

LEAGUE OF CITIES PRESENTS

DRUG ABATEMENT ACT: HOW CITIES/COUNTIES CAN USE CIVIL LITIGATION TO FIGHT CRIME



Ryan Griffith, Esq. – Attorney & Receiver
Adam Abel – Assistant City Attorney Santa Rosa



SPEAKER BACKGROUND

Ryan Griffith, Esq. – Attorney & Receiver

Former City of Vallejo Neighborhood Law Attorney

Specialized in Drug & Red Light Abatement as well as H&S Receivership

Professor at Golden Gate Law School



Adam Abel – Assistant City Attorney Santa Rosa

Former Shareholder at Bradley, Curley, Asiano, Barrabee, Abel & Kowalski

Joined Santa Rosa City Attorney's Office in 2015

Has successfully utilized the California Drug Abatement Act to close many of Santa Rosa's worst nuisance properties ("Drug Houses")





AGENDA

THE PROBLEM

- **Nuisance Properties – Drug Houses, Illegal Businesses, Illegal Casinos, Criminal Activity**
- **Public Safety Communication and Prioritization with City Attorney’s Office**
- **Learning to Use the Legal Remedies Available – Drug Abatement, Red Light Abatement, Receivership If Necessary**

WHEN THESE REMEDIES APPLY AND HOW MUCH DOES IT COST

- **Reputation for drug house, illicit activity**
- **Police Reports - One incident can be enough (MUST BE MAJOR)**
- **Typically need to review police reports for 3-5 years**
- **Need declaration from officer identifying activity**
- **Declarations from neighbors can be very helpful and bring communities together**
- **How much does it cost to bring a Drug Abatement action under Health and Safety Code 11570 et seq?**

QUESTIONS AND DISCUSSION

- **New Questions?**



WHAT DRUG PROPERTIES CAN LOOK LIKE



LEGAL AUTHORITY

DRUG ABATEMENT STATUTE: Health and Safety Code 11570-11587

H&S 11570 Every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance...and every building or place wherein or upon which those acts takes place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered **selling, serving, storing, keeping, manufacturing, or giving away any controlled substance...and every building or place wherein or upon which those acts take place, is a nuisance...**”]

The action brought by the City Attorney may be brought against any person “conducting or maintaining” the nuisance (including the owner, lessor, or agent of the building)(H & S Code 11571), **whether or not the owner**, etc. was involved in the creation of the nuisance.

Red Light Abatement Penal Code Section 11225-11235

This remedy is used for gambling, prostitution, and can be combined with Drug Abatement Actions.

Health and Receivership Sections 17980.6 & 17980.7

This remedy is used for building code violations and can be combined with Drug Abatement Actions

SANTA ROSA DRUG ABATEMENT CASE

30 years of drug trafficking and crime surrounding neighborhood

1000's of calls for police service to Santa Rosa Police Dept and Santa Rosa JC Police Dept.

DEMORALIZED POLICE

Inordinate drain on police resources the extent of drug activity exceeded the decades of Drug related arrests.


DEMORALIZED COMMUNITY

Appreciated police efforts, but demanded permanent solution

COMMUNITY LOSES FAITH IN CITY LEADERSHIP

AA

Santa Rosa cracks down on a neighborhood nightmare, shuttering troubled home

The home on Richmond Drive has been a refuge for drug users, thieves and lost souls since the mid 1980s. No other home in Santa Rosa drew police more frequently. Now, the city is using a new legal strategy to shutter the property. | 





AFTER DRUG ABATEMENT ACTION

Santa Rosa City Attorney's office wins verdict declaring the property a drug house that was closed for all purposes then sold.

**1000's of would-be calls for service in the absence of Judgement eliminated -
Reinvigorated Police Department Moral**

SRPD Narcotics Team then recognized a swift and effective civil tool to eliminate future "Drug Houses" through collaboration with the City Attorney's Office

Community faith in leadership increased



HOW DID THAT TRANSFORMATION HAPPEN



Bay Area Receivership Group

SUE A. GALLAGHER
City Attorney
JEFFREY L. BERK
Chief Assistant City Attorney



JOHN J. FRITSCH
ROBERT L. JACKSON
ADAM S. ABEL
ASHLE T. CROCKER
JESSICA R. MULLAN
JENICA L. HEPLER

March 29, 2021

Mr. David Alan Vicini
2083/2085 Cooper Drive
Santa Rosa, California 95404

Dear Mr. Vicini:

This office has received numerous neighborhood complaints regarding narcotics trafficking, use, storage, selling and related criminal activity in and around the real property commonly known as 2083/2085 Cooper Drive in which you are the owner/occupier. As you know, your above property is located within the Gordon Ranch Homeowners Association comprised of some ninety-eight (98) single family homes and townhouses.

