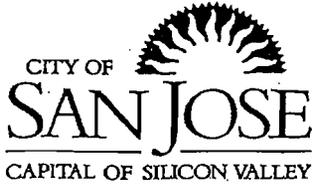
Code Enforcement has provided a history of citations against me. I demand to have a copy of the pictures Miss Rollis referred to in the citations.

- 1) Two citations are for the same item just dismissed. They are dated less than 30 days apart.) One of the two citations listed 8-foot tall weeds. I want that picture.
- 2) One listed too many vehicles. I want the picture showing how my neighbor's cars legally parked on the street and how are they my responsibility?
- 3) One citation listed " Stack of debris next to garage". I believe that I removed the structure in 1999. The citation is in 2000.

I will take questions if my council has any. I wish to inform my council that these situations have gone on for years and my council has never asked me a question.

Thank you
Paul J. Manley
4167 Briarglen Dr.
San Jose Ca

Chris



Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, DIRECTOR

April 30, 2007

Mr. Paul J. Manley
4167 Briarglen Drive
San Jose, CA 95118

Dear Mr. Manley:

RE: REQUEST FOR PUBLIC RECORDS / CITATION NO. BL010289

Pursuant to your written request, dated April 17, 2007, I am providing you with copies of the photographs depicting the conditions that resulted in the issuance of Administrative Citation No. BL010289. As you have been advised, that Administrative Citation has been dismissed.

If I may be of further assistance, please do not hesitate to contact me directly at (408) 277-4703.

Sincerely,

Michael Hannon, Deputy Director
Planning, Building and Code Enforcement

MH:sck

cc: Kay Winer
Joseph Horwedel

Enclosures

5-22-07

To: Mike Hanna
Director of Code Enforcement
From: Paul J. Manley
Paul J. Manley Construction
Re: Citations Files / Delinquent Notice #BL10289

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I await your response,

Paul J. Manley
Fax: 408-448-1673
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Re: Filing of Formal Complaint on the subjects of
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This completes my remarks,

Good-bye,
Paul J. Manley
PaulJManleyConstruction@Comcast.net
Cell: 408 679-7798

RECEIVED

JUN - 4 2007

CITY OF SAN JOSE
DEVELOPMENT SERVICES

6-4-07

To: Honorable Mayor Chuck Reed
And the San Jose City Council
From: Paul J. Manley
Paul J. Manley Construction
Re: Filing of Formal Complaint on the subjects of
Delinquent Notices / Inspection Practices

Dear Honorable Mayor Chuck Reed
And the San Jose City Council,

I am contacting my Mayor and Council today, one day in advance of our City Council meeting as a courtesy. I have completed all obligations to inform and work with my city. I now embark on the only remaining paths available to resolve the disputes and grievances my city has placed in front of me. My presentation tomorrow will be a formal announcement to my Mayor and Council of my final request.

I am left with the following situation:

- 1) I demand the first phase of information from the City of San Jose: Building Department as well as, Code Enforcement.
- 2) The information must reach me by 5:00 p.m. the 8th of June.
- 3) I will be forced to subpoena this information starting the week of Monday the 11th of June, should my city continue to proceed in the manner it has used to date.
- 4) I will engage in settlement procedures with our new City Manager if a good faith environment is executed by my city.
- 5) I inform my Mayor and Council that the request information is available from Mike Hanna and Code Enforcement in a sixty minute down load of computer information. I also Inform My Mayor and Council that requested information is available (although incomplete) from the building division in two hours of down loading from the city computer. I bring this to Council's attention to show: "reasonable time", has been given.
- 6) I regret to inform my Mayor and Council that an "attention deficit" management approach has been used in the past to handle my request. Specifically: "Mr. Manley I (we) do not understand the subjects". This normally results in sending the problem to the source of the problem that refuses to change their behavior.

