

Jeffrey H. Sutherland

A Professional Corporation

Attorney at Law

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April 13, 2015

Dorothy McCrosson, City Solicitor
City of Ocean City
861 Asbury Avenue
Ocean City, New Jersey 08226

RE: Our Clients: Residents of the 400 Block of Asbury Avenue
and Central Avenue
Subject Property: The former Palermo's Supermarket
a/k/a (Block 407, Lot 10)

Dear Ms. McCrosson:

Please be advised that my firm represents the interests of a group of residents that reside in the area of the 400 Block of Central Avenue and Asbury Avenue regarding their concerns with the ongoing deplorable condition of the former Palermo's Supermarket.

I have had the opportunity to review a copy of the Department of Community Affairs file on this property. The materials include notices, complaints and violations and it is about an inch thick going back 2006. I attached a printout provided by the City that appears to have been created on August 8, 2014. (See enclosed).

I have also selected a few complaints and notices from the City and neighbors, including the following: a formal Notice of Unsafe Structure was issued on March 30, 2012 referring to debris falling from Soffit/overhang, a letter from a neighbor - Susan Morrison, a notice from a neighbor that 2 small children were seen leaving the abandoned store in May, 2012 and a report from the City dated 12/5/2014 that has a specific notation from Ken Jones that states; "Structure is extremely dangerous, unsafe for entry to have extermination due to deterioration of roofing and lock of floor and subfloor.", and recent NOV's issued by the City dated December 5, 2014 and 2/11/2015. The building remains in deplorable and a hazardous condition. Considering that your law office is only two blocks away on Asbury Avenue I assume you are familiar with the property.

It is also known that there is contamination on the site as a result of a leaking UST, that could be migrating off site to neighboring properties.

Please accept this letter as formal notice that the City could be held liable for allowing a dangerous condition to exist pursuant to NJSA 59:4-3. In particular, the City has particular

ordinances to force the owners of the property to maintain the property, and/or demolish the property and by failing to do so it has created a dangerous condition along the public sidewalks and alleys abutting the Palermo's Supermarket which could result in injury to our clients abutting properties and the general public using the public right of ways.

In addition, if the building should collapse or catch on fire it could impact the surrounding neighborhood or general public and an action could be brought against the City seeking damages. In particular, the City should enforce the imminently dangerous buildings section of City Ordinance 12-9. City ordinance 12-9.7 defines an imminently dangerous building as "any structure or building when it is:

- a. Unfit for human habitation or occupancy or use, or,
- b. Dangerous to the health and safety of persons on or near it, or
- c. Dangerous to the health, safety and general welfare of people in the city; and
- d. The building or structure is also found to be in such condition that it cannot be reasonably repaired and/or otherwise cannot be made to comply with the standards applicable to it.

The former Palermo's building meets most if not all of these categories and definitive action needs to be taken. The Ordinance gives the City clear authority to take action against the property owner and if the owners do not comply, it allows the City to demolish the property.

Thank you for your consideration in this matter.

Very truly yours,

Jeffrey H. Sutherland

JHS/dlp

cc: Barbara Karbach, Kathy and Michael Megargee, Susan Phillips, Cosmos Pagano, Helen McSweeny and Phyllis Coletta

II Cases

August 08, 2014 11:31:05AM

Ref.No.	Block	Lot	Qual	Comply Date	Inspection Type	Owner Name	Address	Owner Telephone	Close Date
084706									
407	10				MERCANTILE	JAMES PALERMO ETAL	401 ASBURY AVE	()	
085632									
407	10				MERCANTILE	JAMES PALERMO ETAL	401 ASBURY AVE		
0118311									
407	10				MERCANTILE	JAMES PALERMO ETAL	401 ASBURY AVE		
0132626									
407	10				MERCANTILE	JAMES PALERMO ETAL	401 ASBURY AVE		
0134973									
407	10				MERCANTILE	JAMES PALERMO ETAL	401 ASBURY AVE		
0135086									
407	10				COMPLAINT	PALERMO & PALERMO	401 ASBURY AVE		05/17/2006
144075									
407	10				COMPLAINT	PALERMO & PALERMO	401 ASBURY AVE		07/21/2006

