

Our Government at Work:



1824 Almond Avenue
Livermore, CA 94550
February 6, 2012

Good morning Bernie and friends,

I represent Mr. Shanklin, who is a fine man, not for money, but in outrage at the disgraceful conduct of Alameda County, led by Scott Haggerty.

The County of Alameda, through its zoning enforcement staff and their Supervisor, has conducted a program of systematic harassment, discriminatory enforcement, false convictions, and specious charges against Bernie Shanklin.

As in a medieval fiefdom, the directive of guilty came forth from on high, and ever since, County Staff has strained and scraped to carry out that order. The supporting documents set forth more than ten serious violations of Due Process, fundamental fairness, common decency, and their own ordinances by Alameda County officials.

The repeated discriminatory enforcement against Mr. Shanklin has reached the level that moral people need to speak out, and demand this Government lawlessness be stopped.

The picture attached shows Alameda County employees unlawfully expropriating 5 cargo containers from Bernie Shanklin's property. Sadly, Bernie did not have the \$3000 cash needed to pay a litigator to get a Temporary Restraining Order.

That has emboldened the Government bullies to trump up yet another round of false and specious charges against Bernie Shanklin.

At last, at the February 28, 2013 hearing, East County Board of Zoning Adjustments Members finally started to carry out their public trust by demanding actual evidence of fairness and consistency from their Zoning Enforcement Staff.

The continued public hearing in the case of Zoning Enforcement Staff v. Bernie Shanklin is set for Thursday, March 28, 2013 at 1:30 p.m. at the Pleasanton City Council Chambers.

This is an important case for preservation of Rule of Law and Property Rights in Alameda County. Any help from you and other friends of Bernie will be sincerely appreciated, and could be decisive in this case.

If you cannot speak up for Bernie at the public hearing to tell the Board what you think about this travesty, then please forward your comments on the proposed charges to the East County Board of Zoning Adjustments, c/o Jana Weldon at Jana.Weldon@acgov.org . If you email copy me with your comments at pmacdonald@macdonaldlaw.net , I will share them with Bernie, make sure they are included in the record, and keep you updated on the case.

This kind of Government lawlessness can only survive with the help of your apathy.

Take care, Pete MacDonald

First they came for the [socialists](#),
and I didn't speak out because I wasn't a socialist.

Then they came for the [trade unionists](#),
and I didn't speak out because I wasn't a trade unionist.

Then they came for the [Jews](#),
and I didn't speak out because I wasn't a Jew.

Then they came for [me](#),
and there was no one left to speak for me.

Martin Niemöller

Peter MacDonald
Law Office of Peter MacDonald
400 Main Street, Suite 210
Pleasanton, CA 94566
Phone: (925) 462-0191
Fax: (925) 462-0404

LAW OFFICE
PETER MACDONALD
400 MAIN STREET, SUITE 210
PLEASANTON, CALIFORNIA 94566-7371

(925) 462-0191
FAX (925) 462-0404
pmacdonald@macdonaldlaw.net

February 27, 2013

East County Board of Zoning Adjustments
C/O Alameda County Community Development Agency
Attn: Jana Beatty
224 West Winton Avenue
Hayward, CA 94544

Subject: **Shanklin Notice to Abate**
Public Hearing: February 28, 2013; 1:30 p.m.
Pleasanton Council Chambers

Honorable Chair and Members of the Board,

Your last action relating to this property in July 2011 involved the case of the leaning fence. After dragging Bernie Shanklin and this Board through three public hearings, County Enforcement Staff finally acknowledged that the leaning fence was probably a boundary fence, and recommended that charges be dropped, which you did. However, upon appeal to the Board of Supervisors, Supervisor Haggerty moved that Bernie Shanklin alone be ordered to repair the irreparable fence, in spite of a clear explanation of the boundary fence law by County Counsel. The co-owner of the boundary fence did not want to pay her 50% share of a replacement boundary fence, so Alameda County inserted itself to order Mr. Shanklin to bear the entire cost. Mr. Shanklin spent much of his remaining savings to install an approximately \$8000 replacement fence.

