



MONROE CITY COUNCIL

Agenda Bill No. 20-008

SUBJECT:	<i>Authorize Mayor and City Attorney to initiate civil litigation against the land owners at 415 E Fremont Street</i>
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DATE:	DEPT:	CONTACT:	PRESENTER:	ITEM:
01/14/2020	Community Development	Ben Swanson Amy Bright	Ben Swanson	Consent Agenda #8

Discussion: 1/14/2020
Attachments: 1. N/A

REQUESTED ACTION: Move to authorize the Mayor and city attorney to initiate civil litigation against the land owners of 415 E Fremont Street and further authorize the Mayor to manage such litigation and to periodically report to the City Council with updates regarding the same.

POLICY CONSIDERATIONS

Because the Mayor is authorized by state law to enforce City contracts and to ensure compliance with applicable City regulations, the alternatives to litigation enumerated above do not require City Council approval. Council action is necessary in this context only where formal legal proceedings (i.e., civil litigation) will be initiated in the City's name.

DESCRIPTION/BACKGROUND

The Mayor is requesting City Council approval to initiate civil litigation against the land owner of 415 E Fremont St for breach of contract, abatement of public nuisance, collection of City enforcement costs, and/or other applicable causes of action.

The property located at 415 E Fremont Street has a lengthy history of code violations. As a final alternative to additional code enforcement action, the City executed a Voluntary Correction Agreement (VCA) with the owner of the subject property, Seth Fisher and DBA Fisher Towing, on March 26, 2018. Under the VCA, the land owner was required to satisfy certain compliance mandates by the deadlines set forth in the agreement. The City was also authorized by the VCA to enter the site and perform inspections to verify the land owners' compliance. Compliance inspections were performed on July 24, 2018, October 24, 2018, December 30, 2018, March 6, 2019, and November 20, 2019. Based upon those inspections, and Staff's observations of the subject property from off-site vantage points, it has been repeatedly confirmed that the compliance mandates set forth in the VCA have not been satisfied. At this point, the land owner is over one year past the date by which full compliance was required under the agreement.

FISCAL IMPACTS

The fiscal impacts are variable and will depend upon whether and to what extent the approved litigation is resolved by stipulation or motion prior to trial. City expenses will include city attorney and staff time in preparation and arguing the City's case. Under the VCA, these expenses are recoverable against the landowner if the City substantially prevails in the litigation.

TIME CONSTRAINTS

The final compliance deadline for the VCA was December 15, 2018. At this point, the landowner is over one year past the compliance deadline. The VCA expires on March 26, 2021.

ALTERNATIVES TO REQUESTED ACTION

Civil litigation is one of several enforcement options available to the City under the VCA. Other potential remedies outlined in the VCA include the City's ability to:

1. Impose and assess against the Owners civil penalties in the amount of \$250.00/day for each day that a breach of the VCA exists;
2. Initiate criminal proceedings against the owner for the violation of any applicable MMC provision;
3. Enter the property to abate the unlawful conditions identified in the VCA, and then charge the owner for the City's abatement expenses.

These remedies are cumulative rather than exclusive—i.e., the City's use of one option does not preclude the City from simultaneously or subsequently using one or more of the others.