Inspections

Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result
100134973	05/08/2006	05/08/2006	Inspection	REH	Site Inspected
100134973	05/17/2006	05/17/2006	Inspection	REH	Resolved

Ref.No.	Block	Lot	Qual	Comply Date	Inspection Type	Owner Name	Address	Owner Telephone	Close Date
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Inspections

Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result
100144075	07/10/2006	07/10/2006	Inspection	REH	Site Inspected
100144075	07/21/2006	07/21/2006	Inspection	REH	Resolved

0151973

407 10
MERCANTILE JAMES PALERMO ETAL 401 ASBURY AVE

0152615

407 10
MERCANTILE PAUL RAYMOND 401 ASBURY AVENUE

0161477

407 10
COMPLAINT PALERMO & PALERMO 401 ASBURY AVE 07/20/2007

Inspections

Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result
100161477	07/12/2007	07/12/2007	Inspection	REH	Site Inspected
100161477	07/20/2007	07/20/2007	Inspection	REH	Resolved

0168572

407 10
MERCANTILE JCP CO INC: STEPHEN PALERMO 401 ASBURY AVE

0183464

407 10
MERCANTILE JCP CO INC: STEPHEN PALERMO 401 ASBURY AVE

0196175

407 10
MERCANTILE JCP CO INC: STEPHEN PALERMO 401 ASBURY AVE

0197313

407 10
COMPLAINT PALERMO & PALERMO 401 ASBURY AVE 03/17/2010

Ref.No. Block Business Name	Lot	Qual	Comply Date	Inspection Type Owner Address	Owner Name	Address	Owner Telephone	Close Date
401 ASBURY AVE OCEAN CITY								
<u>inspections</u>								
Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result			
100197313	03/17/2010	03/17/2010	Inspection	REH	Resolved			
0205381								
407	10	- 07/22/2010	COMPLAINT	PALERMO & PALERMO	401 ASBURY AVE	07/26/2010		
401 ASBURY AVE OCEAN CITY								
<u>inspections</u>								
Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result			
100205381	07/14/2010	07/14/2010	Inspection	KMS	Site Inspected			
100205381	07/15/2010	07/15/2010	Inspection	KMS	Citation 1			
100205381	07/26/2010	07/26/2010	Inspection	KMS	Resolved			
0206527								
407	10	- 09/24/2010	COMPLAINT	PALERMO & PALERMO	401 ASBURY AVE	07/21/2011		
401 ASBURY AVE OCEAN CITY								
<u>inspections</u>								
Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result			
100206527	09/13/2010	09/13/2010	Inspection	REH	Site Inspected			
100206527	09/13/2010	09/13/2010	Inspection	REH	Letter Sent			
100206527	09/13/2010	09/20/2010	Inspection	REH	Resolved			
0207500								
407	10	- 10/01/2010	COMPLAINT	PALERMO & PALERMO	401 ASBURY AVE	07/21/2011		
401 ASBURY AVE OCEAN CITY								
<u>inspections</u>								
Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result			
100207500	09/23/2010	09/23/2010	Inspection	REH	Site Inspected			
100207500	09/23/2010	09/23/2010	Inspection	REH	Letter Sent			
100207500	09/23/2010	10/01/2010	Inspection	REH	Resolved			
0207544								
407	10	- 10/07/2010	COMPLAINT	PALERMO & PALERMO	401 ASBURY AVE	10/07/2010		
401 ASBURY AVE OCEAN CITY								

