

**TOWN OF FAIRFAX  
STAFF REPORT**

**TO:** Mayor, Members of the Town Council

**FROM:** Michael Rock, Town Manager *(MR)*  
Jim Moore, Director of Planning and Building Services  
Mark Lockaby, Building Official

**DATE:** March 7, 2012

**SUBJECT:** **Adoption of Resolution 12-09 declaring the conditions at 39 Wood Lane a Public Nuisance and ordering the Town Manager to abate the Nuisance APN: 002-081-04**

**RECOMMENDATION**

Staff recommends the Town Council adopt the attached resolution 12-09 declaring the above described conditions on the property to be a public nuisance and specifically:

- 1) Order the Town Manager to cause the abatement of the nuisance by hiring a soils engineer to assess the slide area
- 2) Hire a moving company to remove the accumulated items on the property to the moving company's warehouse for a ten day storage period
- 3) Advise the owner that if the items are not claimed, the Town shall cause the proper disposal of the listed items. Prior to abatement by a contractor, the owners will be given notice and a final ten day period of time in which to remedy the listed Code violations on the property. Any abatement will be completed in accordance with applicable law.
- 4) Town staff will return to Council at a future date to report on the abatement and request the costs of abatement be charged to the property owners as a special assessment lien on the property.

**DISCUSSION**

The project located at 39 Wood Lane was a duplex owned by Jeffery Hansbery that was severely damaged during the storm of December 31, 2005. The damage was due to a landslide of the hillside behind the residence. A permit was issued to demolish the remainder of the residence on September 22, 2009 and the demolition was completed shortly thereafter. Mr. Hansbery has been asked to submit engineered plans to repair the landslide, but to date nothing has been received. The property has become a storage yard for miscellaneous items such as: storage containers, dumpsters, tractors, construction supplies, and all terrain vehicles. We have also asked that the temporary chain link construction fence be removed

and replaced with a more suitable permanent one. Mr. Hansbery has ignored all letters and citations requesting the removal of the stored items. All attempts to have Mr. Hansbery maintain his property in compliance with the Town's Municipal Code has been ignored.

The conditions on the property constitute a public nuisance due to the outstanding Code violations, the unsightly appearance to the neighborhood, and the possibility of further land movement.

## **BACKGROUND**

The conditions that constitute a public nuisance at 39 Wood Lane have been getting worse over the last few years and concerned neighbors have been asking staff and council to help with abating the situation.

On August 6, 2010, staff, sent a letter, both certified and regular mail, to the property owner of 39 Wood Lane. The letter listed zoning violations and requested that the conditions be abated within 30 days. (Exhibit #1) This request was ignored by the owner of 39 Wood Lane.

On October 10, 2010, staff, sent a letter, both certified and regular mail. Once again, the letter listed the zoning violations with the demand that the conditions be abated within 30 days or the town would begin issuing administrative citations. (Exhibit #2) This request was ignored by the owner of 39 Wood Lane.

In late April 2011, Mr. Hansbery brought in and discussed preliminary sketches for a combination slide repair and parking structure. Mr. Hansbery was advised in writing on May 4, 2011 that staff would not be able to support a parking structure located within the required setbacks. Mr. Hansbery was advised again that the temporary fencing needed to be removed (Exhibit#3).

On August 19, 2011, staff sent an administrative citation both certified and regular mail, in the amount of \$100.00. The citation was ignored by the owner of 39 Wood Lane (Exhibit#4).

On October 12, 2011, Staff sent an administrative citation both certified and regular mail, in the amount of \$200.00. The citation was ignored by the owner of 39 Wood Lane (Exhibit 5).

On January 19, 2012 staff sent notice, both certified and regular mail of a hearing to declare a public nuisance and order abatement by the Town Council on December 7, 2011 at 7:00 p.m (Exhibit 6).

## **TOWN CODE VIOLATIONS:**

1. **The property is being used for storage.** Using your property for storage in a residential zone violates the following section of the Fairfax Town Code:

### **17.084.020 Principal Permitted Uses and Structures within the Residential RS-6 Zone.**

Uses within the RS-6 zone shall be conducted entirely within a building and are restricted to a single-family dwelling on each building site.

Uses that are not included in the above list are not permitted.

