



For Immediate Release: January 12, 2024

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City Attorney Mara W. Elliott Obtains Court-ordered Receivership to Clean Up Hoarder Property in Clairemont

San Diego City Attorney Mara W. Elliott successfully petitioned the Court to place a nuisance property in the Clairemont community into receivership to remove a dangerous eyesore from the community. The 63-year-old home at 3699 Mount Alvarez Avenue is owned by Kevin Casey, who inherited the property from his mother and grandmother in 1992. In recent years, neighbors and City staff say the property has fallen badly into disrepair and poses a health and safety threat to the community, including the nearby Riley School.

“Homeowners are responsible for maintaining their properties,” said City Attorney Mara W. Elliott. **“In this case, the home owned by Mr. Casey has become an intolerable threat to the health and safety of his neighbors and the children who attend a nearby school, which is why we have taken the dramatic step of intervening today. I want the Clairemont community to know that help is on the way thanks to the Court’s ruling.”**

The City Attorney’s Office asked the Court to appoint a receiver for the property on Mount Alvarez Avenue, allowing for the clean-up of the home, or potentially its demolition, depending on the conditions discovered. The City has also asked for investigative costs to compensate taxpayers for the many times inspectors, Police, and Firefighters reported to the property to respond to safety threats.

Recent City media releases can be accessed on the San Diego City Attorney’s website: <https://www.sandiego.gov/cityattorney>
Follow the City Attorney’s Office on Instagram: [San Diego City Attorney Mara W. Elliott \(@sdcityattorney\)](#) • [Instagram photos and videos](#)

The San Diego City Attorney thanked the members of the Nuisance Abatement Unit, under the leadership of Assistant City Attorney Paige Folkman and Senior Chief Deputy City Attorney Gabriela “Gaby” Brannan. Deputy City Attorney Isabel V. Ignacio successfully presented the City’s case.

The Nuisance Abatement Unit of the City Attorney’s Office is devoted to aggressively enforcing public nuisance and land use laws in the City of San Diego. They work in partnership with City departments, law enforcement, community groups, and Council Offices to preserve and enhance the quality of life in our communities. NAU recently achieved the closure of a crumbling structure next to a Fire Station in Little Italy and are involved in litigation against a student housing complex near the campus of the University of San Diego.

A copy of the order received this morning is attached.

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FILED
Clerk of the Superior Court

JAN 11 2024

By: T. Abas

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF
CALIFORNIA and CITY OF SAN DIEGO, a
municipal corporation,

Plaintiffs,

v.

KEVIN J. CASEY, individually; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 37-2023-00055075-CU-MC-CTL

~~PROPOSED~~ ORDER APPOINTING
RECEIVER, TEMPORARY
RESTRAINING ORDER, AND ORDER
TO SHOW CAUSE RE:
CONFIRMATION OF RECEIVER,
ABATEMENT OF A PUBLIC
NUISANCE, AND INJUNCTIVE
RELIEF

IMAGED FILE

Judge: Gregory W. Pollack

Dept.: C-71

Complaint Filed: December 20, 2023

This matter came on for hearing *ex parte* on January 11, 2024, at 8:30 a.m. in Department C-71, the Honorable Gregory W. Pollack, Judge presiding. Deputy City Attorney Isabel Victoria M. Ignacio appeared on behalf of Plaintiffs, the People of the State of California and City of San Diego. Richardson C. Griswold, Esq., the proposed receiver, also appeared.

_____ appeared on behalf of Defendant Kevin J. Casey.

Upon reviewing Plaintiffs' Application for Order Appointing Receiver, Temporary Restraining Order, and for an Order to Show Cause re: Confirmation of Receiver, Abatement of a Public Nuisance, and Injunctive Relief, the supporting Memorandum of Points and Authorities,

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1 and all supporting declarations and exhibits on file in this action, and good cause appearing, the
2 Court finds and orders:

3 **FINDINGS OF FACT**

4 1. The owner of record of the property located at 3699 Mount Alvarez Avenue, San
5 Diego, California 92111 (Property) is Defendant Kevin J. Casey.

6 2. Defendant Kevin J. Casey resides at the Property.

7 3. The Property is substandard as defined per California Health and Safety Code section
8 17920.3 and is a public nuisance. The conditions existing at the Property violate the California
9 Health and Safety Code and the San Diego Municipal Code.

10 4. The violations at the Property are so extensive and of such a nature that they
11 substantially endanger the health and safety of the occupants and the general public.