Ref.No.	Block	Lot	Qual	Comply Date	Inspection Type	Owner Name	Address	Owner Telephone	Close Date
Inspections									
Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result				
100207544	09/29/2010	09/29/2010	Inspection	KMS	Site Inspected				
100207544	09/30/2010	09/30/2010	Inspection	KMS	Citation I				
100207544	10/07/2010	10/07/2010	Inspection	KMS	Resolved				
0209384	407	10	-	01/29/2011	COMPLAINT	ENVIRONMENTAL INVESTIGATIONS	401 ASBURY AVE		02/02/2011
					4958 FLINTSHIRE CT	MAYS LANDING			
Inspections									
Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result				
100209384	01/14/2011	01/14/2011	Inspection	KMS	Site Inspected				
100209384	01/19/2011	01/19/2011	Inspection	KMS	Citation I				
100209384	02/02/2011	02/02/2011	Inspection	KMS	Resolved				
0209385	407	10	-	02/14/2011	COMPLAINT	CALMAR ASSOCIATES LLC	401 ASBURY AVE		02/02/2011
					1415 13TH AVE	DOROTHY			
Inspections									
Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result				
100209385	01/14/2011	01/14/2011	Inspection	KMS	Site Inspected				
100209385	01/19/2011	01/19/2011	Inspection	KMS	Citation I				
100209385	01/24/2011	01/24/2011	Inspection	KMS	Reviewed				
100209385	01/31/2011	01/31/2011	Inspection	KMS	Reviewed				
100209385	02/01/2011	02/01/2011	Inspection	KMS	Resolved				
0209395	407	10	-	02/11/2011	COMPLAINT	PALERMO & PALERMO	401 ASBURY AVE		02/22/2011
					401 ASBURY AVE	OCEAN CITY			

All Cases

Ref.No. Block Business Name	Lot	Qual	Comply Date	Inspection Type Owner Address	Owner Name	Address	Close Date
<u>inspections</u>							
Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result		
100209395	01/14/2011	01/14/2011	Inspection	KMS	Site Inspected		
100209395	01/20/2011	01/20/2011	Inspection	KMS	Citation1		
100209395	01/25/2011	01/25/2011	Inspection	KMS	Site Inspected		
100209395	01/25/2011	01/25/2011	Inspection	KMS	Citation2		
100209395	01/31/2011	01/31/2011	Inspection	KMS	Site Inspected		
100209395	01/31/2011	01/31/2011	Inspection	KMS	Letter Sent		
100209395	02/07/2011	02/07/2011	Inspection	KMS	Reviewed		
100209395	02/08/2011	02/08/2011	Inspection	KMS	Site Inspected		
100209395	02/11/2011	02/11/2011	Inspection	KMS	Reviewed		
100209395	02/22/2011	02/22/2011	Inspection	KMS	Resolved		
<u>10209771</u>							
407	10	MERC		MERCANTILE	JCP CO INC; STEPHEN PALERMO	401 ASBURY AVE	
				401 ASBURY AVE OCEAN CITY			
<u>10212193</u>							
407	10	-		COMPLAINT	PALERMO & PALERMO	401 ASBURY AVE	03/30/2011
				401 ASBURY AVE OCEAN CITY			
<u>inspections</u>							
Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result		
100212193	03/30/2011	03/30/2011	Inspection	KMS	Resolved		
<u>10217094</u>							
407	10	-	02/26/2012	COMPLAINT	PALERMO & PALERMO	401 ASBURY AVE	07/03/2012
				401 ASBURY AVE OCEAN CITY			
<u>inspections</u>							
Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result		
100217094	04/28/2011	04/29/2011	Inspection	REH	Site Inspected		
100217094	04/28/2011	04/29/2011	Inspection	REH	Letter Sent		
100217094	11/02/2011	11/02/2011	Inspection	KMS	Resolved		
100217094	01/23/2012	01/23/2012	Inspection	KMS	Reviewed		
<u>10218995</u>							
407	10	-	07/06/2011	COMPLAINT	PALERMO & PALERMO	401 ASBURY AVE	07/08/2011

