



THE CITY OF SAN DIEGO

February 15, 2011

CIVIL PENALTY NOTICE AND ORDER

Location: 2226 Avenida De La Playa

APN NO.: 346-285-07

Responsible Person: Vaughn L. and Teresa G. Woods
Address: 2226 Avenida De La Playa
La Jolla CA 92037

Zone: La Jolla Shores Planned District –Commercial Center

You are hereby notified that the property at 2226 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 habitable space creating an illegal second unit with the installation of a bathroom, kitchen and floor to ceiling walls without the required ministerial building, plumbing and electrical permits. The elimination of required off street parking. The removal of the exterior staircase located in the front of the building. The front door modification/relocation and the enclosure/addition (approximately 280 square feet) to the front of building on the ground floor. The installation of an internal stairs case and two doors along the west side of the building on the ground floor. In addition, you have established a professional office use within the front half of the lot which is not a permitted use in the La Jolla Shores Planned District – Commercial Center zone.

On November 9, 2010, the property was observed to be in violation of the following sections of the SDMC.

<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> ;
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 <i>structure</i> or <i>premises</i> 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 <i>premises</i> 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.

1510.0309

Commercial Center Zone-Permitted Uses

In the Commercial Center (CC), designated on that certain map referenced in Section 1510.0102, no building or improvement or portion thereof shall be erected, constructed, converted, established, altered or enlarged, nor shall any premises be used except for one or more of the following purposes provided that the ground floor area of any establishment does not exceed 6,000 square feet. The minimum floor area for each dwelling unit or apartment is 400 square feet.

(c) The following uses are also permitted provided that such uses are not located on the ground floor within the front half or 50 percent of the lot:

- (1) Business and professional offices

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

By April 14, 2011, you shall submit an application and plans for ministerial building permits to NCCD, to convert your unpermitted second unit back to its last permitted condition as a garage, which includes the removal of all unpermitted walls, plumbing and electrical systems/components. The garage is to be used for parking and storage that is incidental to a residential use only. The required parking spaces may not be reduced with the storage of business related material.

By April 28, 2011, you shall submit an application to the Development Services Department for a ministerial building permit for the addition to the front of the building on the ground floor, the removal of the exterior staircase that was located in the front of the building and the installation an interior staircase and doors along the west side of the building. In addition, you must remove the portion of your professional office located on the ground floor in the front half or 50 percent of the lot. This use is not permitted within the front portion of your lot measured 60' back from the face of the curb.

Within 90 days of approval of the ministerial building permit being issued for the addition to the front of the building on the ground floor, the removal of the exterior staircase and the installation of an interior staircase and doors along the west side of the building, you must obtain final inspections and approvals.

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:
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

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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.

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# 144932

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