You may also recall that Ms. Henninger, Code Enforcement Manager, assured this Board in October 2010 that the County was not engaging in discriminatory enforcement by asking you to convict only Mr. Shanklin, out of the 30 plus properties in Buena Vista that have cargo containers. Following through on that conviction, on February 6, 2012, a brigade of County employees and contractors, led by Ms. Henninger, forcibly entered the Shanklin property with heavy equipment and confiscated five cargo containers (photo attached). Meanwhile, cargo containers all over Buena Vista, including the graffiti covered containers from the complaining neighbor, have not been cited or confiscated.

For specific history on more than ten serious violations of Due Process, fundamental fairness, common decency, and their own ordinances by Alameda County officials, see

attached email to Supervisor Haggerty dated February 2, 2012, and the supporting documents. That the Supervisor of a \$2.6 billion budget and 9,096 employees would repeatedly deploy massive government resources in systematic discriminatory enforcement against an old man subsisting on less than \$1,500 per month of social security is criminal. I represent Mr. Shanklin, who is a fine man, not for the money but in outrage at the disgraceful conduct of Alameda County.

Rule of law means nothing if the law is not enforced equally. The grab bag of charges before you are yet another example of County Enforcement Staff charging Bernie Shanklin with offenses not being charged against multiple properties in the vicinity with similar conditions. Several of the specious ordinance interpretations proposed by Enforcement Staff will set precedents that diminish the property rights of all Buena Vista homeowners.

The charges this time are:

1. Weeds.

Bernie cuts his grass every Spring, and the Fire Department can attest to that. There is pasture grass in the back, which is not unkempt or over grown.

2. Dirt piles.

There is no law or County ordinance that prohibits a property owner from maintaining three small dirt piles on his own property. Bernie pulled that dirt out of his front garden, which is quite rocky, and sifts the rocks out so it can be better soil for plants. He will use the rocks for the waterfall in his pool area. The piles are at a location noticeable only to the airborne drones of Alameda County, approximately 400 feet back from Almond Avenue and 200 feet from the neighbor behind. If the County is obsessed with keeping Bernie from working on cars, then at least let him work on his plants.

There is an asphalt pile (from under the new barn) which the contractor for the new barn stored at a low visibility location. Mr. Shanklin has requested the contractor to remove that asphalt pile. If the contractor does not remove the asphalt in 30 days, Mr. Shanklin will remove that asphalt pile over the following 30 days.

3. Gate.

The charge is that Bernie has a 7 foot, 4 inch entry gate, allegedly in violation of an ordinance which prohibits fences higher than six feet. Bernie installed a handsome rolling gate, meeting all fire department requirements. The gate is located behind the 20 foot set back for this R-1 zoning district; 24 feet 6 inches back from the front fence line, and 33 feet 4 inches back from the edge of paving on Almond Avenue.

The gate has no adverse impact on public safety and a positive visual appearance from Almond Avenue. The gate consists of attractive metal slats, painstakingly welded at an angle on a metal frame by Bernie so that wind can pass through the gate while visual privacy is maintained. Bernie would like to put welded animal profiles on top of the gate to increase its beauty.

It is ridiculous that a property owner in Buena Vista cannot build a barn taller than 15 feet. It is also ridiculous that the fence height limit is only six feet. But the Zoning Code does allow gates as accessory structures, when located behind the 20 foot front yard setback. The zoning ordinance does not address gate height specifically, and accessory structures up to 15 feet are permitted behind the 20 foot front yard setback. That interpretation makes planning sense, because gates are the entry feature to a property, and often involve posts, over structures, and design elements that help give a property its architectural style. The gate height charges should be dismissed until and unless the County amends its zoning ordinance to prohibits gates higher than six feet. Such an amendment would serve no public purpose.

4. Solar panels.

County enforcement staff is demanding removal of the solar panels to Mr. Shanklin's pool, which are three feet back from the new barn at one corner, and angle back to four feet away. The solar panels meet the Building Code setback requirements. But, Staff relies on a section of the Zoning Code that requires six foot setback between accessory buildings.