Ref.No.	Block	Lot	Qual	Comply Date	Inspection Type	Owner Name	Address	Owner Telephone	Close Date
00220136		10	-	03/06/2012	COMPLAINT	STEVEN PALERMO	401 ASBURY AVE		07/03/2012

00220136

407

Inspections

Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result
100220136	08/31/2011	08/31/2011	Inspection	REH	Site Inspected
100220136	08/31/2011	08/31/2011	Inspection	REH	Letter Sent
100220136	11/02/2011	11/02/2011	Inspection	KMS	Reviewed
100220136	01/04/2012	01/04/2012	Inspection	KMS	Reviewed
100220136	01/05/2012	01/05/2012	Inspection	KMS	Site Inspected
100220136	01/10/2012	01/10/2012	Inspection	KMS	Reviewed
100220136	01/23/2012	01/23/2012	Inspection	KMS	Reviewed
100220136	02/14/2012	02/14/2012	Inspection	KMS	Reviewed
100220136	02/28/2012	02/28/2012	Inspection	KMS	Reviewed
100220136	02/29/2012	02/29/2012	Inspection	KMS	Reviewed

00248135

407

Inspections

Ref Number	ReqDate	Inspection Date	SubPrograms	Inspector	Result
100248135	07/24/2013	07/24/2013	Inspection/Complaint Inspection	BC	Site Inspected

00260928

407

COMPLAINT STEPHEN PALERMO PALERMO & PALERMO

401 ASBURY AVE

Total Number of Applications: 28



NOTICE OF UNSAFE STRUCTURE

City of Ocean City
115 12th Street
Ocean City, NJ 08226
609 5259179

Application Date:

Control Number: 0

Permit Number: 0

Date Permit Issued:

Notice Date: 3/30/2012

Violation Number: 20120017/0

IDENTIFICATION

Work Site Location: 401 ASBURY AVE

Owner In Fee: PALERMO & PALERMO

Address: 401 ASBURY AVE

OCEAN CITY NJ 08226

Telephone: _____

Block: 407

Lot: 10

Qualif: -

Agent: _____

PALERMO & PALERMO

Address: 401 ASBURY AVE

OCEAN CITY NJ 08226

Telephone: _____

To: _____

☐ Owner:

☒ Agent/Contractor:

☐ Other: _____

Date Of Inspection: 3/30/2012

Date Of This Notice: 3/30/2012

ACTION

Take **NOTICE** that as a result of the inspections conducted by this agency on 3/30/2012 on the above property, an unsafe condition has been found to exist pursuant to N.J.S.A. 52:27D-132 and N.J.A.C. 5:23-2.32. The building or structure, or portion thereof, deemed an unsafe condition is described as follows:

BUILDING IS NOT SECURE; DEBRIS FALLING FROM SOFFIT/OVERHANG. BUILDING MUST BE SECURED AND LOOSE DEBRIS MUST BE REMOVED.

You are hereby **ORDERED** to:

☐ Vacate the above structure by _____

☐ Demolish the above structure by _____, or correct the above noted unsafe conditions by no later than 4/13/2012.

Failure to correct the unsafe condition or refusal to comply with this **ORDER** will result in this matter being forwarded to legal counsel for prosecution and assessment of penalties up to \$2,000.00 per week per violation. You must immediately declare to the Construction Official, your acceptance or rejection of the terms of this **ORDER**.

Any building or structure vacated pursuant to this **ORDER** shall not be reoccupied unless and until a certificate of occupancy is issued by the Construction Official.

If you wish to contest this **ORDER**, you may request a hearing before the Construction Board of Appeals of the **Cape May County** within 15 business days of receipt of this notice as provided by N.J.A.C. 5:23A-2.1. The Application to the Construction Board of Appeals may be used for this purpose.