Thank you,
Paul J. Manley
Cell: 408-679-7798
PaulJManleyConstruction@Comcast.net
Fax: 408-448-1673

Ed/Mike

I would like to
know where we are
on his request from these
letters for response @
Council 6/5.

Joe



Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, DIRECTOR

June 4, 2007

Mr. Paul J. Manley
4167 Briarglen Drive
San Jose, CA 95118

Dear Mr. Manley:

RE: REQUEST FOR PUBLIC RECORDS

Please be advised that I am in receipt of your letter, dated May 22, 2007, wherein you asked for additional information after completing your review of the *City of San Jose Case Search Report*, provided to you by Code Enforcement Administrator Peggy Rollis with her April 13, 2007 letter to you.

The *City of San Jose Case Search Report* represents complaints received by Code Enforcement that have been, or are currently being, investigated. It should be noted that a complaint investigated does not automatically mean that a violation was observed or that a citation was issued. As you can imagine, many complaints are resolved voluntarily by our residents with no enforcement action taken by Code Enforcement.

In your letter, you demanded all file pictures relating to the aforementioned *Report*. At my request, Code Enforcement staff has reviewed all of the cases identified in the *Report* and have determined that all of the photographs for all of the cases were enclosed with my April 30, 2007 letter to you. In addition, you demanded complete copies of case files identified in the *Report*. This information was previously provided to you in the form of the *Report*.

Lastly, in our telephone conversation today, you demanded that all Code Enforcement cases identified on the *Report* be expunged. Please note that all of the cases identified on the *Report* are closed and these cases will remain in the database, per our retention policy.

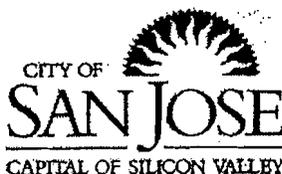
Should you have any questions, or if I may be of further assistance, please do not hesitate to contact me directly at (408) 277-4703.

Sincerely,

Michael Hannon, Deputy Director
Planning, Building and Code Enforcement

MH:sck

cc: Joseph Horwedel



Department of Planning, Building and Code Enforcement

December 3, 2006

Paul J. Manley
Paul J. Manley Construction
4167 Briarglen Dr.
San Jose, CA 95118
(sent via e-mail)

Re: Demand Letter dated 11-6-06 and amended 11-21-06 and Other Pending Issues:

This letter is a response to questions you raised regarding your six unit subdivision, two units of which I am told were built some time ago and four which are currently being constructed under the 2001 California Building Code. In addition this letter responds to a number of concerns you have raised about our service and interactions you have had with our staff.

Our goal is to work with our customers and help them successfully complete projects that are both safe and attractive and work in harmony with the requirements of the community.

In general let me explain how we try to work and minimize inconsistencies on projects. Our inspectors are combination trained for single family homes. This means they have a greater amount of experience and expertise in one or more of the inspection disciplines but have been cross-trained to an acceptable level in other disciplines. There are thousands of components and pieces which must be installed correctly for a home to be built correctly. It is a team effort both within our staff structure and with the builder and design professional to bring a project to successful completion.

When projects that contain multiple homes come in with a new set of plans or a new team, we typically have our supervisors work together with the builder to work out the bugs and any questions that may come up. The purpose of this effort is to get it right the first time and also to help provide certainty to the builder. If issues are ironed out initially it is our experience there will be less headaches for all during the balance of the project.

During our inspections we also try to point out issues that may cause a problem later. In our experience it is nearly always easier to resolve a problem before other materials and finishes have been installed. In cases where we fail to see something at an early stage and it is more difficult to resolve later, we have heard considerable frustration from our customers about the timing of corrections. Because of this we try to be on guard for other issues even if it involves something other than the inspection we are called for on a particular day. While we are not always successful 100% of the time at catching problems early, we keep trying to do a better job.

