



## MEMORANDUM

**TO:** Mayor and Council

**FROM:** William E. Rhodes, P.E., Director, Code Compliance Department

**CC:** Marc A. Ott, City Manager  
Robert Goode, Assistant City Manager  
Howard Lazarus, Acting Assistant City Manager

**DATE** June 23, 2010

**SUBJECT:** Update for 2006 Canterbury Street

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**PURPOSE:** This memorandum provides a status update regarding the City's actions at 2006 Canterbury Street.

**BACKGROUND:** On Friday, June 11, 2010, city contractor Sisk-Robb, Inc., successfully remediated the sub-levels at 2006 Canterbury Street owned by Austin resident Joe Del Rio. This work included the removal and disposal of all hazardous material; the removal and securing of specified personal items; and the filling of low strength floatable concrete throughout the sub-levels.

On May 27, 2010, a memorandum was sent to the Mayor and Council regarding the City's actions to remediate safety issues at this property. Since early May 2010, multiple City departments worked together to develop the best approach in abating the dangerous conditions associated with the sub-levels. The City provided Mr. Del Rio and his attorney a copy of the soil and structural report, which stated that "if these excavations collapse, the worst case scenario would have the collapse extending horizontally as far as 35 feet under the house," while affecting the adjacent street and properties to the east and west of Mr. Del Rio's property. City officials informed him the city wanted the sub-levels filled in. The City billed Mr. Del Rio for the cost of materials to install a fence and safety barrier around the perimeter of the property, and he has appealed these costs.

Two options at the time were considered by City staff:

**(1) Allow the property owner to abate the sub-levels.**

As a prerequisite for possible consideration of this option, internal recommendations included that the City require the owner to submit a recommended scope of work from an engineering firm (i.e. a soil and structural report that would include a detailed safety plan; agreeing to a timeline for completion of all remediation work subject to approval by the City; providing proof of appropriate liability and indemnity insurance coverage for the project, as applicable; entering

into a three-party contract between the property owner, the owner's contractor and the City; demonstrating proof of financial ability to fund the remediation project; and posting a bond sufficient to secure payment for the completion of the work in the event the citizen or his contractor could not properly complete the remediation in a timely manner to protect public health and safety, including the known risk potential to adjacent properties.

**(2) Have the City abate the sub-levels.**

If the City allowed Mr. Del Rio to do the work, then there would have certainly been a delay in abating the hazard while the City negotiated the requirements and scope of the work with the property owner. This option was not recommended because a collapse could have occurred at any time prior to remediation, especially due to seasonal rains or vibrations, during the negotiations with the property owner. Therefore, staff proceeded with filling in the sub-levels at the City's expense.

After the decision was made for the City to abate the sub-levels on May 26, 2010, the Public Works Department developed an accelerated schedule to bid and award the project, which occurred on Monday, June 7, 2010. The City is seeking reimbursement from Mr. Del Rio for all work associated with the remediation of the sub-levels. Code Compliance and Public Works will be requesting that Council ratify the agreement with the contractor in the amount of \$61,500 at the July 29<sup>th</sup> meeting.

On June 8, 2010, Code Compliance sent Mr. Del Rio a notice of violation, which identified work without permits and additional non-compliance issues requiring action and resolution. Additional information concerning the property and the compliance process will be sent to Mr. Del Rio in the coming days.

In the meantime, should you have any questions or need additional information, you may contact me at 974-1970.