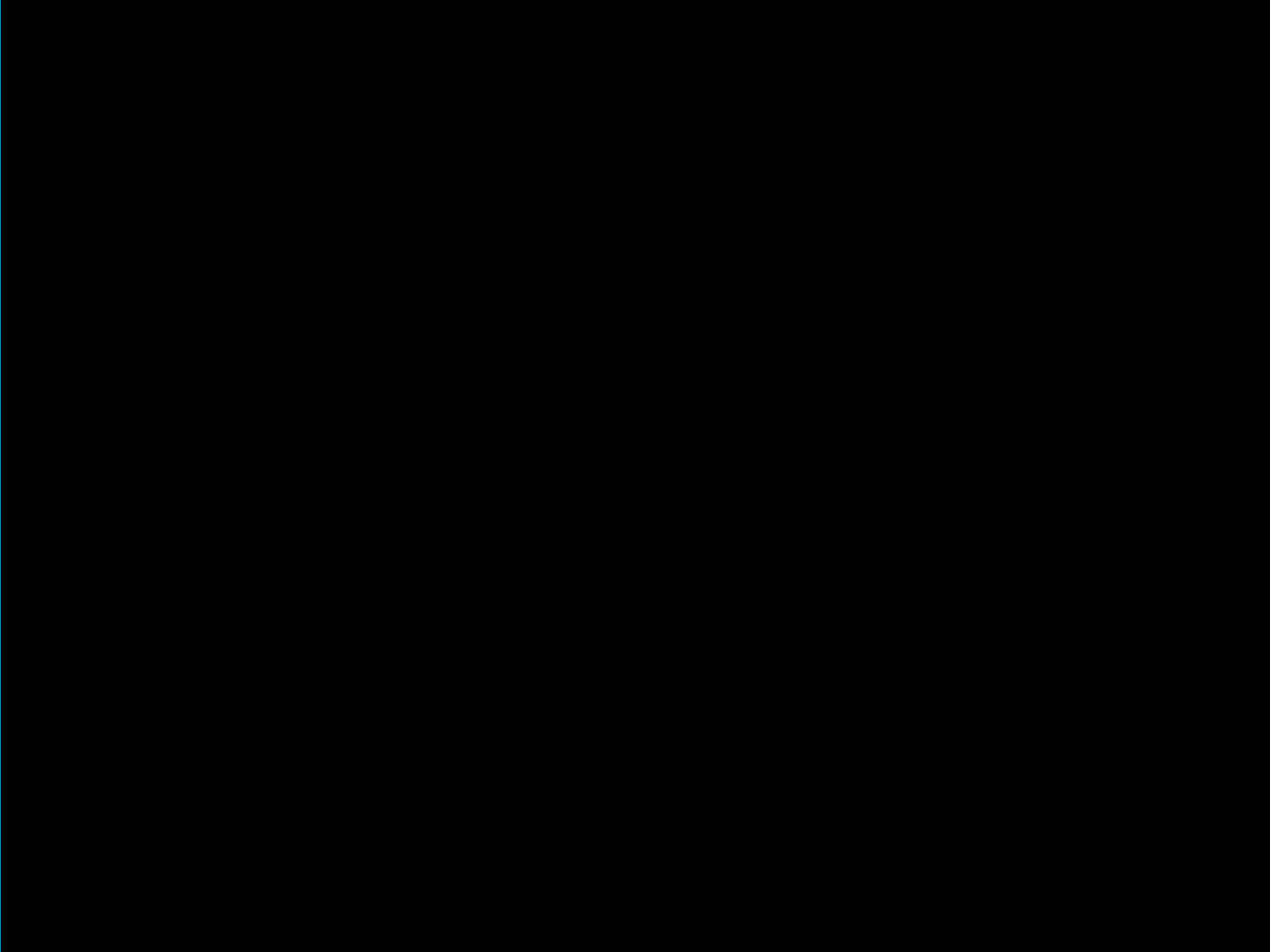


How City Attorneys Can Help You in the Fight Against Chronic Problem Properties



Presented by Carolyn Ortler
Deputy City Attorney for the City of Oakland



Chronic Problem Properties

- The subject briefly described
- A classic case – *City of Oakland v. Abbushi*

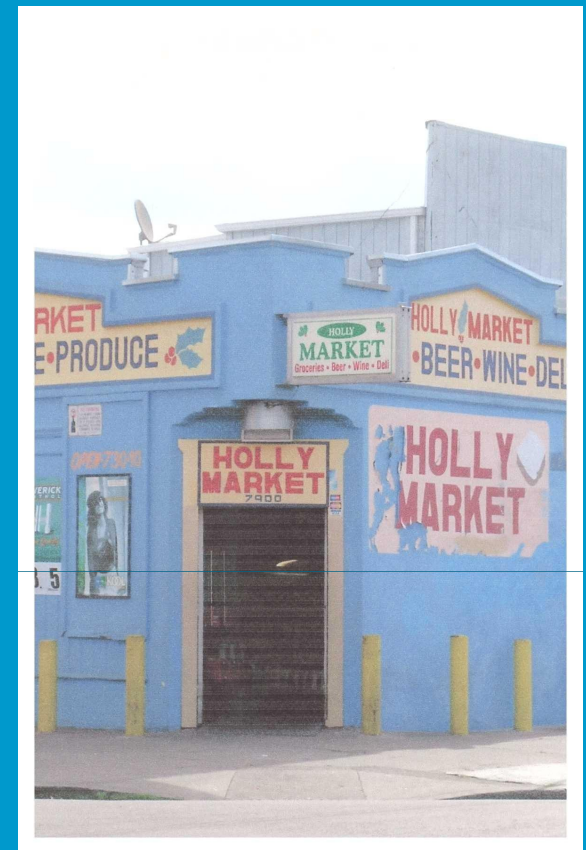
Blight & Code Enfmt	Client Agency
Commercial Properties	CUPs, Zoning Regs
Drug, Prostitution & Gang Nus.	Statutory Nuisance
Liquor Stores & Smoke Shops	State Regs
Slumlords & Toxic Torts	Unique Body of Law, Legal Aid,

Chronic Problem Properties

- The strategy: controversial?
 - *City of Seattle v. McCoy* (101 Wash.App. 815) (2000): “Drug Nuisance statute... violated due process as applied to owners of restaurant and lounge ... where illegal acts of patrons were not known to or acquiesced in by owners.”
 - *Lew v. Superior Court* (20 Cal. App.4th 866)(1993): Where the court found that the property was “being used as a center for sale and distribution of drugs” and the finding is supported by the evidence, the property is... a nuisance per se...[the law] does not require that the unlawful activity be conducted by the owner... a tenant... or a person entering with permission.”

2. Tools of the Trade: *How Lawyers Attack Problem Properties*

1. Civil Actions
2. Administrative Actions
3. Death of a Thousand Cuts:
 - zoning
 - code compliance
 - interagency cooperation



3. Community Policing & Working with Your City Attorney

- Identifying problem properties suitable for civil prosecution
- Collecting evidence useful in prosecutions
- Tapping into community testimony
- Retaliation & anonymity

4. Sharing Oakland's Experiences: *Oakland's best practices in fighting problem properties*

1. Neighborhood Law Corps
2. Oakland Police Department: Strategic Area Command

Examples

1. Successes:

- City of Oakland v. Rogers
- City of Oakland v. Coliseum Inn
- City of Oakland v. Silver Dollar Motel

2. Less successful:

- City of Oakland v. Abend
- Gold Market
- G&M Liquors

Neighborhood Law Corps



- Oakland's first elected City Attorney, John Russo, established the NLC in February 2002. The first program of its kind in the nation, it provided "legal fellowships" to attract newly minted lawyers committed to public interest law.