When the new barn was being approved, (frankly it was an industrial building by the time Alameda County got done with its design review), there was flexibility in location and setbacks. Once a building permit was issued, construction completed, and final building inspection approved, there is no flexibility. Once the building permit was legitimately issued, the minor non-conformity with setbacks becomes a legal non-conforming use, according to the second sentence in Zoning Code Section 17.52.610.

Moreover, the applicable section of the R-1 Zone, Section 17.52.260 provides:

"No detached accessory building in an R district shall be located within six feet of any other building on the same lot, or have more than one story or a height in excess of fifteen (15) feet."

The metal solar panel structure is not a building, is open on three sides, and is more akin to an awning, which is allowed to project into required yards. If not for the systematic effort at discriminatory enforcement, no reasonable enforcement staff would push this Board to stretch enforcement beyond the plain words of the Zoning Ordinance, for the sole purpose of destroying finished construction.

5. Vehicles.

We believe even your Enforcement Staff now concedes that all vehicles parked on the property are operative, or legal historical vehicles under California Vehicle Code Section 5004, and legally parked. With respect to the two small trailers, they are parked in orderly fashion on hard dirt, with concrete blocks providing driveway strips to the pavement, in alignment with the other parked vehicles, far away from any public view.

6. Materials.

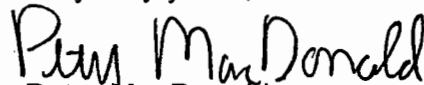
A small quantity of miscellaneous materials are neatly stacked on pallets, far away from any public view, at a scale typical of many Buena Vista properties.

Conclusion

None of the alleged violations on Mr. Shanklin's property adversely affect public health or safety. None of the alleged violations adversely affect any view from any public street.

Mr. Shanklin has repeatedly complied with many unreasonable and unlawful County orders. If you are offended at the waste of government resources on this multi year vendetta, and the cruelty of repeated specious charges against an old man who wants only to be left alone, then please continue your decision on this item for 60 days. A sixty day continuance will allow time for the one violation, the asphalt pile, to be removed by the contractor, or Mr. Shanklin. If the asphalt pile is gone in 60 days, then please reconvene and dismiss all charges.

Very truly yours,


Peter MacDonald

Attachments:

1. Photo of Ms. Henninger supervising confiscation of five cargo containers
2. Email to Supervisor Haggerty dated February 2, 2012 with attachments.

Cc: Mr. Bernie Shanklin
Ms. Tona Henninger
Ms. Jana Beatty
Mr. Chris Bazar
Mr. Brian Washington, Esq.
Supervisor Haggerty



Zoning Enforcement Officer for Alameda County, Tona Henninger, supervising the confiscation of five cargo containers from Bernie Shanklin's property on February 6, 2012.

Peter MacDonald

From: Peter MacDonald [pmacdonald@macdonaldlaw.net]
Sent: Thursday, February 02, 2012 10:56 PM
To: Chris Gray; Scott 2 Haggerty; Scott Haggerty
Cc: pmacdonald@macdonaldlaw.net
Subject: Shanklin Abatement - Cease and Desist
Importance: High
Attachments: 120126 Notice of Nuisance and Final Notice to Abate.pdf; 120202 MacDonald Declaration v2.pdf

Good morning Scott,

You approached me at the Miley breakfast and said a staff member would be contacting me about the latest violations by Bernie Shanklin. But, I never heard from your Staff.

I did check with Bernie to make sure he had not started up any new activity. He told me he had changed nothing, but there had been more lurking around by Lacy Starling.

Then the Notice of Nuisance and Final Notice to Abate (attached) arrived.

When you approached me at the Miley breakfast you said you were washing your hands of the matter. You cannot wash your hands of this matter because it has been primarily your doing.

I attach a draft Declaration, that I am not ready yet to sign, while I am verifying some final details. But, even in draft form, it is a fair statement of the outrageous conduct of our Alameda County officials toward Bernie Shanklin.

I direct your attention to Paragraphs 14 and 26.

The County of Alameda has no right to remove Bernie Shanklin's cargo containers until he has a final building permit.

Bernie does not have the resources to obtain a temporary restraining order, unless it becomes absolutely necessary.

And he should not have to. If your word is your bond, you will not let that become necessary.