2. **Unpermitted over height fence.** The temporary chain-link fence exceeds the allowable height within six feet of the front property line and needs to be removed.

### **§ 17.044.080 FENCES, WALLS, HEDGES AND BULKHEADS.**

(A) A fence, wall, hedge or bulkhead, maintained so as not to exceed six feet in height, may be located along side and rear lot lines; provided that, fences, walls, hedges or bulkheads may be maintained at higher heights only after obtaining a variance from the Planning Commission.

(B) Fences, walls and hedges may be located in required yards as follows.

(1) If not exceeding at any point four feet in height above the elevation of the surface of the ground at such point, they may be located in any yard or court.

(2) If not exceeding at any point six feet in height above the elevation of the surface of the ground at such point, they may be located at any point to the rear of the front setback line.

3. **Unfilled excavation.** The landslide scarp caused by the heavy storm on December 31, 2005 has not been repaired. Engineered plans must be submitted for the repair, or a licensed soils engineer must certify that the existing landslide is safe.

### **§ 1.12.045 SUBSTANDARD OR DANGEROUS PROPERTY CONDITIONS.**

No occupant shall cause or allow any condition on its property, or on an adjacent sidewalk, which unreasonably increases the risks to public safety or public health, or which results in substantial detriment to the property of others in the immediate vicinity thereof. Such conditions include but are not limited to the following:

(H) An attractive nuisance to children, including but not limited to equipment, machinery, pools, ponds or excavations which may be hazardous to children.

(O) The presence of stagnant water, unrefilled excavations, eroded or eroding earth or sand which flows onto adjoining sidewalks or street, or eroded or eroding earth or sand which in normal weather conditions can be carried off or blown from the property as dust.

## **ATTACHMENTS**

Exhibit 1: August 6, 2010 Notice of Town Code Violations.

Exhibit 2: October 10, 2010 Notice of Town Code Violations

Exhibit 3: May 4, 2011 Staff response to proposed Garage/Retaining Wall

Exhibit 4: August 19, 2011 Notice of Administrative Citation

Exhibit 5: October 12, 2011 Notice of Administrative Citation

Exhibit 6: January 18, 2011 Notice of Public Hearing

Exhibit 7: Pictures 39 Wood Lane

## **RESOLUTION 12-09**

### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DECLARING THE CONDITIONS AT 39 WOOD LANE A PUBLIC NUISANCE AND ORDERING THE TOWN MANAGER TO ABATE THE NUISANCE**

**WHEREAS,** the California Government Code sections 38771 et seq. and the Fairfax Town Code (“Code”) Chapter 1.12 provide for the declaration of a public nuisance on private property that is being maintained in violation of the Town Code; and

**WHEREAS,** the Town Council may order the Town Manager to abate any public nuisance; and

**WHEREAS,** the property at 39 Wood Lane in Fairfax (Assessor’s Parcel Number (APN) 002-081-04) is being maintained in violation of provisions of the Town Code, the California Building and Fire Code; and

**WHEREAS,** the specific violations include the following:  
Town Code sections 17.084.020, residential property being used for storage, 17.044.080, fence over permitted height, and 1.12.045 (H) and (O), unfilled excavation creating a dangerous condition of property; and

**WHEREAS,** the nuisance conditions consist of the following: 1) storage of accumulated items including, but not limited to, storage containers, tractors, construction supplies, and all-terrain vehicles; 2) temporary chain link fencing that is over the height limit; and 3) a dangerous condition of property due to the presence of an unfilled excavation caused by a landslide; and

**WHEREAS,** the property owner has been notified of the violations and nuisance conditions and has failed to bring the property into compliance with applicable Codes; and

**WHEREAS,** the property owner was notified of the Town Council hearing on this matter.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Fairfax as follows:

1. The property at 39 Wood Lane in Fairfax, APN 002-081-04, is being maintained in violation of Town Code sections 17.084.020, 17.044.080, and 1.12.045.

2. The listed conditions existing at 39 Wood Lane are hereby declared to be a public nuisance.

3. The Town Council authorizes and orders the Town Manager to abate the nuisance by hiring a contractor to remove the accumulated items from the property, notice the owner that the items will be held for ten days at the contractor's warehouse and thereafter disposed of if not retrieved, and install a permanent fence of appropriate height around the property.