12 5. The City of San Diego (City), as a local enforcement agency, issued and served a
13 Notice and Order to Vacate and Repair Substandard Building, and Abate Public Nuisance to
14 Defendant pursuant to California Health and Safety Code section 17980.6 on January 24, 2023.

15 6. Defendant has been afforded a reasonable opportunity to correct the conditions cited
16 in the City's notice and has failed to comply as requested.

17 7. The Property's dangerous substandard conditions will likely persist unless the Court
18 appoints a receiver to take possession of the Property and undertake its rehabilitation.

19 8. California Health and Safety Code section 17980.7(c) and the Court's inherent
20 equitable powers authorize the Court to appoint a receiver to take possession of the Property and
21 undertake its rehabilitation.

22 9. California Rules of Court, Rule 3.1175, and San Diego Superior Court Rule 2.5.4
23 authorize the Court to appoint a receiver by *ex parte* order.

24 10. Defendant and all persons with an interest in the Property were afforded notice of the
25 City's intent to petition the Court for the appointment of a receiver for the Property.

26 11. Richardson C. Griswold, as the City's receiver nominee, has demonstrated the
27 capacity and expertise to undertake and supervise the rehabilitation of the Property.

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APPOINTMENT OF A RECEIVER

IT IS HEREBY ORDERED:

12. Richardson Griswold (Receiver) is immediately appointed receiver of the Property pursuant to California Health and Safety Code section 17980.7(c) and is given those powers granted under California Code of Civil Procedure section 568, California Health and Safety Code section 17980.7(c)(4), this Order and future orders of the Court. The Receiver is to take full control and possession of the Property and to take such actions as necessary to abate the public nuisance and to remedy all state and local housing code violations.

13. Within five calendar days after this Order is entered, the Receiver shall: (1) execute and file with the Court a Receiver's Oath; and (2) file a bond with the Court as required per California Code of Civil Procedure section 567(b) in the amount of \$10,000 to secure the faithful performance of his duties.

14. The Receiver shall have the following powers and duties, including but not limited to:

- a. Take full and complete control of the Property;
- b. Enter and inspect the Property;
- c. Remove all trash, junk, and debris from the interior and exterior of the Property as soon as possible;
- d. Install a fence on the perimeter of the Property and secure the premises to keep transients out;
- e. Maintain the Property vacant during the pendency of the receivership, should the Receiver believe vacating the Property is required to carry out the purposes of this receivership safely and adequately. If Defendant or any occupant refuses to vacate the Property, the Receiver may obtain a writ of possession or equivalent legal authority under the circumstances to remove Defendant or any occupant from the Property;
- f. Secure the Property and prohibit the entry of unauthorized individuals;
- g. Post "No Trespassing" signs at the Property that are visible from the public right-of-way and file a Letter of Agency with the San Diego Police Department;

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1 h. Manage the Property and pay expenses for the operation of the Property, including
2 taxes, insurance, utilities, general maintenance and debt secured by an interest in the Property;

3 i. Secure a cost estimate for demolition or construction plan from a licensed
4 contractor to make the repairs necessary to correct the conditions cited in the City's notice and to
5 correct any other conditions found during an inspection of the Property;

6 j. Enter into contracts and employ a licensed contractor as necessary to correct the
7 conditions cited in the City's notices and to correct any other conditions found during an
8 inspection of the Property, and further, consult with and/or employ appropriate counseling
9 services to assist the Receiver in dealing with or helping Defendant;

10 k. Borrow funds to pay for demolition or repairs necessary to correct the substandard
11 housing conditions existing at the Property and secure that debt, with Court approval, with a
12 recorded priority lien on the Property. The lien shall take priority over all existing encumbrances
13 on the Property except tax liens; and

14 l. Exercise the powers granted to receivers under section 568 of the California Code
15 of Civil Procedure, including the power to sell the Property, if necessary.

16 15. Pursuant to California Health and Safety Code section 17980.7(c)(3), that Defendant
17 and his agents shall be enjoined from:

18 a. Collecting any rents from the Property;

19 b. Interfering with the Receiver in the operation of the Property; and

20 c. Encumbering or transferring the Property, or any portion of the Property, during
21 the receivership period.

