



THE CITY OF SAN DIEGO

April 14, 2011

CIVIL PENALTY NOTICE AND ORDER

Location: 2210 Avenida De La Playa

APN NO.: 346-285-03

Property Owner/
Responsible Person:

R W R Trust

Attn: Dale Naegle

Address:

2210 Avenida De La Playa

La Jolla CA 92037

Zone: La Jolla Shores Planned District –Commercial Center

You are hereby notified that the property at 2210 Avenida De La Playa is in violation of the San Diego Municipal Code (SDMC) and you are subject to civil penalties pursuant to San Diego Municipal Code Section 12.0801 through 12.0810.

Civil Penalties for violations of the Municipal Code may be assessed at a daily rate not to exceed **\$2,500** per day per violation; not to exceed a total maximum of **\$250,000** per parcel or structure for any related series of violation(s).

Penalties may be assessed for each individual code section violated. These penalties may accrue daily for as long as the violations exist.

You are violating the law by maintaining the following:

The conversion of the garage to office space is not in accordance with La Jolla Shores/Coastal Development Permit No. 90-0931 and Substantial Conformance Review, Project No. 96004482-P-1. The elimination of required off-street parking. The ministerial combination building permit #B-202050-03, that converted the carport to a garage and storage room was issued in error. The conversion of the open carport to an enclosed garage has impacted the required egress path for the retail store.

On March 11, 2011, the property was observed to be in violation of the following sections of the SDMC and the California Building Code (CBC).

<u>SDMC Sec.</u>	<u>Violation Description</u>
121.0302	Required Compliance with the Land Development Code (a) It is unlawful for any person to maintain or use any <i>premises</i> in violation of any of the provisions of the Land Development Code, without a required permit, contrary to permit conditions, or without a required variance. (b) It is unlawful for any person to engage in any of the following activities, or cause any of the following activities to occur in a manner contrary to the provisions of the Land Development Code: (1) To erect, place, construct, convert, establish, alter, use, enlarge, repair, move, remove, equip, maintain, improve, occupy, or demolish any <i>structures</i> ;
126.0723	Violations of a Coastal Development Permit It is unlawful for any person to maintain, use, or undertake <i>coastal development</i> on any lot or <i>premises</i> without a Coastal Development Permit if such a permit is required for the use or <i>development</i> or to maintain, use, or develop any <i>premises</i> contrary to the requirements or conditions of an existing Coastal Development Permit. Violation of any provision of this division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this division shall be treated as strict liability offenses regardless of intent.
129.0202(a)	When a Building Permit Is Required No <i>structure</i> regulated by the Land Development Code shall be erected, constructed, enlarged, altered, repaired, improved, converted, permanently relocated or partially demolished unless a separate Building Permit for each <i>structure</i> has first been obtained from the Building Official, except as exempted in Sections 129.0202(b) and 129.0203.
129.0402	When a Plumbing/Mechanical Permit Is Required (a) No plumbing system, or portion of a plumbing system, shall be installed within or on any <i>structure</i> or <i>premises</i> , nor shall any alteration, addition, or replacement be made in any existing

plumbing system unless a Plumbing/Mechanical Permit has been obtained for the work except as exempted in Section 129.0403.

129.0302

When an Electrical Permit Is Required

No electrical wiring, device, appliance, or equipment shall be installed within or on any *structure* or *premises* nor shall any alteration, addition, or replacement be made in any existing wiring, device, appliance, or equipment unless an Electrical Permit has been obtained for the work, except as exempted in Section 129.0303.

142.0510

General Parking Regulations

(c) Existing Parking Not to be Reduced. Notwithstanding any other provisions of the Land Development Code, existing off-street parking facilities that were provided and maintained on the same *premises* before parking was required and which serve a use now requiring *off-street parking spaces* shall not be reduced in number, dimension, or any other manner below the requirements of this division.

CBC Sec.

Violation Description

1001.1

General. Buildings or portions thereof shall be provided with a *means of egress* system as required by this chapter. The provisions of this chapter shall control the design, construction and arrangement of *means of egress* components required to provide an *approved means of egress* from structures and portions thereof.

1001.2

Minimum requirements. It shall be unlawful to alter a building or structure in a manner that will reduce the number of *exits* or the capacity of the *means of egress* to less than required by this code.