I also direct your attention to Paragraph 15. We made a good faith offer to empty the containers, and have the County put locks on those containers, until it adopts rules which it is willing to apply to all property owners equally, and Bernie will gladly comply with those rules. If the County decides not to improve its container rules, but undertakes equal enforcement to all properties with containers, Bernie will comply with those rules.

The problem right now is that if Bernie moves the container materials into the garage which is not yet finalized, he could then be charged for that violation of County ordinance. If there was assurance that Lacy Starling, or someone like that, would not pounce on the storage use of the garage, Bernie would be willing to empty the

containers, and have the County put its locks on those containers right now.

This **Monday, February 6, 2012**, is the date that your staff promises to force their way onto his private property and forcibly remove those containers. Please get this situation corrected and start undoing some of the wrong which you have done to Bernie Shanklin.

Take care, Pete

Peter MacDonald
Law Office of Peter MacDonald
400 Main Street, Suite 210
Pleasanton, CA 94566
Phone: (925) 462-0191
Fax: (925) 462-0404

The County of Alameda, through its zoning enforcement staff and their supervisors, have conducted a program of systematic harassment, discriminatory enforcement, false charges, and specious charges against Bernie Shanklin. The paragraphs below set forth more than ten serious violations of Due Process, fundamental fairness, common decency, and their own ordinances by Alameda County officials.

1. In March 2006, Bernie Shanklin agreed to give up a credible claim for non-conforming use status for Bernie's Body Shop, a home occupation auto body shop that had been legally operating at 1824 Almond Avenue since 1965, before the area was zoned residential. In exchange, the Board of Supervisors approved an Abatement Order giving Bernie until March 2011 (five years) in which to terminate his auto body business. (Board Resolution R2006-74).

2. On or about May 2010 Bernie Shanklin received a Notice of Abatement from Alameda County alleging illegal outdoor storage, outdoor storage of junk vehicles, and illegal presence of cargo containers on his property.

3. At the abatement hearing on July 8, 2010, the East County Board of Zoning Adjustments (ECBZA) recognized that Mr. Shanklin had made substantial progress in removing material stored outdoors, and continued their hearing for a month for Mr. Shanklin to complete the removal of outdoor storage.

4. On July 13, 2010, the County zoning enforcement staff put an item on the Board of Supervisors agenda to review the status of the 2006 Abatement Order. The zoning enforcement staff did so assuming the ECBZA would declare Mr. Shanklin a public nuisance on July 8. Zoning Enforcement Officer, Ms. Henninger, neglected to inform the Board that the ECBZA had continued its hearing on the pending charges based on substantial compliance and progress being achieved. The zoning enforcement officer also misinformed the Board of Supervisors that the Abatement Order included a condition requiring removal of the cargo containers, but there was no such condition in that Abatement Order. By law, an abatement proceeding does not reach the Board of Supervisors until acted upon by the ECBZA. Although Mr. Shanklin had not violated any conditions of the 2006 Abatement Order, and the matter was not noticed for possible revocation, the County Board of Supervisors, on motion of Supervisor Haggerty declared the property a public nuisance and (illegally) revoked the Abatement Order for Bernie's auto business. This illegal action was unnecessary because Mr. Shanklin was no longer conducting an auto body business for hire, but occasionally works on his own classic cars, a legal activity.

5. With clean up of outdoor storage completed, Mr. Shanklin and his attorney (me) showed up for the continued ECBZA hearing on August 12, 2010,

and discovered that the ECBZA meeting had been canceled without notice to him or his attorney, apparently because the clean up was satisfactory.

6. The zoning enforcement staff immediately (on August 13, 2010), issued a new Abatement Notice deleting the outdoor storage charge, keeping the cargo container charge, and junk vehicle charge, and adding charges of conducting an illegal auto body business (apparently based upon the Board of Supervisors' illegal revocation of the approved Abatement Order on July 13).

7. More than 30 of the 70+ properties in Buena Vista have cargo containers on-site, but the County zoning enforcement staff charged only Bernie Shanklin with violating the prohibition on cargo containers. At the East County Board of Zoning Adjustments (ECBZA) on October 14, 2010, upon inquiry from the ECBZA Board about a list of 30+addresses of like properties with cargo containers, Ms. Henniger assured the ECBZA that enforcement against only Mr. Shanklin would not be discriminatory enforcement because, now that these other violations are known, these violations will be followed up upon. But, County zoning enforcement staff never did not follow up.