A few years ago we revamped our inspections system. At that time a person had to wait a substantial time for an inspection. Often the customer would schedule inspections when they were not ready, and often for more time than was required, because they wanted to make sure the inspector would be available when they were needed. This made inspections late for everybody. Our new system requires the customer to schedule the right amount of time for the inspection needed and the customer must pay for additional service towards the end of the project if more time is needed than was allocated. There is also travel time included in the inspection time. Once this system was implemented the long wait of years past went away. The weakness of this system occurs when the customer calls for less time than is needed and our inspector may have to leave before the inspection is completed in order to make it to the other projects which were promised an inspection on that day. We are still working to improve this system to more accurately match up time needed with the phase of construction, particular project and to allow more flexibility when more time is needed. While we are making improvements, this process is still a work in progress and requires cooperation from the customer in order to work well.

We have made considerable progress since the time of your initial project to improve the coordination between our plan review process and field inspections. In general when plans are prepared by an engineer or architect, they must be followed in the field during construction. When there are deviations in the construction observed in the field for items that are designed and specified by the design professional on the plans, then it is up to the owner or builder to communicate with their design professional and change the plans and applicable calculations to justify the changes or to make sure construction follows the approved plans and applicable codes. We are doing a better job of coordinating the review of changes but it is still the applicant's responsibility to communicate with the design and construction team and develop a course of action for project issues in need of correction. If there are issues in need of coordination between your team and ours, I would suggest you first make sure your team has all of the pertinent correction information and is aware of the site conditions then contact the supervising inspector to set up an appointment to resolve any concerns if the course of action is not clear.

In our conversations, you have expressed frustration in a number of areas including previous construction during the first two homes built several years ago in this project. I will attempt to address issues regarding your project including outstanding inspection issues you or my staff have spoke of, issues you have raised about my staff, and issues raised in your letters to the City:

You have expressed a concern about having multiple inspectors or supervisors on your project: As indicated above the purpose of our procedure is to make certain we are in agreement on any code issues or inspection procedures on the first unit in hopes the balance of construction will proceed smoothly.

You have made the suggestion that any inspector who leaves your project without finishing the inspection first will not return to your project: We are not sure how to interpret this comment you have repeatedly made but do not believe it was made as a threat. However in general our supervisors have more flexibility with their time than our line staff as indicated in the inspection procedure above. You have also requested the supervisor be pulled off the job in favor of our front line inspector doing the inspections.

Given the number of issues on this project and the vast number of your concerns, it makes more sense to continue to have a supervisor take a lead role until the project is proceeding more smoothly. At some time when issues are resolved and you are comfortable with our revised inspection request process, we would welcome having our front line inspector working with you to complete this project.

You felt the supervisor was wrong to mention his concerns about crushed limestone used under the slab: Typically either a vapor membrane or clean drain rock, or the combination of the two, are specified by soils engineers on projects. The overall intent is to prevent the possibility of capillary action allowing moisture in the soil to cause problems with the flooring in the unit due to capillary rise of moisture from the soil. Crushed lime stone with the volumes of fine material does not typically work well as a capillary break. I believe the supervisor was trying to give you good advice based on many years of experience. Your installation as you have described it to me will have to rely solely on the vapor membrane. Unfortunately experience has shown this to not be a wise choice on many projects. Sometimes the vapor membrane is not properly sealed or is sometimes punctured during the placement of concrete. If you have any problems down the road with this installation it was not because of lack of trying by my staff. Since we do not see rock with fines typically used as a capillary break I would suggest you contact your soils engineer to make certain you did not miss something along the way.

You felt the supervisor made an incorrect assumption about the setback from a curb for a cleanout: You stated our supervisor advised you of the wrong distance the property line was setback from the curb. This is always a difficult item to determine because it is typically one dimension but with exceptions in some parts of the City or on certain types of projects. What is disturbing about how you described your conversation with my supervising inspector is your admission that you knew what the dimension was because you had the subdivision map but failed to tell the supervisor because you felt you had caught him making a mistake. It is true we will make mistakes from time to time but your admission of withholding what you knew to be the correct information from the conversation causes me to question your suggestion you are working with my staff in good faith.