NLC attorneys are offered a two-year fellowship at a salary commensurate to a first-year Oakland public school teacher (currently \$40,000, plus benefits). They receive legal supervision from senior city attorneys and organizing and social work skills from the executive director.

The program combines the grassroots, proactive tradition of legal aid with the power of city hall. Attorneys work in predominately low-income under-served neighborhoods.

While they represent the City of Oakland, the attorneys work in collaboration with residents, neighborhood and merchant groups, and other public agencies to improve the quality of life in the neighborhoods to which they are assigned.

it to get owner to
ode violations at
buildings

When it gets cold, she puts on more
clothes, the seven-months pregnant
woman told an Oakland city official in
Spanish on Friday.
Oakland housing inspectors went

landlords who fail to maintain their
properties.
Numerous housing code violations
are detailed in a lawsuit the city filed
Oct. 27 against Pham and her son.

accused Oakland officials of making it
difficult for landlords by imposing
large fines.
"If you want to find something, you
will find something," she said. "Com-
pared with some other property in

many of Pham's tenants and fielded
numerous complaints that led to the
crackdown.
Friday's inspections showed little
has been done so far.
The city's top priority, getting the
heat restored, had not been comple

loses liquor store it says magnet for drug dealers



crowd standing in front of the
store, randomly killing a man
walking home with his groceries
and wounding another man,
woman and her 8-year-old
daughter.
One officer testified that an in-
formant reported that "the store
supplying guns to drug deal-
ers," that Johnson said
reported.

Lawyers step in to res neighborhood flare-u

April 2, 2004 • East Bay Business Times



up to 14 attorneys, although
entail a major surge in financial
"These are young attorneys, they
experience, but we don't expect that
for a long period of time since the
\$35,000 a year," he said. "So the
turnover of attorneys every few years
He gives praise to Pamela Sch
a Wendel Rosen colleague who se
program's board of directors.
Donations to the Neighborh
Corps are welcome at any time.
information, go to www.wendel.com/munity.cfm.

Idealism in the neighborhood New lawyers with passion for justice take up Oakland residents' cause

By Janine DeFao
CHRONICLE STAFF WRITER

Liam Garland is trying to pass
out door hangers announcing
Oakland's latest neighbor-
hood cleanup program, but he
can't reach the doors.
In this West Oakland neigh-
borhood, doors are shielded by
overlapping chain-link fences,
and wooden gates and jaillike
bars. Along with fortresslike
streets are marked by
where prostitutes
warded-up houses



Leslie Jefferson walks by
house next door to
East Oakland
MICHAEL MACOR / The Chronicle

orders station shape up

KIESHA MCGHEE
STAFF WRITER
OAKLAND — Drug traf-
ficking, sideshow activity, and
excessive noise from loitering
are a few of the many problems
plaguing the corner of 66th
Avenue and Foothill Boulevard
— the location of a Beacon 24-
hour gasoline station and mini-
mart.
Residents said they have no
peace while home because of the
station, referred to by police as
magnet for illegal activity.
City Attorney John
Monday at a

most intransigent problems in
one of Oakland's most troubled
neighborhoods — for \$35,000 a
year.
Garland is one of five new law-
yers in Oakland's Neighborh

Oakland Police Department: Organizational Chart

Strategic Area Command



During the latter part of 2005 and early 2006, the City began to experience an increase in violent crime such as homicide, robbery, assault, and domestic violence.

Additional concerns included an emerging gang problem and serious juvenile crime; both of which are exacerbated by an increase in the use of designer drugs such as ecstasy. The Department also continues to address illegal behavior associated with "Sideshow" activity.