4. This Resolution shall become effective immediately upon adoption.

The foregoing Resolution was duly passed and adopted at a Regular Meeting of the Town Council of the Town of Fairfax held in said Town on the 7th of March, 2012 by the following vote, to wit:

AYES:

NOES:

ABSENT:

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MAYOR Pam Hartwell-Herrero

Attest:

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Judy Anderson, Town Clerk



# **TOWN OF FAIRFAX**

142 Bolinas Road, Fairfax, California 94930

(415) 453-1584 / Fax (415) 453-1618

August 6, 2010

Jeffrey Hansbery  
P.O. BOX 545  
San Anselmo, CA 94979

Certified Letter # 7009 0080 0001 9429 2478  
Also sent first class mail

## **NOTICE OF VIOLATIONS**

Re: 39 Wood Lane; violations

Dear Mr. Hansbery,

It has come to the attention of the Department of Planning and Building Services through numerous complaints from local residents that multiple zoning and building violations exist at 39 Wood Lane.

1. **Excavation without required permit or approval:** Excavation without the required permits is a violation of Town Code:

### **§ 12.20.020 PERMIT REQUIRED TO EXCAVATE OR FILL; EXCEPTIONS.**

It is unlawful for any person to make or cause or permit to be made any excavation or fill in the town, except in accordance with a permit issued as specified in this chapter, provided that, no permit shall be required to fill or excavate:

- (A) By any public utility;
- (B) Where less than two cubic yards of earth or material are moved; and
- (C) Where grading for a building site is being made for the purpose of immediate construction of a building or improvements thereon, for which a building permit has been issued, if, in the opinion of the Building Inspector, evidenced by a statement on the aforementioned building permit, no hazard to property rights of the town or of adjoining land owners will be encountered or created by the work of excavation.

Any excavation after the date of this letter will result in an immediate administrative citation in the amount of \$100.00. Continued failure to comply will result in fines increasing to \$200.00 and then to \$500.00. Once the fine reaches \$500.00 the fines could continue to accrue at the rate of \$500.00 per day until compliance is achieved.

2. **The property is being used for storage.** Using your property for storage in a residential zone violates the following section of the Fairfax Town Code:

**EXHIBIT #** \_\_\_\_\_

**17.084.020 Principal Permitted Uses and Structures within the Residential RS-6 Zone.**

Uses within the RS-6 zone shall be conducted entirely within a building and are restricted to a single-family dwelling on each building site.

Uses that are not included in the above list are not permitted.

All equipment, storage containers, and other items must be removed from the property within thirty (30) days of the date of this letter. Failure to remove all of the items from the property by September 6, 2010, will result in the Town issuing an administrative citation in the amount of \$100.00. Continued failure to comply will result in fines increasing to \$200.00 and then to \$500.00. Once the fine reaches \$500.00 the fines could continue to accrue at the rate of \$500.00 per day until compliance is achieved.

**3. Unpermitted over height fence.** The temporary chain-link fence exceeds the allowable height within six feet of the front property line and needs to be removed.

**§ 17.044.080 FENCES, WALLS, HEDGES AND BULKHEADS.**

(A) A fence, wall, hedge or bulkhead, maintained so as not to exceed six feet in height, may be located along side and rear lot lines; provided that, fences, walls, hedges or bulkheads may be maintained at higher heights only after obtaining a variance from the Planning Commission.

(B) Fences, walls and hedges may be located in required yards as follows.

(1) If not exceeding at any point four feet in height above the elevation of the surface of the ground at such point, they may be located in any yard or court.

(2) If not exceeding at any point six feet in height above the elevation of the surface of the ground at such point, they may be located at any point to the rear of the front setback line.

The fence must be removed or lowered to 4' in height within thirty (30) days of the date of this letter. Failure to lower the fence to the permitted 4' height by September 6, 2010 will result in the Town issuing an administrative citation in the amount of \$100.00. Continued failure to comply will result in fines increasing to \$200.00 and then to \$500.00. Once the fine reaches \$500.00 the fines could continue to accrue at the rate of \$500.00 per day until compliance is achieved.

If you have any questions regarding this matter, please feel free to contact the Department of Planning and Building Services 458-2370.