8. On October 14, 2010, the East County Board of Zoning Adjustment rejected the Staff's recommendation to find that Mr. Shanklin was conducting an illegal auto repair business on his property. The ECBZA implicitly recognized that as a classic car hobbyist, Mr. Shanklin's classic restored automobiles are specifically allowed by State law (Vehicle Code Section 5050 et seq.) – not junk vehicles. Nevertheless, the minutes from that meeting incorrectly state that ECBZA had found Mr. Shanklin guilty of conducting an illegal auto repair business. The ECBZA did make the finding that there were cargo containers on Mr. Shanklin's property, and felt it did not have authority to address the discriminatory enforcement against Mr. Shanklin.

9. Within the 10 day appeal period, unaware that the ECBZA's action had been misstated in the minutes, the complaining neighbor, Ms. Moreda, did file an appeal of the ECBZA determination that there was no illegal auto body business. Mr. Shanklin appealed the discriminatory enforcement of the cargo container ordinance against only his property to the Board of Supervisors.

10. I informed County enforcement staff in writing at the time his appeal was filed that Bernie Shanklin could not be present for the November 9, 2010 Board of Supervisor's meeting, and asked to be scheduled for the next available Board hearing date thereafter. Naturally, zoning enforcement staff scheduled the Board hearing for November 9, 2010. Zoning enforcement staff neglected to inform Mr. Shanklin or me as his attorney of the Moreda appeal, which I discovered the day before the November 9 Board hearing listed as a separate item on the Board Agenda.

11. At that November 9, 2010 Board of Supervisors hearing, without Mr. Shanklin present, the Board overturned the ECBZA finding that Bernie Shanklin was not conducting an auto body business on his property, found him guilty of harboring cargo containers, and ordered abatement within 30 days, by December 9, 2010. As a matter of fact, Bernie Shanklin was not conducting an auto body business on his property.

12. Since 2008, Mr. Shanklin had been trying to get County approval for construction of a quality stucco garage in order to provide legal inside space for the material in the cargo containers (e.g. his classic restored 1940's vintage Hudsons). By June 2010 Mr. Shanklin gave up on getting a quality garage approved, and applied for a building permit for a 5000 sq. ft. industrial garage, which is a permitted use. The building permit plan check was complete, and ready for issuance in June 2010. Then, the zoning enforcement staff intervened, and the building department rescinded the approved plan check. The building department provided a new list of building permit requirements, with significantly more onerous requirements.

13. By December 2010, Mr. Shanklin had redrafted plans compliant with the expanded list of building permit requirements, and once again the building permit was ready to issue. At that time, Mr. Shanklin discovered that the proposed building fees had substantially increased.

14. In December of 2010, I was contacted by Chris Gray, Chief of Staff of Supervisor Haggerty. Mr. Gray told me the complaining neighbor had requested that the garage be moved further from the property line – the approved garage was located 8 feet from the Moreda property line. I asked Mr. Gray for 1. help investigating the vastly increased building permit fees, 2. asked for the County to give Mr. Shanklin until shortly after the 5000 sq. ft. garage had received final building inspection to move the material from the containers to the garage (so he would have a legal place to put the classic cars and other stored materials, and 3. asked for assurance that if Mr. Shanklin modifies his plans to increase the setback, that he not be subjected to an extended and burdensome building department approval process for that modification. With those assurances, I would recommend that Bernie agree to the increased setback. Mr. Gray put a building official on conference call, who agreed to “at the counter” approval for increasing the setback, and provided some reduction in the artificially increased building fees. Based upon that conversation, Bernie Shanklin modified his plans to increase the setback from 8 feet to 10 feet. The building permit was issued on December 29, 2010. The garage has been built with the increased setback.