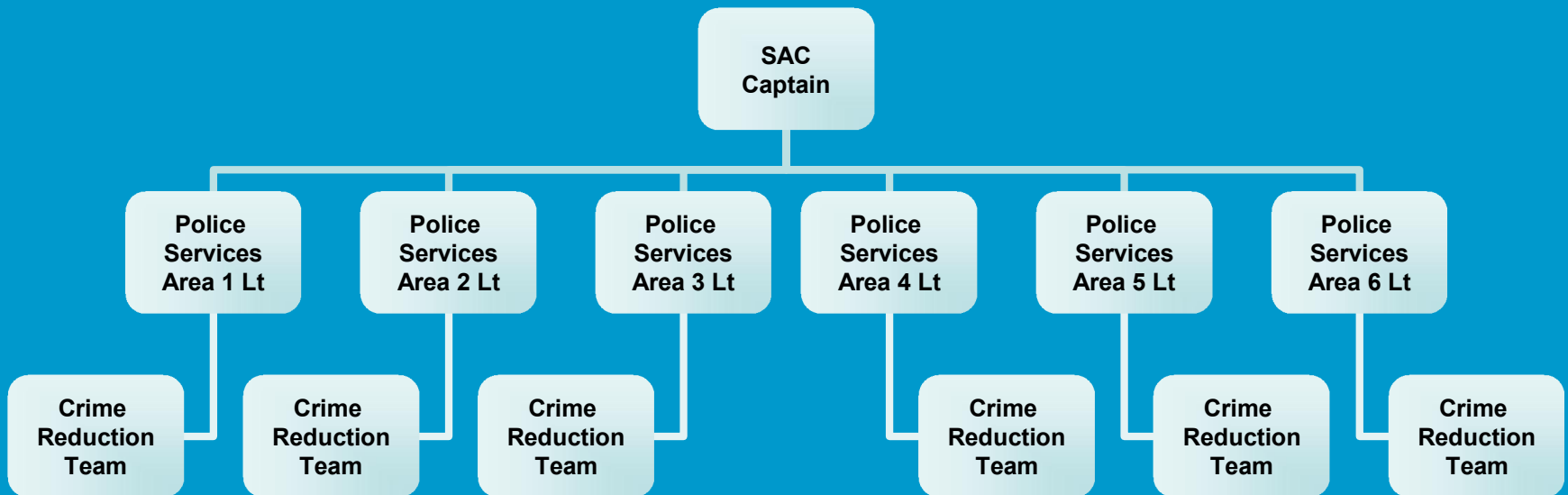
In order to proactively address violent and emerging crime trends, the concept of Strategic Area Command (SAC) was developed and implemented.

SAC Division is comprised of the following units:

- Crime Reduction Teams (CRT)
- Problem Solving Officers (PSO)
- Traffic Section
- Special Events Unit
- Tactical Operations Section
- Alcohol Beverage Action Team (ABAT)
- Foot Patrol Unit
- Crime Scene Technicians
- Canine Program
- Police Reserves