You expressed concern about other issues being brought up that are not related to the specific inspection: One example would be the use of a cast iron cleanout in a fire wall brought up during the foundation inspection. I spoke with you about this concern last week. You explained you were frustrated because we brought up the issue with the cast iron fitting during the foundation inspection even though the fitting was installed with the pipe above to facilitate the pressure test and it was located above the slab. I explained our goal as mentioned earlier in this memo of identifying and resolving issues early in the project and how it would be more difficult to resolve this issue if the building were framed around and including the pipe above the fitting. I sent you an e-mail of a policy on the specific code section to you and also explained another way to solve the code issue which I was made aware of by our building supervisor after additional research with the our plumbers.

It would be hard for you to say we were holding you up on the foundation inspection. It is my understanding we were extremely flexible when we noted some required anchor bolts and hold down embeds were missing and we allowed you to proceed with the concrete pour on your word that you would install the required hardware prior to the pour. I understand when our inspector came back another day she noticed these bolts had never been installed and the concrete was poured. A repair of this omission will require a fix detail from your engineer and typically requires special inspection in place for epoxy anchors used to replace hold down embeds.

In an unsigned letter dated 11-6-06 to Joe Horwedel you raised the following concerns:

Item #1, a concern raised during the third plan review “to change my drawings to reflect the overhead service of electroliers (existing).” Primo De Guzman from City of San José Public Works Department indicates that one of the conditions for your project when it received a Development Permit was for you to change the luminaires (light bulbs) in the existing street lights. In a conversation with him, he stated to Mark Crain that the condition had been removed.

Item #2, a concern about special inspections being required when the permit was issued. You indicated a request to me for a written response: I recall speaking with you about this issue. It was during my first two phone conversations with you. I remember checking on this and explaining as Mark Crain recently responded to you again by e-mail explaining at permit issuance the special inspection review processes was not complete. Because our engineer was not available, and to allow the permit to be issued rather than ask you to return for permits when the issue was resolved, the Permit Center Supervisor inserted a condition that the issue be closed prior to pouring the foundation. Your foundation was not held up on this requirement in fact it was allowed to proceed as noted above based on your word without all required anchor bolts installed. What I do specifically recall hearing from you when I spoke with you was how you wanted to hold City staff accountable for any mistakes they make. I recall very vividly explaining how the construction process is a team effort. It was shocking to me to hear how you were so bent on making the staff look bad if they made a mistake. At the time I questioned if you were operating in good faith based on the comments I heard from you and repeated back to you. Based on my repeating back to you what I heard you say, you indicated you wanted to speak with someone higher in the organization. I do not recall you asking for a written response to your special inspection question but I trust you now have it.

Item #3, a concern raised several times to many people that we are “interfering” with your project either with unwarranted and inaccurate correction notices: You have requested the supervisor be removed from this project and to give your argument credence you keep telling people that Mark Crain “confirmed my work was correct in the original form” I have spoken with Mark about this and he disagrees strongly with this allegation. It appears your inspectors have been making a concerted effort to keep your project moving forward even when corrections were required. I’ve noted above how we kept your foundation moving but you failed to install the required anchors. The bolts were still noted as missing at the sub-floor nail inspection. At that same sub-floor inspection you insisted only the nailing of the floor to floor joist connection be looked, at rather than the entire floor system. The collective inspection experience of our field staff and supervisors in thousands of single and multi-family buildings has resulted in a general (but not hard and fast) policy of inspecting the entire system as being the most efficient and therefore cost effective method. This is not an “incorrect” inspection procedure.