1015.2.1

Two exits or exit access doorways. Where two *exits* or *exit access doorways* are required from any portion of the *exit access*, the *exit doors* or *exit access doorways* shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the building or area to be served measured in a straight line between *exit doors* or *exit access doorways*. Interlocking or *scissor stairs* shall be counted as one *exit stairway*.

You are hereby ordered to correct the violations by completing the following actions set forth below:

By June 6, 2011, you shall submit an application and plans for ministerial building permits to NCCD, to convert your unpermitted office back to its last permitted condition as a garage and reconfigure the garage and storage room back to an open three parking space carport for a total of four parking spaces as required in Substantial Conformance Review, Project No. 96004482-P-1, including the removal of all unpermitted walls, plumbing and electrical systems/components. The garage is to be used for parking only. The required parking spaces may not be reduced with the storage of business related material.

By June 13, 2011, you shall submit an application to the Development Services Department for a ministerial building permit to convert your unpermitted office back to its last permitted condition as a garage, which includes the removal of all unpermitted walls, plumbing and electrical systems/components.

Within 90 days of approval of the ministerial building permit to convert your unpermitted office back to its last permitted condition as a garage, which includes the removal of all unpermitted walls, plumbing and electrical systems/components.

Failure to Comply with Notice and Order

Failure to comply with this Notice and Order will result in the ongoing assessment of Civil Penalties:

1. Civil Penalties Hearing

This Notice and Order may cause a date, time, and place to be set for a hearing regarding the existing violations and confirmation of assessed civil penalties.

Written notice of the time and place of the hearing will be served on you at least ten days prior to the date of the hearing. At the hearing, you, your agent or any other interested person may present testimony or evidence concerning the existence of the violations and the means and time frames for correcting the violations. Testimony or evidence may also be presented relating to the duration, frequency of recurrences, nature and seriousness, and history of the violations; whether the offense impacted environmentally sensitive lands or historical resources the willfulness of the responsible person's misconduct, after issuance of the Notice and Order; the good faith effort by the responsible person to comply; the economic impact of the penalty on the responsible person; the impact of the violation upon community; and/or any other factor which justice may require.

Failure to attend the hearing shall constitute a waiver of your rights to an administrative hearing and administrative adjudication of the Notice and Order.

2. **Assessment of Penalties**

Any person violating any provision of the Municipal Code or applicable State Codes is subject to assessment of Civil Penalties.

Civil penalty amounts are established by the Deputy Director of the Neighborhood Code Compliance Division. The following factors were used in determining the amount: Lack of good faith effort towards compliance, economic impact and seriousness of the violation.

The penalty rate for the above listed violations have been established at **\$300.00** per day and shall be an ongoing assessment of penalties at the daily rate until the violations are corrected in accordance with Municipal Code Sections 12.0801 et seq.

Pursuant to SDMC, Section 12.0805(a), in determining the date on which civil penalties shall begin to accrue and the duration, the Deputy Director may consider a date when Neighborhood Code Compliance first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.

Administrative Costs

The Deputy Director or Hearing Officer is authorized to assess administrative costs. Administrative cost may include scheduling and processing of the hearing and all subsequent actions.

Waiver

Failure to attend the hearing shall constitute a waiver of your rights to an administrative hearing and adjudication of the Notice and Order or any portion thereof.

If you fail, neglect or refuse to obey an order to correct the violations, civil penalties will continue to accrue on a daily basis until the violation is corrected, except that such amount shall not exceed \$250,000.

If you fail, neglect or refuse to obey an order to pay civil penalties, the unpaid amount shall constitute a personal obligation and/or a lien upon the real property. Failure to pay a personal obligation will cause the Deputy Director to refer the obligation to the City Attorney to file a court action to recover these costs. Failure to pay a lien will cause the Deputy Director to refer the lien to the County Auditor for collection in the same manner that ordinary municipal taxes are collected.

Civil Penalty Notice and Order
2210 Avenida De La Playa
April 14, 2011
Page 6

If you have any questions concerning this Notice and Order, or to schedule a compliance inspection, please contact **Duke Fernandez, Land Development Investigator at (619) 235-5838.**

Melody L. Negrete
Code Enforcement Coordinator

MLN/DF/lm

cc: File

NC# 144780

This information will be made available in alternative formats upon request.

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