15. In a July 22, 2011 letter from William M. Fleishhacker, Deputy County Counsel, we were informed that “[S]taff is working with Supervisor Haggerty’s office to develop reasonable regulations applicable to Agricultural properties, which would provide standards for location of such containers so as to limit their visual impact on the community”. To avoid having Mr. Shanklin have to move

his containers off his property at great expense and then move them back on when the ordinance is updated, I proposed the following by return letter dated August 19, 2011:

“As I understand it, Bernie Shanklin has until his building permit is finalized, at which point the standard container regulations come fully back. Bernie thinks he can empty the 5 cargo containers within 30 days of when the final building inspection is passed. At that point, County Inspectors will be invited on to the property to verify that the containers are empty, and authorized to install County locks on all 5 empty containers.”

I was reiterating that the County is bound by its agreement to delay enforcement of the container ordinance at least until Mr. Shanklin has a legal building in which to put the classic cars and other materials that are stored in the containers. Nobody from the County ever responded to my reasonable proposal to just lock up the empty containers until the new ordinance is adopted, after which Bernie would comply with whatever rules the County adopts, like the other 30 properties with cargo containers.

16. In March 2011, apparently after lurking around the property taking pictures by telephoto lens, County zoning enforcement staff sent Notices to Abate Junk Vehicles to a number of people who had visited the Shanklin property in their vehicles, including friends, contractor's employees working on the new garage, and others. For the people who Bernie Shanklin was aware got those notices, information was provided to your zoning enforcement staff regarding why their cars were legally on the property (in three instances through attorney letters from James G. Schwartz, Esq.). That information should have led to dismissal of the charge against Mr. Shanklin.

17. Instead, Mr. Shanklin received a letter dated May 23, 2011 from U.B. Singh, Director of Finance labeled “Zoning Ordinance Fines & Fees Due” demanding payment of \$958.00, and threatening collection by placing a lien on Mr. Shanklin's property for his alleged auto body repair work. Had Ms. Starling's investigation produced credible evidence that illegal auto body work for pay was being conducted, County staff is required by ordinance to schedule a hearing before the East County Board of Zoning Adjustments (ECBZA), and prove their case (Section 17.59.050). In this instance, County zoning enforcement staff decided to skip the nuisance of a fair hearing, and proceeded directly to bill collection.

18. In April 2011, county enforcement staff opened up a whole new line of attack against Mr. Shanklin, sending a Notice to Abate for having a “leaning fence” at the boundary with the adjacent (Moreda) property, with Ms. Moreda as the complainant.

19. On April 28, 2011, the ECBZA held its first hearing on the leaning fence issue. . I appeared on behalf of Mr. Shanklin, asked that this systematic harassment of a tired old man with repeated specious charges be terminated. I stated: This was obviously a boundary fence under Civil Code Section 841, which both owners are equally obligated to maintain. As a boundary fence, both parties have an adequate legal remedy in Civil Code Section 841. As a boundary fence, upon dismissal of the charges against Mr. Shanklin (only), the County zoning enforcement staff would then have the option to charge both property owners for the leaning boundary fence. County zoning enforcement staff insisted that Civil Code 841 is a civil matter not applicable to their actions. The ECBZA wisely continued the hearing to May 26, 2011 to get legal clarification. At this and every hearing on this matter, we reiterated Mr. Shanklin's willingness to share equally with the complainant on the cost of a reasonable replacement fence, which the complainant rejected explicitly at the hearing.

20. On May 26, 2011, the ECBZA held its second hearing on the leaning boundary fence. The County enforcement staff still recommended abatement against Mr. Shanklin, but not his neighbor, rather than drop an obviously mistaken and specious charge. At the May 26, 2011 ECBZA hearing, County Counsel Brian Washington attended and confirmed my contention that minor variation in the location of the fence line from the actual property line would not prevent the boundary fence from being a boundary fence under Civil Code Section 841.

21. By email dated June 8, 2011, County Counsel Brian Washington stated: *"I agree with your point that if CDA [Community Development Agency] concludes that the fence is a boundary fence, the violations related to the fence would need to be enforced against both property owners or neither property owner."* Ms. Henninger of County zoning enforcement staff was copied with that email.

22. But, through June 2011, the zoning enforcement staff still refused to drop the specious charges. We refused Ms. Henninger's demand that Mr. Shanklin commission a survey to prove the fence is a boundary fence. The June 23, 2011 ECBZA hearing on the subject was then canceled.