Your application for appeal must be in writing, setting forth your name and address, the address of the building or site in question, the specific sections of the Uniform Construction Code in question and the extent and nature of your reliance on them. You may include a brief statement setting forth your position and nature of the relief sought by you, and you may also append any documents that you consider useful.

The fee for an appeal is \$100.00 and should be forwarded with your application to the Construction Board of Appeals Office at:

4 Moore Road Cape May Court House NJ 08210

If you have any questions concerning this matter, please call: 609 5259179

By Order of: _____

Patrick W. Newton Jr. CONSTRUCTION OFFICIAL

Date: _____

SUSAN SISLER MORRISON

[REDACTED]

Dear Mr. Jones,

We own vacation property at 408 4th street in Ocean City. Our property is contiguous to the former Palermo's Grocery.

Two years ago, in the spring, I appeared before the zoning hearing board. The Palermo property, at that time, had been vacant for an extended period of time. The exterior had deteriorated and roofing, tar paper and debris were constantly blowing off and landing on our house and property. I was assured, at that time, that the situation would be addressed with the Palermo family. The exterior was SOMEWHAT cleaned up but since that time no other repairs have been made and the building has now become not only an eyesore, but a danger to the community.

This situation needs to be addressed immediately! Our neighborhood has suffered this nuisance long enough. It speaks very poorly of Ocean City that it has not demanded that the property either be brought up to code (and will therefore be salable) or condemned and demolished.

In the wake of hurricane Sandy, we are, as are many of our neighbors, making extensive repairs to our property. Our neighborhood, come spring, will never have looked better. However we are forced to endure this menace. It is a danger to our neighborhood and our children. The building is now attracting a very unsavory element. People have broken into the property, to party and do whatever and sooner or later there will be a fire. I understand, from discussions with our neighbors, that we are not the first to complain about the Palermo property.

We have enjoyed our home in Ocean City (mostly). We have been consistent taxpayers, as well as supporters of the local businesses. We entertain family and friends regularly who also support the local economy. However the current situation has become intolerable, and we ask, that you act on it immediately!

I look forward to speaking with you, Mr. Newton, Mr. Mallon and Mr. Cottrell. I can be reached by phone [REDACTED]. Thank you for your attention to this matter.

Regards,

Susan Morrison

Case Number: _____

Date: 5-9-12

Please check the appropriate office that applies:

Municipal Code ☒ Construction Code _____

Zoning _____

Fire _____

Police _____

Complaint Location: _____

Block: _____ Lot: _____ Qual: _____ Received By: _____

Owners Name: Palermo Thriftway

Owners Address: 4TH + Asbury

Owners City: OC Owners State: NJ Owners Zip: 08726

Owners Phone Number: (____) _____

Complainant Name: _____

Complainant Address: _____

Complainant City: _____ Complainant State: _____ Complainant Zip: _____

Complainant Phone Number: (____) _____

Complainant Willing to Testify in Court Regarding Complaint (☒ YES / ☐ NO)

Signature: _____

Nature of Complaint: Saw 2 kids running out of
front door of Palermo Thriftway around
8 PM 5/8/2012 access near
grocery store doors open to (skinny, little kids)
store has been abandoned for last
3 years.

Complaint Resolved By: Sent Email to J. Mallon @ 5-9-12
Jim Mallon to handle @ 5-9-12

Remarks: _____ Photographs Attached: ☐ YES ☐ NO

Investigated By: _____

Completion Date: _____

Address Number: _____ Units: _____



City Of Ocean City
115 12th Street
Ocean City NJ 08226
(609)-399-6111

Property Specifications

February 10, 2015 2:06:18PM

Block	407	Lot	10	Qual	-	Reference No.	100263166
Site Address	401 ASBURY AVE					Application Date	12/5/2014
Owner Name	PALERMO & PALERMO C/O Steve Palermo					Inspection Type	COMPLAINT
Owner Address	[REDACTED]					Closed On	
Telephone							

Notes

Mr. Palermo,

It has come to the attention of City Council and Administration that the vacant structure and accessory structures have become a place of rodent haborage. Eradication must be performed by a qualified professional service. The City must withhold the issuance of any demolition permits, until documentation of extermination is provided, so as to prevent the scattering of the mentioned vermin upon demolition. Your cooperation is appreciated.

