COUNCIL ITEM 11M
DATE 10/22/12

RESOLUTION 12-R115

A RESOLUTION DECLARING A PUBLIC NUISANCE AT 909 SE BAYFRONT AVENUE, PORT ST. LUCIE, FLORIDA AFTER A SHOW CAUSE HEARING; REQUIRING ABATEMENT OF THE NUISANCE WITHIN A CERTAIN TIME; AUTHORIZING ABATEMENT BY CITY FORCES; PROVIDING FOR THE RECOVERY OF ABATEMENT COSTS AS A SPECIAL ASSESSMENT AGAINST THE PROPERTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 24, 2012, pursuant to Resolution 12-R99 the City Council of the City of Port St. Lucie identified and declared a threat to the health, safety, and general welfare of the community due to conditions located at 909 SE Bayfront Avenue, Port St. Lucie, Florida, said property being more specifically described as:

> Lot 21, Block 433, Port St. Lucie Section 3, according to the Plat thereof as recorded in Plat Book 12, Page(s) 13A through 13I of the Public Records of St. Lucie County, Florida; and

WHEREAS, the apparent title holders/owners of such property Carlo Nicolicchia and Christine Nicolicchia, and other interested parties, specifically Citibank, N.A were served with notice of Resolution 12-R99, and provided an order to show cause and hearing date pursuant to Port St. Lucie Code Section 40.17(3); and

WHEREAS, a show cause hearing was held on October 22, 2012, at which time the property owners and mortgagee were given an opportunity to present all evidence and argument as to why such condition(s) should not be declared a public nuisance; and

WHEREAS, on October 22, 2012, the property owner(s) and/or mortgagee failed to show cause why the condition should not be designated a public nuisance; and

WHEREAS, pursuant to Chapter 40, Port St. Lucie City Code, the City Council shall set a reasonable time for the condition to be abated; and

WHEREAS, should the property owner(s) or mortgagee fail to abate the nuisance within the time set forth herein, the City, without further action of Council, is hereby authorized to abate the nuisance with City forces or an independent contractor and record the costs of abatement as a special assessment against the property.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, THAT:

Section 1. The conditions at issue violate Port St. Lucie City Code Section(s) **41.08(b), 41.09(a), 41.09(b) and 41.10(b), and are more fully described as high grass and weeds and unmaintained and unsecure pool and torn screens.**

Section 2. A reasonable time to abate said nuisance **by repairing the above described issues** is not later than **November 22, 2012**. When or if the property owner abates the nuisance as directed herein, in order to prevent further action by the City, **it is the responsibility of the property owner or mortgagee to contact the Building Department (Code Compliance) in writing and request a re-inspection of the property**. If it is found upon re-inspection that the nuisance has been abated as directed herein, no further action will be taken by the City and this matter will be dismissed.

Section 3. In the event the property owner or mortgagee has not abated the nuisance and requested a re-inspection by the date set forth herein, the City may abate the nuisance and the cost of abatement shall be charged against the subject property described herein. Further, pursuant to Chapter 40, Port St. Lucie City Code and all other applicable law, such costs shall constitute a special assessment against the real property. Such special assessment lien shall be coequal with the lien of all state, county, district, and municipal taxes and superior to mortgages and all other liens, irrespective of the date of recording. A failure to pay said assessment, even upon homestead property, may be collected pursuant to any manner specified by law and may result in a loss of title to the property.

Section 4. In the event any specific provision of this Resolution is found invalid, it shall not affect the validity of the remaining provisions.

Section 5. This Resolution becomes effective immediately upon its adoption.

RESOLUTION 12-R115

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 22nd day of October, 2012.

CITY COUNCIL
CITY OF PORT ST. LUCIE

ATTEST:

By:_____
JoAnn M. Faiella, Mayor

_____
Karen A. Phillips, City Clerk

APPROVED AS TO FORM:_____
Roger G. Orr, City Attorney

EXHIBIT B

ORDER TO SHOW CAUSE
CITY OF PORT ST. LUCIE NUISANCE ABATEMENT

YOU ARE HEREBY ORDERED TO SHOW CAUSE:

A condition exists on certain property as set forth below, which constitutes a nuisance pursuant to Chapter 40, Port St. Lucie City Code and constitutes a threat to the public health, safety, and general welfare.

Address:

909 SE Bayfront Avenue, Port St. Lucie, FL 34983

Legal Description:

Lot 21, Block 433, Port St. Lucie Section Three according to the Plat thereof, as recorded in Plat Book 12, Page(s) 13A through 13I of the Public Records of St. Lucie County, Florida.

Pursuant to a search of the St. Lucie County Property Appraiser's records and St. Lucie County public records the property appears to be owned by: Carlo Nicolicchia and Christine Nicolicchia.

Citibank, N.A., may have an interest in the property as owner or mortgagee.

The conditions at issue violate Port St. Lucie City Code Sections 41.08(b), 41.09(a), 41.09(b) and 41.10(b), and are more fully described as high grass and weeds, unmaintained and unsecure pool and torn screens.

A hearing is set for the 22nd day of October, 2012 at 7:00 P.M. in the Chambers of the Port St. Lucie City Council, located at City Hall, 121 S.W. Port St. Lucie Boulevard, Port St. Lucie, Florida 34984. A failure to respond or appear at the hearing shall be deemed an admission of the existence of a public nuisance and may result in the abatement of the nuisance by the City. Further information concerning the hearing may be obtained by calling the Legal Department of the City of Port St. Lucie at 772-873-6525.

At said hearing, the property owner and mortgagee may present all evidence and argument to show cause why the removal or abatement of the public nuisance should not be required. If good and sufficient cause cannot be shown, the City Council may declare the property a public nuisance and shall require the removal or abatement of the public nuisance by the property owner not later than 21 days after such finding. If the property owner fails to abate the nuisance, the City may do so with City forces or by independent contractor and levy the cost of the abatement against the property as a special assessment. Such special assessment lien shall be coequal with the lien of all state, county, district, and municipal taxes and superior in dignity to mortgages and all other liens regardless of the date of recording. A failure to pay said lien may result in a loss of title to your property.

606

MEMORANDUM

TO: GREGORY J. ORAVEC, CITY MANAGER

THRU: PAM E. BOOKER, SENIOR ASSISTANT CITY ATTORNEY

FROM: STEFANIE BESKOVOYNE, ASSISTANT CITY ATTORNEY

DATE: OCTOBER 16, 2012

SUBJECT: RESOLUTION TO DECLARE PUBLIC NUISANCE
909 SE BAYFRONT AVENUE

Signed in attorney's absence to avoid delay

Attached hereto please find proposed Resolution declaring the following property as a public nuisance. This property was presented to City Council on September 24, 2012, and pursuant to Resolution 12-R99, was identified and declared a threat to the health, safety and general welfare of the community. Please place this item on the October 22, 2012 City Council agenda for consideration.

- 909 SE Bayfront Avenue

Should you have any further questions or need any additional information, please contact me at 873-6332.

SB/liw
Attach.