For approximately the last year, the City Attorney's Office, the Santa Rosa Police Department (SRPD) and the City's Code Enforcement Division have received frequent calls for service and complaints regarding the drug trafficking stemming from your property, seeking help and a solution to the problem. Though numerous arrests have been made, inclusive of yourself, nothing has changed and the above criminal activity persists.

As outlined in detail in the attached draft Complaint, in the last year, arrests associated with your property have been made and, as you know, on March 8, 2021, you were served with a search warrant and though you refused to answer your front door, knowing the SRPD were on the other side, they used a battering ram to gain entry, where significant amounts of methamphetamine, fentanyl and miscellaneous drug paraphernalia were located throughout your home. You were arrested on numerous felony and misdemeanor drug charges as a result, including possession of a controlled substance with intent to sell.

By maintaining a safe haven for drug dealers and users of illegal narcotics, your property has given rise to other public nuisance conditions. To wit, complaints throughout the complex range from excessive vehicular and foot traffic to and from your property at all hours of the day and night with most, if not all, of these subjects involved in the drug trade to some extent and whom engage in intimidation tactics towards your law-abiding neighbors, in addition to constant yelling, screaming and fighting well into the night, subjects walking around high on drugs, the witnessing of open hand-to-hand drug transactions, etc., all of which have combined to decimate an otherwise peaceful neighborhood.

City Attorney Action
Cease and Desist Letter, often
solves the issue, but not always

Uses evidence
From PD, CODE, FIRE
and Impacted Neighbors

Lawsuit Filed – Teeth
behind the letter

Bench trial – Resulted in Court Order
Required property closed for one year
H&S 11581 with cost recovery and
attorney fees awarded.

Need to coordinate on-ground
Closure.

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11 PEOPLE OF THE STATE OF CALIFORNIA, CITY OF SANTA ROSA,
12 Plaintiffs,
13 v.
14 DAVID ALAN VICINI, and DOES 1-10,
15 Defendants.16

17
18 The CITY OF SANTA ROSA (hereinafter "CITY") and the PEOPLE OF THE STATE
19 OF CALIFORNIA (hereinafter "STATE"), by and through the Santa Rosa City Attorney's Office
20 (collectively "Plaintiffs"), file their Complaint against Defendants DAVID ALAN VICINI
21 (hereinafter "VICINI") and DOES 1-10 (collectively "Defendants"). Plaintiffs hereby allege as
22 set forth below:

23 **INTRODUCTION**

24 1. This action arises out of Defendants' unlawful lease, ownership, use, maintenance,
25 and occupancy of residential property commonly known as 2083/2085 Cooper Drive, Santa
26 Rosa, California, 95404, Assessors Parcel Number (APN) 038-290-003 (sometimes referred to as
27 the "property"). The property, a duplex, is located within the Gordon Ranch Homeowners
28

ELECTRONICALLY FILED
Superior Court of California
County of Sonoma
4/7/2021 2:40 PM
Arlene D. Junior, Clerk of the Court
By: Angela Rubiano, Deputy Clerk

COMMON REASONS FOR DRUG HOUSES

NORMAL CODE PROCEDURES WORK GREAT, BUT THESE ISSUES PRESENT UNIQUE PROBLEMS THAT NEED COURT INTERVENTION

- A) Deceased Owner/Children or Heirs with Drug Issues Take Over
- B) Zombie Foreclosure/Leads to Squatters or Irresponsible Family Taking Over
- C) Owners in Bankruptcy/Leads to Squatters or Irresponsible Family Taking Over
- D) Substance Abuse/Mental Health Issues
- E) Abandoned Properties/Squatters Take Over
- F) Slumlords/Crime Issues/ Property owned by people in the Drug Trade