Sincerely,



Mark Lockaby

Building Official

SENDER'S COPY OF RETURN RECEIPT

POST OFFICE USE ONLY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

A. Signature  
*Oliver Hansbery*  Agent  Address  
 B. Received by (Printed Name) *Oliver Hansbery* C. Date of Delivery *1/10/04*

1. Article Addressed to:

JEFFREY HANSBERY  
 P.O. BOX 545  
 SAN ANSELMO, CA 94979

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number  
 (Transfer from service label)

7009 0080 0001 9429 2478

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-15



# **TOWN OF FAIRFAX**

142 Bolinas Road, Fairfax, California 94930

(415) 453-1584 / Fax (415) 453-1618

October 10, 2010

Jeffrey Hansbery  
P.O. BOX 545  
San Anselmo, CA 94979

Certified Letter # 7010 1060 0002 4879 2052  
Also sent first class mail

## **NOTICE OF VIOLATIONS**

Re: 39 Wood Lane; violations

Dear Mr. Hansbery,

Please submit a written timeline of when you will be taking care of the following items:

1. Retain an engineer to draw plans for the slide repairs.
2. Submit plans to the Building Department for review.
3. Commence with the repairs to the slide.

Following is what we previously sent to you regarding the violations:

It has come to the attention of the Department of Planning and Building Services through numerous complaints from local residents that multiple zoning and building violations exist at 39 Wood Lane.

1. **Excavation without required permit or approval:** Excavation without the required permits is a violation of Town Code:

### **§ 12.20.020 PERMIT REQUIRED TO EXCAVATE OR FILL; EXCEPTIONS.**

It is unlawful for any person to make or cause or permit to be made any excavation or fill in the town, except in accordance with a permit issued as specified in this chapter; provided that, no permit shall be required to fill or excavate:

- (A) By any public utility;
- (B) Where less than two cubic yards of earth or material are moved; and

(C) Where grading for a building site is being made for the purpose of immediate construction of a building or improvements thereon, for which a building permit has been issued, if, in the opinion of the Building Inspector, evidenced by a statement on the aforementioned building permit, no hazard to property rights of the town or of adjoining land owners will be encountered or created by the work of excavation.

**EXHIBIT #** 2

Any excavation after the date of this letter will result in an immediate administrative citation in the amount of \$100.00. Continued failure to comply will result in fines increasing to \$200.00 and then to \$500.00. Once the fine reaches \$500.00 the fines could continue to accrue at the rate of \$500.00 per day until compliance is achieved.

2. **The property is being used for storage.** Using your property for storage in a residential zone violates the following section of the Fairfax Town Code:

### **17.084.020 Principal Permitted Uses and Structures within the Residential RS-6 Zone.**

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Uses that are not included in the above list are not permitted.

All equipment, storage containers, and other items must be removed from the property within thirty (30) days of the date of this letter. Failure to remove all of the items from the property by September 6, 2010, will result in the Town issuing an administrative citation in the amount of \$100.00. Continued failure to comply will result in fines increasing to \$200.00 and then to \$500.00. Once the fine reaches \$500.00 the fines could continue to accrue at the rate of \$500.00 per day until compliance is achieved.

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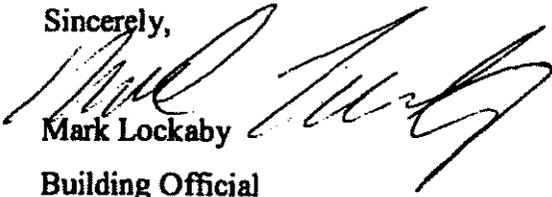
- (1) If not exceeding at any point four feet in height above the elevation of the surface of the ground at such point, they may be located in any yard or court.

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If you have any questions regarding this matter, please feel free to contact the Department of Planning and Building Services 458-2370.