Oakland Police Department: Organizational Chart

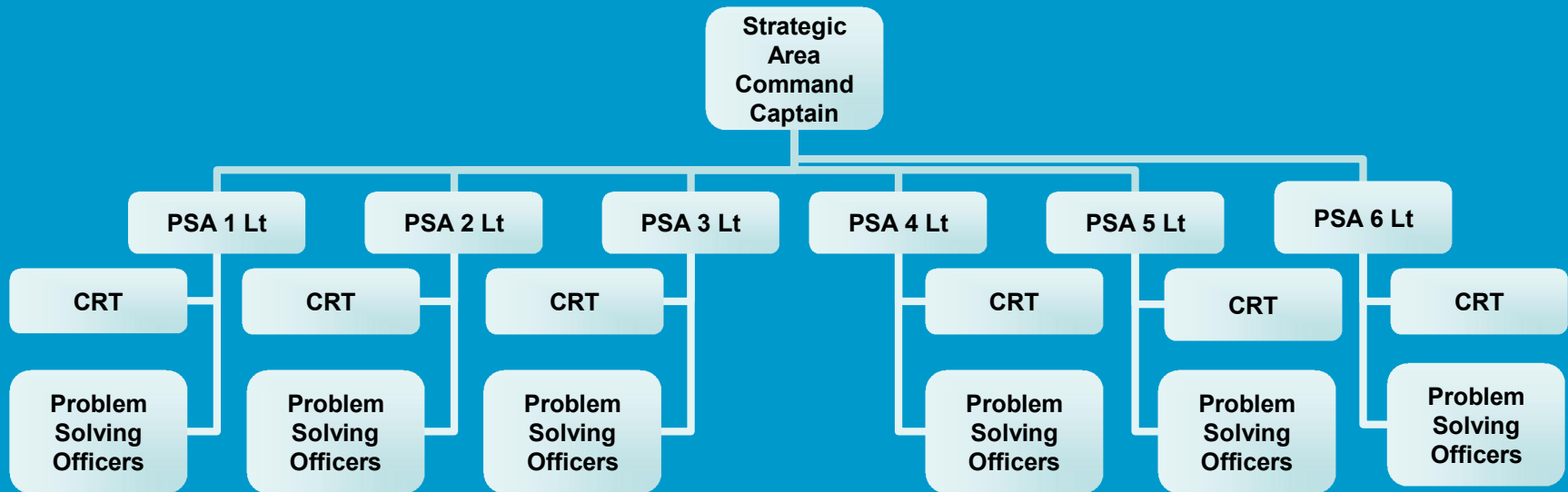
SAC: Crime Reduction Teams



Crime Reduction Team Members conduct many specialized operations: robbery decoy and surveillance, burglary surveillance, narcotic buy-bust, prostitution sweeps, and other decoy operations. The Crime Reduction Teams focus tackling the problem of open-air drug markets and violent street crime.