LEGAL REMEDIES AVAILABLE

- **Fines and Citations** – Usually effective, but when it is not, what can you do?
- **Drug Abatement/Red Light Abatement** – Health and Safety Code § 11570/Penal Code § 11225; *People ex rel. Gwinn v. Kothari*, (2000) 83 Cal. App. 4th 759. – (San Diego Motel involving all issues)
- **Unlawful Business Practice** – Business and Professions Code § 17200 et seq.
- **Pass Own City Ordinance** – No Harm, but State Law already exists.
- **Eminent Domain**- Complicated but once property is controlled it can be difficult for city to manage (see *Kelo v. City of New London* (2005) 545 U.S. 469, 473) – However, it is a tool to use.
- **Receivership** –If Court Judgments are insufficient California Code of Civil Procedure 564



WHY CIVIL LITIGATION IS NECESSARY

- Police, Code Enforcement, Fire and other Public Safety Officials encounter these properties with frequent distressed calls for neighborhood assistance. In the Santa Rosa cases, the SRPD and Code Division had received dozens, if not hundreds and, in the worst case, thousands of calls for service to the respective nuisance properties.
- These “Drug Houses” destroy the quality of life for the surrounding neighborhood. Drug dealers/users come and go from these properties 24/7. Neighbors are routinely threatened, drug paraphernalia is strewn throughout the sidewalks and neighboring front yards, and children can no longer play outdoors in front of their homes. Even walking one’s dog in the neighborhood is done with extreme trepidation.
- These drug-related nuisance scenarios are where civil litigation from your City Attorney/County Counsel’s Office can literally revitalize neighborhoods by closing down the local “Drug House”. While arresting the “bad actors” by the police are critically important, the Drug Abatement Act focuses instead on the source of the problem - by closing the home where the illegal activity stems, the problem solves itself.
- Appellate Case from Berkeley were one officer responded to 250 calls. (*Lew v. Superior Court* (1993) 20 Cal. App. 4th 866)



STARTING A DRUG ABATEMENT ACTION

- If you have identified a property that fits the bill for a drug abatement action, what do you do?
- Once a City Attorney has identified a property that fits the bill for a Drug Abatement Action, what evidence is necessary to proceed?
- Get all the calls for service from your police department
- Check with your Fire and Code Enforcement Department for any complaints of drug activity
- Contact neighbors to determine their willingness to sign declarations and/or testify in support of such an action. Even anonymous declarations - if retaliation is of concern - will suffice at the early stages of litigation. Declarations from neighbors are helpful.
- Once a case has been built, the City Attorney will send a ‘cease and desist’ letter typically to the owner giving 1-2 weeks to stop the drug trafficking. This often will result in a voluntary and immediate abatement of the nuisance.

DRUG ABATEMENT DECLARATION

2. The SRPD has generated a total of 132 reports from the aforementioned address during the period May 1, 2011-May 1, 2016. The majority of these reports entail arrest warrants for use of drugs and/or possession of stolen property. In addition to the 132 reports that have been generated, there has been a total of 1,203 “calls for service” to the SRPD alone concerning 550 Richmond Drive during that same time frame. The calls range from people yelling to anonymous neighbors reporting drug use and drug dealing. People come and go from the property day and night in cars or on foot, often for the purpose of purchasing drugs from those staying or occupying 550 Richmond Drive. The SRJC District Police have had a similar presence at the property and surrounding neighborhood for these same reasons.

Identifies training/experience
Identifies evidence obtained
Identifies contacts with property
1,203 calls for police service in five years

3. John Vincent allows people to stay on his property, whether good intentioned or not. These include homeless individuals, those with criminal records and those who are engaged in the drug trade. This three bedroom, one bath home has become a public nuisance over the years and it is common for law enforcement to step up enforcement along Richmond Drive due to the amount of drug dealing and wanted people we encounter, all affiliated with 550 Richmond Drive. I, as well as my fellow officers, are aware that it is common to go to 550 Richmond Drive after committing a crime to hide.