Sincerely,



Mark Lockaby  
Building Official

<p><b>SENDER INFORMATION</b></p> <ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p><b>A. Signature</b></p> <p><i>Mark Lockaby</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>JEFFREY HANSBERY P.O. BOX 545 SAN ANSELMO, CA 94979</p>		<p><b>B. Insured by United States Postal Service</b> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>C. Date of Delivery</b></p> <p><i>10-12-10</i></p>	
		<p><b>D. Is delivery address different from item 1?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, enter delivery address below:</p> <p>TOWN OF FAIRFAX</p> <p>OCT 13 2010</p>	
		<p><b>3. Service</b></p> <p><b>RECEIVED</b></p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p><b>4. Restricted Delivery? (Extra Fee)</b> <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>7010 1060 0002 4879 2052</p>	
<p>PS Form 3811, February 2004</p>		<p>Domestic Return Receipt 102595-02-M-1540</p>	



# TOWN OF FAIRFAX

142 Bolinas Road, Fairfax, California 94930  
(415) 453-1584 / Fax (415) 453-1618

May 4, 2011

Certified Letter No. 7010 1060 0002 4879 2175  
Copy sent general delivery

Jeffrey D. Hansbery  
P.O. Box 545  
San Anselmo, CA. 94979

Re: 39 Wood Lane, Proposed retaining wall configuration

Dear Mr. Hansbery,

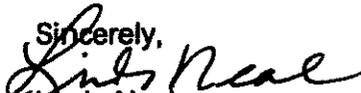
The Department of Planning and Building Services staff has reviewed your proposed dual slide repair/parking proposal with the Director of Planning and Building Services and we have made the following determinations:

1. The proposed dual slide repair/parking retaining wall solution would require the approval of Variances to allow exceptions to the Town regulations. The Town Code prohibits the location of parking and structures in required side yard setbacks [Town Code sections 17.052.010(B)]. The staff is unable to support such a request because the site is larger than most and there are numerous locations on the site where parking can be provided in compliance with the Town setback regulations. The Planning Commission has to be able to make legally supportable findings for why the regulations cannot be met in order to approve a Variance and in this case there are no such findings.
2. The Town Council has previously determined that an accessory use such as parking cannot exist on a residentially zoned site unless there is already a principal residential use in existence.

Staff's recommendation to you is to complete the slide repair with the minimum amount of retaining walls necessary to stabilize the hillside.

We also recommend that you install 4 foot high conforming permanent fence along the property frontage, or a 6 foot fence behind the 6 foot front setback and remove the air sea land container from the yard. The container and the rented security fence were supposed to be temporary solutions to assist you towards reaching the goal of repairing the slide. Five years has passed since the slide and almost a year has now passed and no progress has been made towards restoring the site and removing the temporary storage container and fence. These structures can no longer be considered temporary.

If you have any questions, please do not hesitate to contact the Department of Planning and Building Services.

Sincerely,  
  
Linda Neal  
Senior Planner

cc. Jim Moore, Director of Planning and Building Services  
Mark Lockably, Building Official

EXHIBIT # \_\_\_\_\_

3



NOTICE OF ADMINISTRATIVE  
CITATION

CODE ENFORCEMENT  
142 BOLINAS ROAD  
FAIRFAX, CA 94930  
(415) 453-1584

Date: 8-19-2011 Time: 8:30AM  
An inspection of the premises located at 39 Wood Lane in the  
Town of Fairfax, revealed a violation(s) of the Fairfax Municipal Code.

Name of owner or business: Jeffrey D Hansbery  
P.O. Box 545  
Address if different than San Anselmo, CA 94979  
violation:

- 1<sup>ST</sup>. CITATION \$100.00 IS NOW DUE AND PAYABLE.  
 THE NEXT LEVEL CITATION IS NOW PENDING AND YOU MAY BE CITED EACH DAY THE VIOLATION CONTINUES. OTHER ENFORCEMENT PENALTIES MAY ALSO RESULT IF COMPLIANCE IS NOT ACHIEVED OR IF YOU CONTINUE TO IGNORE THIS CITATION.  
 2<sup>ND</sup>. CITATION \$200.00 IS NOW DUE AND PAYABLE.  
 3<sup>RD</sup>. CITATION \$500.00 IS NOW DUE AND PAYABLE.

YOU WERE ADVISED AND/OR WARNED OF THIS VIOLATION ON \_\_\_\_\_  
AND YOU HAVE NOT CORRECTED AND/OR RESOLVED THE VIOLATION(S).