You are implying you had framed your floor correctly when you were told of a missing connection between the shear wall and collector joist which was specifically detailed at two locations on your plan. The cost difference to you between adding a collector joist without having to first remove any plumbing, mechanical and electric systems passing through the member, install the joist and then reinstall those systems is considerable not to mention the cost of having the engineer provide the required calculations and drawings. Your inspectors saved you that cost and delay by bringing this issue up early. You said the collector joist was installed properly and Mark Crain concurred. In my conversation with Mark he recalled saying the alternate blocking you had installed and removed to install the missing joist *may* have worked. If you had chosen to leave that alternate connection the design engineer would have had to sketch the modification, provide substantiating calculations and submit these for additional review by our engineer. You did not want to do that nor would it have met the basic requirements of the code:

The 2001 California Building Code is very specific about the requirements for connections between the shear wall and diaphragm and also for ties at the edges of openings. Section 2315.5.2 states "Collector members shall be provided to transmit tension and compression forces. Perimeter members at openings shall be provided and shall be detailed to distribute the shearing stresses. Diaphragm sheathing shall not be used to splice these members." In the next paragraph it goes on to further state: "Diaphragm chords and ties shall be placed in, or tangent to, the plane of the diaphragm framing unless it can be demonstrated that the moments, shears and deflections and deformations resulting from other arrangements can be tolerated." Instead of stopping the project while this took place, inspection staff allowed you to proceed.

During the inspections mentioned above it was noted your team has extensively modified a load bearing glue laminated beam by removing most of the bottom lamination. I have indicated to you it is doubtful there is an easy fix and it will most likely need to be replaced with an undamaged beam. You indicated to me you had reviewed that with your engineer and he had a fix but apparently he was not aware of the problem or solution when he called my engineer who is also was not aware of the problem. I asked you to submit that fix for review as soon as possible as it will be more difficult to remove the beam the longer you wait and construct additional structure on top of it. I have pointed out to you that removing or notching the bottom chord severely decreases the strength of the member. You should not continue to frame material on top of this beam.

In another unsigned letter dated 11-21-06 to Joe Horwedel you raised the following two additional concerns:

Item #4, a concern about the City sealing the street surface: I understand Primo De Guzman from City of San José Public Works Department is looking into this and will get back to you.

Item #5, you have stated "The Building Department has interfered with my approved overhang design for lots 3 and 4. Please remove the interfering condition." In reviewing your project, I am told it appears that overhang protection and distance to property lines was an issue for your permit in 2001 on plans submitted for lot 6 and again on your current project permitted in 2005. Both sets of plans show red-lines from both of the plans examiners involved. Red-lining of plans is a method of expediting review and permit issuance. If you wish to propose an alternate method of complying with code, rather cutting back the overhangs at issue please have your design professional do so. Be sure to specify the dimensions from the wall and also from the edge of the overhang to the property line. If the proposed solution deviates from the specific language of the code you will need to have your design professional complete an Alternate Materials and Methods request. Recent revisions to our fee schedule in August eliminated the minimum \$510 application fee but the actual hourly cost will be included with your hourly plan review bill. You will be charged for only the time required to review and process the request at our hourly rate.

I have attempted to address your many concerns, as I understand them, in this letter. Recently I received two e-mails from you about your project and it is unclear to me what your point was or what we could do to assist you. One of those two e-mails as interpreted by our staff seemed like an insult. I'm hoping there is another interpretation of your comments but I was not able to make sense out of your statement. The other was so vague and non-descript to not be clear in any meaning. We will continue to try to work with you to reach resolution of the many issues on your project and attempt to help you see your project through to successful completion but would appreciate your cooperation and diligence cleaning up the outstanding code issues and managing the project in such a way where we are not dealing with a litany of issues.

If you have questions regarding this letter please contact me via phone or e-mail. When sending me correspondence by e-mail it would be appreciated if you make a reasonable attempt to specifically state what the issue is and what you feel we can do to resolve any specific issues mentioned in those communications. Thank you for your cooperation.

Sincerely,



Dennis Richardson
Chief Building Official
City of San José

C: Joe Horwedel, Director of Planning, Building and Code Enforcement
Les White, City Manager