

# **NUISANCE ABATEMENT:**

*A targeted collaborative approach  
to addressing the worst of the  
worst nuisance properties*

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**TEXAS CITY ATTORNEYS ASSOCIATION**

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# OVERVIEW

- A multi-agency task force designed to target the worst of the worst nuisance properties in the City
- Primary directive is to identify and investigate these properties and abate the nuisance through a coordinated and comprehensive approach
- Utilize all available remedies to abate



# GOAL

## ➤ RECLAIM

- *disrupt and displace criminal/vagrant element*

## ➤ RESTORE

- *abate all code violations*
- *broken windows theory*

## ➤ REVITALIZE



# COMPOSITION: AN EXAMPLE

- ▶ *Development Services Department*
  - ▶ *Dangerous Premises*
  - ▶ *Code Compliance*
- ▶ *Police Department – SAFFE & Vice*
- ▶ *Neighborhood and Housing Services Department/DHS*
- ▶ *Animal Care Services*
- ▶ *Health Department*
- ▶ *Texas Alcoholic Beverage Commission*
- ▶ *City Attorney's Office*

# TYPES OF PROPERTIES ADDRESSED

- RESIDENTIAL
  - Drugs
  - Gang activity
  - Prostitution
  - Vacant structures
  
- COMMERCIAL
  - Motels/Hotels
  - Convenience stores
  - Apartment complexes
  - Bars
  - Massage Parlors
  - Salvage yards
  
- LAND
  - Vacant lots

# UNIQUE ASPECTS OF DART

- All Volunteers
- Not Self-Funded nor grant-funded
- Not limited to properties with criminal activity
- Able to address habitual code problem properties
- Ability to ensure complete abatement if needed by means of demolition rather than just closure



# FUNDING

- Depending upon what the answers to the potential costs are, when setting up an abatement unit it is worthwhile to see whether the sponsoring Division or Department will make a budget for the unit.
- The unit budget could be shared by several contributing Divisions or Departments as well.
- Sometimes there are grants (state and/or federal) which may be available – talk to the grant writers in your Budget Department about potential grant sources.

# CRITERIA FOR PROPERTIES TO BECOME A DART

- Each department researches property for *documented* habitual two year history
- Review of code history
  - Violations at the property in the past
  - Observed violations currently
- Review of police calls
  - Calls for service
  - Offense reports
  - Types of criminal activity



# CONSIDERATIONS

- ▶ Team determines any special needs at property
  - ▶ Owner issues – Elderly owners – concerns of elder abuse – Adult Protective Services? Social Services? Hoarding issues?
  - ▶ Mental Health Issues?
  - ▶ Relocation issues – need for DHS involvement?
  - ▶ Animal Care Services?
  - ▶ Haz-Mat concerns – meth lab? asbestos concerns?
  - ▶ Level of drug activity – need for DEA or US Attorney involvement?
  - ▶ High risk property – weapons involved – SWAT involvement necessary prior to inspection?
  - ▶ Large complexes – need after action game plan
  - ▶ Health issues – such as raw sewage which might necessitate an immediate evacuation of the property

# INSPECTION DAY

- Administrative warrant is obtained from magistrate to enter onto property
- Safety Briefing
- At the site of the inspection, the team meets informally to discuss findings and possible courses of action, to include available remedies.
- Summary report is drafted and circulated

# AVAILABLE REMEDIES ON DATE OF INSPECTION

- Code enforcement
- Dangerous Premises enforcement
- Health code enforcement
- Criminal enforcement
- Animal enforcement
- TABC citations
- Relocation of eligible persons

# AFTER ACTION MEETING

- ▶ Meeting held with property owner with all relevant team members present
  - ▶ Discuss violations
  - ▶ Advise owner of legal liability
  - ▶ Advise owner of City's requirements for compliance
  - ▶ Sometimes the problem arises from a tenant to the property; eviction might solve the problem
- ▶ Result from meeting:
  - ▶ Voluntary compliance
    - ▶ Nuisance Abatement Compliance Agreement
    - ▶ Action plan
    - ▶ Monitor property
  - ▶ Refusal to comply
    - ▶ BSB for repair, vacate, or demolition as warranted
    - ▶ Lawsuit filed encompassing all violations if property presents *substantial threat* to health, life, safety, welfare to abate nuisance conditions. (Code)
    - ▶ Lawsuit filed encompassing *habitual criminal cases* to close for one year. (Criminal)

# TEXAS LEGAL REMEDIES

- *Common Nuisance Statute - Ch. 125, CPRC*
  - declares property to be a common & public nuisance due to habitual criminal activity
- *Public Nuisance Statute - Ch. 54 & 214, LGC*
  - declares property to be a public nuisance threatening life, health, safety, property
- *Texas Alcoholic Beverage Commission Statute - Ch. 81 & 101, TABC*
  - declares property to be a public nuisance due to habitual criminal activity and liquor violations
- *San Antonio City Codes - Ch. 6, SAPMC, Ch. 5, Ch. 15*

# LITIGATION OUTCOMES

- **CRIMINAL NUISANCE LAWSUIT (Ch. 125)**
  - Property declared common nuisance
  - permanent injunction prohibiting any further criminal activity
  - close and board property for one year - no persons allowed on premises
  - post performance bond
  - attys fees, court costs, investigation expenses
  - disconnect all city supplied services
  - contempt action
  - Revoke liquor licenses

# LITIGATION OUTCOMES

- *Public Nuisances and Dangerous Structures (Ch. 54)*
  - permanent injunction prohibiting or requiring specific action
  - declaration of public nuisance
  - order repair or demolition
  - allow city to enter and abate at owner's expense
  - Fines up to \$1000/day in violation
  - attys fees, court costs, investigation expenses

# LITIGATION OUTCOMES

## *Alcoholic Beverage Code:*

- Declare bar/restaurant common nuisance
- Upon a declaration of a common nuisance – County Judge may suspend, deny renewal, or revoke permit



# ETHICS OF DART

## Reaction

- Demand for action versus opposition
- Historic versus Police/Code
- Houses don't commit crimes vs broken windows theory

## Influence

- Contact with council
- Offers to attorneys, investigators

## Right thing to do?

- Removing elderly/children
- Removing animals

# Questions?

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