TOWN OF FAIRFAX MUNICIPAL CODE	DESCRIPTION OF VIOLATION(S)
17.084.020	Property being used for storage of construction equipment, shipping containers, and construction debris.
17.044.080	Unightly over height fence.

TO CORRECT THIS VIOLATION: All equipment, storage containers, and other items must be removed from the property. The unsightly fence must be removed.

RECEIPT ACKNOWLEDGED by: \_\_\_\_\_ DATE \_\_\_\_\_

SIGNATURE OF INSPECTING OFFICIAL: [Signature] PRINT NAME: Mark Lockaby

VIOLATION CLEARED DATE: \_\_\_\_\_ (DATE INSPECTED)

Any person aggrieved by the action of an administration official, advisory body, or the commission, in the administration or enforcement of this title, may make verified application to the Town Clerk in the manner prescribed by the Town Council within ten days of this action ITC 17.38.028.

WHITE (VIOLATION COPY) CANARY (INSPECTOR COPY) PINK (TOWN CLERK)

**COPY**

2. Article Number: 7010 1060 0002 4879 2236  
(Number from service record)  
PS Form 3811, February 2004  
Domestic Return Receipt

1. Article Addressed to:  
JEFFREY D HANSBERY  
P.O. BOX 545  
SAN ANSELMO, CA 94979

RETURN TO: \_\_\_\_\_  
 Print your name, address, and telephone number on the reverse so that we can return the article to you.  
 Attach this card to the back of the package, or on the front if space permits.

Signature: [Signature] Agent  
 Date of Delivery: AUG 25 2011  
 Town of Fairfax  
 PS Form 3811, February 2004

Registered Delivery? (Extra Fee)  Yes  No  
 Signature Required  Yes  No  
 Restricted Mail  Yes  No  
 Return Receipt for Merchandise  Yes  No  
 Signature Required  Yes  No  
 Restricted Mail  Yes  No

EXHIBIT # 4



NOTICE OF ADMINISTRATIVE  
CITATION

CODE ENFORCEMENT  
142 BOLINAS ROAD  
FAIRFAX, CA 94930  
(415) 453-1584

Date: 10-12-11 Time: 1:30PM  
An inspection of the premises located at 39 Wood Lane in the  
Town of Fairfax, revealed a violation(s) of the Fairfax Municipal Code.

Name of owner or business: Jeffrey D Hansbery  
P.O. Box 545  
Address if different than violation: San Anselmo, CA 94979

- 1<sup>ST</sup>. CITATION \$100.00 IS NOW DUE AND PAYABLE.
- THE NEXT LEVEL CITATION IS NOW PENDING AND YOU MAY BE CITED EACH DAY THE VIOLATION CONTINUES. OTHER ENFORCEMENT PENALTIES MAY ALSO RESULT IF COMPLIANCE IS NOT ACHIEVED OR IF YOU CONTINUE TO IGNORE THIS CITATION.
- 2<sup>ND</sup>. CITATION \$200.00 IS NOW DUE AND PAYABLE.
- 3<sup>RD</sup>. CITATION \$500.00 IS NOW DUE AND PAYABLE.

YOU WERE ADVISED AND/OR WARNED OF THIS VIOLATION ON  
AND YOU HAVE NOT CORRECTED AND/OR RESOLVED THE VIOLATION(S).

TOWN OF FAIRFAX MUNICIPAL CODE	DESCRIPTION OF VIOLATION(S)
17.084.020	Property being used for storage of construction equipment, shipping containers, and construction debris.
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TO CORRECT THIS VIOLATION: All equipment, storage containers, and other items must be removed from the property. The unsightly fence must be removed.

RECEIPT ACKNOWLEDGED by: \_\_\_\_\_ DATE \_\_\_\_\_

SIGNATURE OF INSPECTING OFFICIAL: *[Signature]* PRINT NAME: Mark Lockaby

VIOLATION CLEARED DATE: \_\_\_\_\_ (DATE INSPECTED)

Any person aggrieved by the action of an administration official, advisory body, or the commission, in the administration or enforcement of this title, may make verified application to the Town Clerk in the manner prescribed by the Town Council within ten days of this action FTC 17.28.828.

