

RESOLUTION NO. 2015 - 8

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA, COLORADO, DIRECTING THE DISTRICT ATTORNEY OF THE 12TH JUDICIAL DISTRICT TO COMPEL THE REMOVAL OF THE APRIL 15TH FIRE DEBRIS.

WHEREAS, on April 15, 2015, there occurred within the incorporated limits of the Town of La Jara in Conejos County, Colorado, a disastrous fire that completely destroyed historic buildings on which were situate single-family residential apartments, a storage/garage building, a liquor store and a commercial laundry, and

WHEREAS, the precise legal descriptions of the subject properties and the owners thereof are as follows:

Apartment and storage/garage complex:

Lots 3, 4, 5, and 6 of Block 21 of the Town of La Jara as per the plat thereof as filed in the Office of the Clerk and Recorder of Conejos County, Colorado.

Address: Spruce and Main, La Jara, CO

Commonly known as the "Morrison Apartments".

Owners thereof: **DH & LC PROPERTIES, LLC**

14000 County Road Z

La Jara, CO 81140

Principal Office: **14000 County Road Z, La Jara, CO 81140**

Registered Agent: **Lee Crowther.**

Liquor store and commercial laundry:

Lots 1 and 2 of Block 21, Town of La Jara as per the plat thereof as filed for record in the Office of the Clerk and Recorder of Conejos County, Colorado.

Address: 310 Main Street, La Jara, CO

Owners thereof: **Steve R. Mondragon and Anna R. Mondragon**

P.O. Box 245

La Jara, CO 81140

and,

WHEREAS, as a result of the fire, there was left behind a huge, unsightly pile of charred, burned out, remnants of building materials, burned-out furniture, heating and cooling equipment, electrical wiring, meters, fuses, burned out motor vehicles, and other assorted materials and debris,

some of which are known to contain asbestos, PCBs, and other known carcinogens that present a clear and present danger to the health and well being of the residents of and visitors to the Town of La Jara, and

WHEREAS, it has come to the knowledge of town officials by the admissions of the owners of the “Morrison Apartments” that, because of the presence of known carcinogens and other chemicals and substances that pose a significant danger to the health and safety of those in close proximity to the fire site, the only licensed and certified facility authorized to receive and dispose of such debris is located in Pueblo County, Colorado, to which all of such debris must be transported, and

WHEREAS, to date, there does not appear that the owners of the fire site have taken any steps or measures to cause the removal of the debris in a safe and careful manner consistent with the rules and regulations of the state regulatory agency having jurisdiction with respect thereto, and

WHEREAS, the residents of the Town of La Jara are becoming increasingly concerned and impatient that there does not appear to be any activity whatsoever to remove from the site the unsightly heap of debris and junk, more so in light of the fact that such is located immediately adjacent to a main thoroughfare, such being U.S. Highway 285 on which thousands of people travel on a daily basis, resulting in the casting of aspersions and disparaging remarks towards to the town officials and members of the Board of Trustees of the Town concerning their commitment to more aggressively compel the removal of such debris, and

WHEREAS, in the most recent communication with the owners of the “Morrison Apartment” complex, town officials were notified that the earliest that any removal activity would commence would be in late September or October of this year, and

WHEREAS, more than ample time has elapsed since the fire on April 15, 2015, during which the owners of the properties could have arranged for the immediate removal of the debris following clearance thereof by the appropriate state agency having jurisdiction thereof, and

WHEREAS, the delay of the property owners in the safe and orderly removal of debris that poses a significant health and danger to the residents, visitors and travelers in and through La Jara evidences a total and callous disregard of such property owners concerning the health and safety of the those who come in contact with or near to the fire site, putting their own monetary and personal conveniences ahead of the well being and safety of the general public for the reasons aforesaid, and

WHEREAS, a careful reading of relevant Colorado statutes reveals that the presence of the debris at the fire site can be classified as a Class Three Public Nuisance, and

WHEREAS, Section 16-13-302 (1) C.R.S. provides in part as follows:

“(1) It is the policy of the general assembly that every public nuisance shall be restrained,

prevented, abated, and perpetually enjoined. **It is the duty of the district attorney in each judicial district of this state** to bring and maintain an action pursuant to the provisions of the part 3, to restrain prevent, abate and perpetually enjoin any such public nuisance and to seek the forfeiture of the property as provided in this part 3. . . .”

(Emphasis the writer's)

and,

WHEREAS, Section 16-13-305, C.R.S. further provides as follows:

“(1) The following are a class three public nuisance:

(a)

(b)

(c) Any building, structure, or land open to or used by the general public, the condition of which presents a substantial danger or hazard to the public health or safety, or,

. . . .

(f) Any activity, operation, or condition which, after being ordered abated, corrected, or discontinued by a lawful order of any agency or officer of the state of Colorado, continues to be conducted or continues to exist in violation of:

(i) Any statute of this state;

(ii) Any regulation enacted pursuant to the authority of a statute of this state; or

. . . .”

and,

WHEREAS, from a careful reading of the relevant statutory provisions referenced above, there can be no doubt whatsoever that the presence of the said pile of fire debris and junk and the failure and refusal of the property owners thereof to remove and abate the same after a reasonable time after the occurrence of the fire, presents a clear and substantial danger or hazard to the public health or safety of the residents of and visitors to and travelers in and through the Town of La Jara, and

WHEREAS, the patience of Board of Trustees of the Town of La Jara awaiting the removal of such debris and junk is exhausted and the Board, in the interest of protecting the health and safety of the general public and also enhancing its image as concerned and competent town officials genuinely concerned with the welfare and safety of the general public, now finds and determines that more affirmative steps and measures must now be taken to compel the removal of such debris.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA AS FOLLOWS:

1. That, the Board of Trustees hereby orders and directs Mr. Dennis Koenig, La Jara Town Manager, and Raymond J. Valdez, Esq., La Jara Town Attorney, to arrange at the earliest possible time and place for a conference with the Honorable David Mahoney, District Attorney for the 12th Judicial District of Colorado, and impress upon him in a most forceful and diplomatic manner that immediate steps and measure be taken by his office as provided by statute to immediately and forthwith remove the said debris and junk in full conformity with state rules and regulations.

2. That the District Attorney's Office keep the proper officials of the Town of La Jara fully and timely informed of the steps and measures being taken and enforced in the furtherance of his duties as provided by law.

3. That, in the interest of impressing upon the District Attorney of the seriousness of the requests being made herein, all the members of the Board of Trustees join in the signing and execution of this Resolution.

INTRODUCED, READ, AND PASSED AS A RESOLUTION at a regular meeting of the Board of Trustees of the Town of La Jara, held on the 14th day of August, 2015, at which a quorum was present.

THE BOARD OF TRUSTEES OF THE TOWN OF
LA JARA,

Larry Zaragoza
Larry Zaragoza, Mayor

Paula Medina
Paula Medina, Mayor pro-tem

Dec Espinoza
Dec Espinoza, Trustee

Victor M. Salazar
Victor Salazar, Trustee

Voted yes during meeting but did not sign
Mary Ann Gallegos, Trustee

Robert Cummings
Robert Cummings, Trustee

Austin Valdez
Austin Valdez, Trustee

ATTEST:

Shawn Pagnotta
Shawn Pagnotta, La Jara Town Clerk