22 16. The City has incurred, and will continue to incur, expenses and costs. The City is
23 entitled to recover those fees and costs from Defendant pursuant to California Health and Safety
24 Code sections 17980.7(c)(11) and 17980.7(d)(1) as a priority lien on the Property. The City is
25 requesting payment of these fees and costs via the Receiver.

26 17. The Receiver is permitted to fund an initial \$15,000 receivership certificate with
27 super-priority status to cover the costs of securing the Property and the initial costs of the
28 receivership.

1 18. If an order issued by the Receiver under the direction of this Court is refused by any
2 person, the Receiver is authorized to enlist the assistance of law enforcement to ensure
3 compliance with the Order. Law enforcement officers are authorized to employ all reasonably
4 necessary measures to secure cooperation and compliance with the order issued by the Receiver,
5 including but not limited to the use of forced entry onto/into the Property should consent to enter
6 be refused.

7 19. Failure to comply with this Order, or any other orders issued by the Court, shall be
8 punishable by civil contempt pursuant to California Health and Safety Code sections 17995-
9 17995.5, and any other penalties and fines the Court deems appropriate.

10 20. The Receiver shall be entitled to receive compensation for his services at a rate of
11 \$335 per hour, for the repair of the Property, as well as reimbursement for expenses per
12 California Health and Safety Code section 17980.7(c)(5).

13 21. The Receiver shall prepare monthly accounting reports in accordance with California
14 Health and Safety Code section 17980.7(c)(8) and file them with the Court. The monthly
15 accounting reports must also be served on all parties.

16 22. The Receiver shall not be discharged until the conditions cited in the City's notice
17 have been remedied in accordance with the court order or judgment and a complete accounting of
18 all costs and repairs has been delivered to the Court as required per California Health and Safety
19 Code section 17980.7(c)(9).

20 23. The Receiver shall not be held liable for the removal and disposal of any personal
21 property.

22 24. The Receiver shall permit City inspectors, law enforcement and Plaintiffs reasonable
23 access to the Property to inspect for compliance and cooperate with the City and law enforcement
24 as necessary.

25 25. The receivership shall be in full force and effect until this Court terminates the
26 receivership.

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1 26. After discharging the Receiver, the Court shall retain jurisdiction for up to 18 months
2 and require Defendants and the City to report to the Court in accordance with a schedule
3 determined by this Court.

4 **TEMPORARY RESTRAINING ORDER**

5 **IT IS FURTHER ORDERED:**

6 27. That Defendant Kevin J. Casey, and his agents, servants, employees, partners,
7 associates, officers, representatives, and all persons acting in concert or participating with him,
8 with actual or constructive notice of this injunction, be **immediately enjoined** and restrained
9 pursuant to San Diego Municipal Code sections 12.0202 and 121.0311, California Code of Civil
10 Procedure sections 526 and 731, and California Health and Safety Code section 17980.7(c), from
11 engaging or performing, directly or indirectly, the following acts:

12 Maintaining a substandard property at 3699 Mount Alvarez Avenue
13 in the City of San Diego in violation of state and local building
14 laws and as a public nuisance which is a threat to the health, safety,
and welfare of the public.

15 **ORDER TO SHOW CAUSE**

16 **IT IS FURTHER ORDERED:**

17 28. That Defendant Kevin J. Casey appear at a hearing on 1/26, 2024, at
18 9:30 a.m., in Department C-71 regarding an Order to Show Cause Why the
19 Receiver Should Not be Confirmed, the Public Nuisance Abated, and Injunctive Relief Granted
20 (OSC). The moving papers filed with this *Ex Parte* Application shall be Plaintiffs' moving papers
21 for the Confirmation of Receiver, Abatement of a Public Nuisance, and Injunctive Relief hearing.
22 Supplemental briefing and supporting documentation may be filed if necessary.

23 **THE COURT FURTHER ORDERS:**

24 29. That Defendant shall not interfere, obstruct or resist the efforts of the Receiver to
25 manage, rehabilitate and maintain the Property.

26 30. An agent of the City is authorized to post a copy of this Order on the exterior of the
27 Property in a place visible to anyone entering and exiting the Premises.

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31. The City is authorized to record this Order with the San Diego County Recorder's Office and provide notice of the Order to Defendant and any occupants of the Property.

32. This Temporary Restraining Order will remain in place until further order of this Court.

33. Plaintiffs be granted such other and further relief as the nature of the case may require and the Court deems appropriate.

Dated: 1-11-24

GREGORY W. POLLACK
JUDGE OF THE SUPERIOR COURT