WHAT TO PROVE AT HEARING

- **The more evidence the better - 100+ calls for service great. However, one call for service with 1,000 pounds of meth will qualify i.e. Walter White**
- **If there are structural/fire dangers at the property that will bolster the argument**
- **Illegal activities such as gambling/prostitution will also work**
- **You can combine drug abatement/red light abatement/unlawful business practice/nuisance/injunction/receivership action into one. Only one sticks you prevail.**
- **The trial judges are typically not sympathetic towards the owner/defendant(s) for maintaining such a horrific public nuisance.**





DRUG ABATEMENT TIMEFRAME

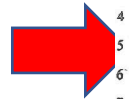
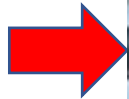
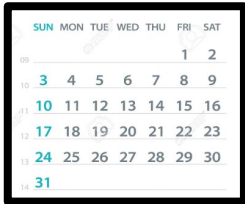


Neighborhood
Problem Start Date

Start of Case
April 17, 2019

End of Case
May 6, 2020

Unknown



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13 Attorneys for Plaintiffs
 14 CITY OF ELK GROVE and
 15 PEOPLE OF THE STATE OF CALIFORNIA

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COST OF DRUG ABATEMENT ACT

- The California Legislature encourages cities/counties to bring these actions, which is why attorney fees and enforcement costs are statutory in these cases.
- The general rule in America is that both sides pay their own attorney fees. For example, in a car crash, if you sue a driver, you pay your own attorney. The other driver pays their attorney. Then damages get awarded or do not. Neither side is responsible for the other's attorney fees. That is the general rule unless there is a statute.
- In most nuisance abatement cases, including drug abatement, there is a provision not only to recover attorney fees, but also time of investigation, which includes code, police, fire, etc. time reviewing documents, inspecting property and so on. In short drug abatement acts should be cost-neutral.



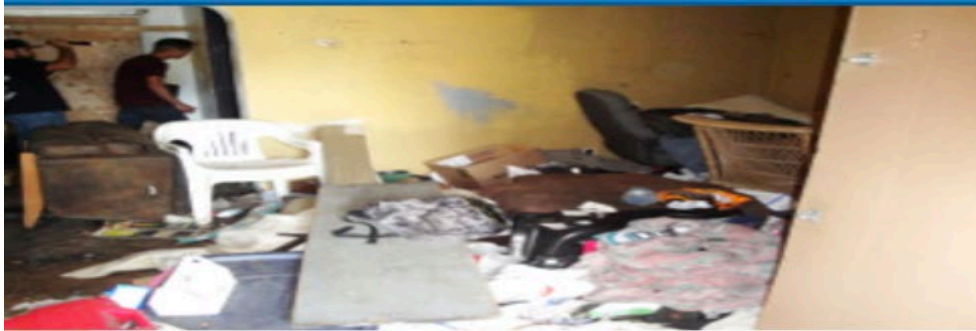
CITY ATTORNEY/COUNTY COUNSEL BUY-IN

- Convincing attorneys to do something new is difficult, we are creatures of habit.
- However, if someone else has done it, then persuading them can be easier.
- **Your Police Department and community where the nuisance was abated will thank you.**
- Neighborhood Law Programs are also effective.

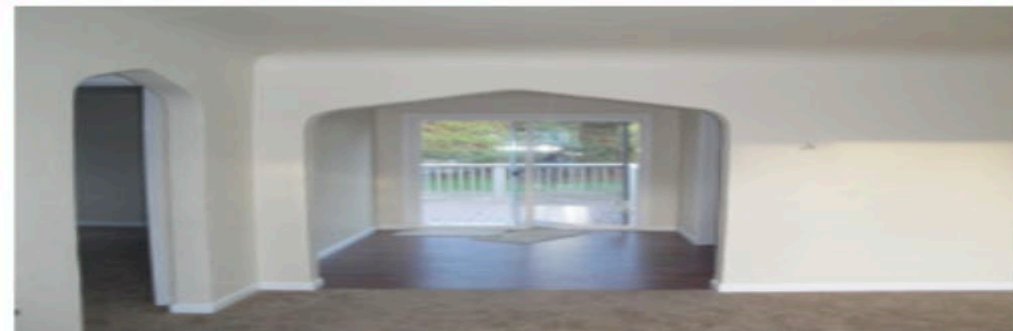




SUCCESSFUL ABATEMENTS



330 Moorland as-is value before receiver \$68,500.



330 Moorland on the market now for \$175,000.

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