WHITE (VIOLATION COPY) CANARY (INSPECTOR COPY) PINK (TOWN CLERK)

1. Article Addressed to: JEFFREY HANSBERY  
P.O. BOX 545  
SAN ANSELMO, CA 94979

2. Article Number: 7010 1060 0002 4879 2304  
(Transfer from service label)  
PS Form 3811 February 2004  
Domestic Return Receipt

3. Service Type:  
 Registered Mail  
 Insured Mail  
 Registered Mail  
 Return Receipt for Merchandise  
 C.O.D.  
 Express Mail  
 Return Receipt for Merchandise  
 C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes  No

5. Delivered by (Printed Name) *[Signature]*  
 6. Date of Delivery 10/13/11  
 7. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below: \_\_\_\_\_

EXHIBIT # 5



# **TOWN OF FAIRFAX**

142 Bolinas Road, Fairfax, California 94930

(415) 453-1584 / Fax (415) 453-1618

## **NOTICE TO ABATE PUBLIC NUISANCE**

TO THE OWNER, AGENT OF THE OWNER, LESSEE, OCCUPANT, OR PERSON IN POSSESSION OF THE PROPERTY HEREAFTER DESCRIBED:

39 Wood Lane Fairfax, CA 94930 Lot 002 Block 081 Tract 04

YOUR ATTENTION IS HEREBY DIRECTED to the provisions of Chapter 1.12 of the Code of the Town of Fairfax on file in the office of the Town Clerk. Pursuant to the provisions of said Chapters, you are hereby notified to correct within 10 days of the date of this notice, on the property herein before described, the following public nuisances:

1. **The property is being used for storage.** Using your property for storage in a residential zone violates the following section of the Fairfax Town Code:

### **17.084.020 Principal Permitted Uses and Structures within the Residential RS-6 Zone.**

Uses within the RS-6 zone shall be conducted entirely within a building and are restricted to a single-family dwelling on each building site

Uses that are not included in the above list are not permitted.

2. **Unpermitted over height fence.** The temporary chain-link fence exceeds the allowable height within six feet of the front property line and needs to be removed.

### **§ 17.044.080 FENCES, WALLS, HEDGES AND BULKHEADS.**

(A) A fence, wall, hedge or bulkhead, maintained so as not to exceed six feet in height, may be located along side and rear lot lines; provided that, fences, walls, hedges or bulkheads may be maintained at higher heights only after obtaining a variance from the Planning Commission.

(B) Fences, walls and hedges may be located in required yards as follows.

(1) If not exceeding at any point four feet in height above the elevation of the surface of the ground at such point, they may be located in any yard or court.

**EXHIBIT #** 6

(2) If not exceeding at any point six feet in height above the elevation of the surface of the ground at such point, they may be located at any point to the rear of the front setback line.

3. **Unfilled excavation.** The landslide scarp caused by the heavy storm on December 31, 2005 has not been repaired. Engineered plans must be submitted for the repair, or a licensed soils engineer must certify that the existing landslide is safe.

**§ 1.12.045 SUBSTANDARD OR DANGEROUS PROPERTY CONDITIONS.**

No occupant shall cause or allow any condition on its property, or on an adjacent sidewalk, which unreasonably increases the risks to public safety or public health, or which results in substantial detriment to the property of others in the immediate vicinity thereof. Such conditions include but are not limited to the following:

(H) An attractive nuisance to children, including but not limited to equipment, machinery, pools, ponds or excavations which may be hazardous to children.

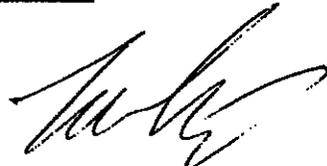
(O) The presence of stagnant water, unrefilled excavations, eroded or eroding earth or sand which flows onto adjoining sidewalks or street, or eroded or eroding earth or sand which in normal weather conditions can be carried off or blown from the property as dust.

Should you fail to correct this violation by the deadline above, a hearing will be held before the Town Council on February 1, at 7:00 o'clock, in the Fairfax Women's Building, 46 Park Road, Fairfax, California.

Please be advised that if you do not abate this nuisance as directed by this notice, or as directed by the Town Council, the Town may enter upon the property to abate the public nuisance and the Town's costs thereby incurred shall constitute a special assessment and a lien against the property.

Date January 18, 2012

  
Mark Lockaby  
Building Official



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