23. On July 28, 2011, the ECBZA held its third hearing on the leaning boundary fence. But, finally, the Staff recommendation changed by conceding, *"Since the property owner did not provide a boundary survey and staff does not consider this violation a health and safety issue, the County, due to budget constraints will not pursue obtaining a boundary survey. Therefore, staff is recommending that the matter be dropped."* The ECBZA did drop the charge.

24. Within 10 days, Ms. Moreda appealed the leaning fence issue to the Board of Supervisors. For the September 13, 2011 Board hearing, the Staff

Report quoted the above ECBZA Staff Report “*recommending that the matter be dropped.*” We shared a letter from Mr. Shanklin to Ms. Moreda offering to share the cost of a reasonable replacement fence. But, Supervisor Haggerty saw it differently, moving that Mr. Shanklin alone be ordered to abate the fence, declaring the property a public nuisance, and adding that Sheriffs be brought out if there was less than complete compliance with any proposed invasions of Mr. Shanklin’s property by County zoning enforcement staff. The Haggerty motion passed unanimously. This blatantly illegal action was directly contrary to the correct legal advice provided by County Counsel at the hearing.

25. This tedious but relentless County campaign of harassment and discriminatory enforcement against Mr. Shanklin has taken a financial and emotional toll. With yet more severe County enforcement action threatened, Mr. Shanklin agreed in September 2011 to replace the boundary fence at his own cost, and has done so.

26. But, here we go again. On January 25, 2012 Mr. Shanklin was sent a Final Notice to Abate the cargo containers from Lacy Starling, Zoning Investigator. That Notice to Abate states “*Unless the violation is immediately corrected, **the County will proceed to abate the nuisance by removing the containers on February 6, 2012.***” Mr. Shanklin still has a valid building permit, and has not yet received final building inspection, which is the time for enforcement to begin as agreed by the County in exchange for Mr. Shanklin increasing his garage setback. This abatement action is a violation of what the County reasonably agreed as the date for commencement of enforcement. Alameda County has no legal right to remove the containers as threatened until Mr. Shanklin has received a final building inspection on his garage, and a brief period for removal of any remaining materials from the containers.



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

Chris Bazar
Agency Director

January 25, 2012

Albert Lopez
Planning Director

224
West Winton Ave.
Room 111

Hayward
California
94544

phone
510.670.5400
fax
510.785.8793

www.acgov.org/cda

Bernie D. Shanklin
1824 Almond Avenue
Livermore CA 94550-5038

Subject: Notice of Nuisance and Final Notice to Abate

On **December 22, 2011**, a re-inspection of the property noted below identified the following violations still exists:

ADDRESS: 1824 Almond Avenue, Livermore CA 94550

APN: 0099-1150-018-00

VIOLATIONS: 1) Cargo/storage containers stored on the property in violation of Alameda County Ordinance Section 17.52.290.

On July 13, 2010, the Board of Supervisors declared the property at 1824 Almond Avenue a public nuisance and in violation of Alameda County Ordinance Code Sections 17.52.210, 17.52.290 and 17.08.030 (Board of Supervisors Resolution #R-2010-335.) The Board's Resolution ordered the property owner to remove all cargo/storage containers from the property within **30 days**, or by no later than August 12, 2010.

As noted above, as of December 22, 2011, the containers remain on the property in violation of County Ordinance Code and the Board's July 13, 2010 action. Unless the violation is immediately corrected, the County will proceed to abate the nuisance by removing the containers on **February 6, 2012**. The cost of such abatement will be assessed upon the property and all costs related to County contractor actions, Code Enforcement staff time, hearing costs, administrative fees and penalties will be charged to the property owner. If it becomes necessary to place a lien on your property to recover the costs of abatement, the amount due will be collected at the same time and in the same manner as ordinary taxes are collected. In case of delinquency, the amount due is subject to the same penalties, procedures and sale of property for ordinary property taxes.

If you have any questions regarding this matter, contact me at (510) 670-5797.

Your immediate attention to this matter is appreciated.

CODE ENFORCEMENT DIVISION


Lacy Starling

Zoning Investigator
Alameda County CDA