Oakland Police Department: Organizational Chart

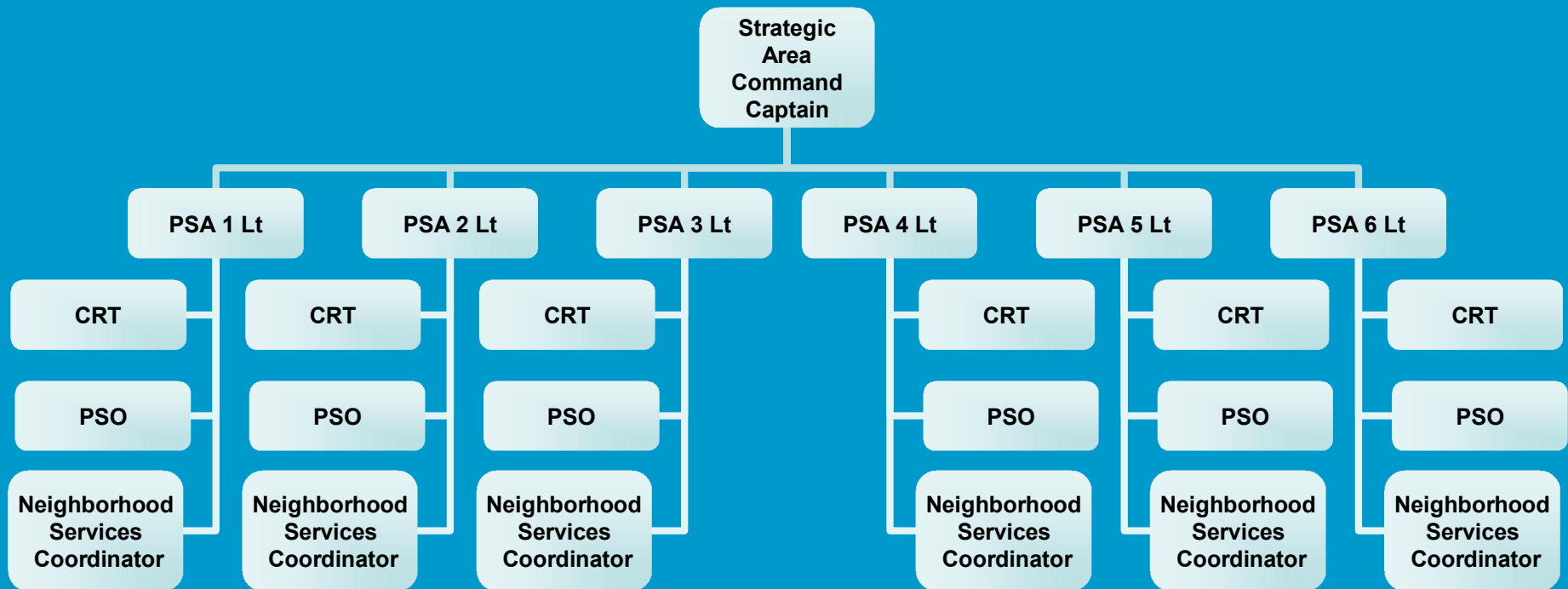
SAC: Problem Solving Officers



1. Identifying problem properties and locations
2. Keep Patrol abreast of Problem Oriented Policing projects, and build a bridge between Patrol and SAC
3. Link the department and the community; directly address the community's quality of life issues.
4. Attend and participate in neighborhood groups and work with community members to develop projects
5. Respond to their emergencies and calls for assistance (as backup)

Oakland Police Department: Organizational Chart

Neighborhood Services Coordinators



A Neighborhood Services Coordinator is a civilian employee of the police department that provides crime prevention and problem solving services in support of community-policing efforts, interacts with people from diverse cultural, ethnic and socioeconomic backgrounds, and often deals with issues that are politically or socially sensitive, to help the police department target quality of life crimes.



MAIN OFFICE: 3914 E. 14th ST.
OAKLAND, CA 94601
(510) 261-8440

February 2, 1993

Oakland City Council
505 14th St.
Oakland CA

Dear City Councilmember,

On behalf of Oakland Community Organizations, we would like to express our support for the efforts of the Police Beat Health Unit to close commercial establishments, such as pool halls and nightclubs, which are involved in drugs and other illegal activities.

We are writing to you today because you have before you a very important issue, the renewal of the High St. Billiards pool hall license. We ask that you give this case careful consideration and that you take fully into account police evidence regarding this establishment.

As I'm sure you know, businesses which harbor illegal activity not only endanger innocent families who live in the area but also decrease the economic health of our city. We need healthy and safe commercial areas so that more of our tax dollars stay here.

We understand that such issues are often controversial, but we ask you to be bold in your defense of families' rights and public safety. Thank you for giving this matter your upmost attention.

Sincerely,

Henry Hemphill
President

5. Miscellaneous Advice

- A. Notice & Opportunity to Cure
- B. There is no such thing as too much preparation!
- C. Blitzkrieg
- D. Keep Settlements Simple

A. Notice & Opportunity to Cure

“The City Attorney's Office and the Oakland Police Department have information indicating illegal drug activity at the above referenced property. Drug related arrests were made directly in front of the property. Public records indicate that you are the owner of the property and business.

“California State Law requires that you be advised that drug activity is occurring on your property and that you be provided with the basis for that belief.

“An investigation is under way and action may be brought against you pursuant to California Health and Safety Code, Section 11570 ("The Drug Nuisance Abatement Act"). The Act states in relevant part:

“Every building or place used for the purposes of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, ...is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.”

B. There is no such thing as too much preparation!

- **Deed, owner research**
- **All police reports redacted, reviewed for nexus**
- **Consensus building internally**
- **Relationship between goals and facts**
- **Tenancy v. owner/occupied**

C. Blitzkrieg

- After notice & opportunity to cure... if the activity continues!
- Ducks lined up
- Proposed agreements ready
- Then, FACE to FACE meeting

D. Keep Settlements Simple

- Definable
 - “paint the building a pleasing color...”
- Enforceable
 - “remove graffiti within 24 hours...”
- Indisputably Clear
 - “must attend at least one NCPC meeting every year...”
- Provisions for breach...
- When it becomes effective
- When/if it expires