Respectfully,

Bryan Cottrell
Code Enforcement Officer
ICC Property Maintenance and Housing Inspector

INSPECTION:

12/08/14: entered structure with Ken Jones and Joe Palermo. Structure is in extremely dangerous condition. unsafe for entry to have extermination due to deterioration of roofing and lack of floor and sub-floor. Floor is cleared sandy soil littered with small debris, though minimal points of haborage due to it being a largely open area. Owners in planning process of having the structure razed and the property re-developed.



CITY OF OCEAN CITY

Department of Community Operations
Division of Municipal Code Enforcement
115 12th Street., Ocean City, NJ 08226
Email: municipalcodeenf@ocean-city.nj.us

NOTICE OF VIOLATION AND ORDER TO CORRECT IDENTIFICATION

Reference Number: 100263166

Notice Date: 12/05/2014

Comply Date: 01/04/2015

Name: PALERMO & PALERMO C/O Steve
Address: Palermo

Block: 407 Lot: 10 Qual: -
Site Address: 401 ASBURY AVE
OCEAN CITY, NJ 08226

Phone:

Please be advised that an investigation of a complaint filed with this office revealed that the referenced property is in violation of the following section of Ordinance 87-17, Volume I:

VIOLATION LISTINGS

Violation No. Violation Comments.	Violation Date	Corrected Date	Violation Description
IPMC 302.5 See enclosed.	12/05/2014		302.5 Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

You are hereby granted (30) days to abate the violation or contact this office and state why this order should be modified or withdrawn. Failure to comply may result in a summons being issued for which a court appearance is required. We can be reached at 9767 to help resolve this matter.

Sincerely,

Bryan Cottrell

Code Enforcement Officer

Phone: 609-399-6111 ext.9767 Fax: 609-525-2496



CITY OF OCEAN CITY

Department of Community Operations
Division of Municipal Code Enforcement
115 12th Street., Ocean City, NJ 08226
Email: municipalcodeenf@ocean-city.nj.us

NOTICE OF VIOLATION AND ORDER TO CORRECT IDENTIFICATION

Reference Number: 100265739

Notice Date: 02/11/2015

Comply Date: 03/13/2015

Name: PALERMO & PALERMO
Address: [REDACTED]

Block: 407 Lot: 10 Qual: -
Site Address: 401 ASBURY AVE
OCEAN CITY, NJ 08226

Phone: [REDACTED]

Volume I:

VIOLATION LISTINGS

Violation No. Violation Comments.	Violation Date	Corrected Date	Violation Description
IPMC 109.2	02/11/2015		109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.
IPMC 301.3 Vacant property and structure must be secured to deter trespassing and access to "attractive nuisance."	02/11/2015		301.3 Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.
17-8.3a Any loose materials and debris must be secured or removed, so as to prevent the emanation of such materials. Loose materials are a safety hazard, especially during high wind.	02/11/2015		17-8.3a It shall be unlawful for any persons or party to cause or allow unsightly litter, debris, foul or offensive odors or potentially hazardous materials to remain or emanate from any property under their control or to discard, abandon or cause the same on any public or private property within the corporate limits of the City of Ocean City, New Jersey.
IPMC 302.5 Structure must be exterminated before demolition.	02/11/2015		302.5 Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

You are hereby granted (30) days to abate the violation or contact this office and state why this order should be modified or withdrawn. Failure to comply may result in a summons being issued for which a court appearance is required. We can be reached at 9767 to help resolve this matter.

Sincerely,

Bryan Cottrell
Code Enforcement Officer