



Health, Housing &  
Community Services Department  
Environmental Health Division

# **NOTICE TO ABATE** **PUBLIC NUISANCE**

June 10, 2014

To: **Occupant**

Re: **Encampment at Gilman Street Overpass, Berkeley, CA**

On May 22, 2014 and June 6, 2014, inspections of the Gilman Street Overpass were conducted by the Division of Environmental Health. The following conditions were observed during these inspections:

1. Accumulation of food waste, debris, human and animal waste.
2. Accumulation of personal belongings.
3. Dead rodents were observed within the encampment site.
4. Rodent burrows were observed within the encampment site.

The above conditions constitute a violation of Berkeley Municipal Code(BMC), Section 11.32.070 (prohibition of a rodent harborage) and is, therefore, a public nuisance which shall be abated pursuant to BMC Chapter 11.40.

In order to abate the rodent harborage, you are hereby directed to remove accumulations of personal belongings, food, waste debris, human and animal waste, by June 21, 2014. In accordance with B.M.C., Section 11.40.090, a hearing on objections to the abatement of the nuisance has been scheduled for **June 20, 2014 at 10:00am**. The hearing will be held in the office of the Manager of Environmental Health, 2180 Milvia Street 2<sup>nd</sup> Floor, Berkeley, CA. The purpose of the hearing is to allow you an opportunity to present any objections you may have to this declaration of public nuisance or which may be introduced by the City at the hearing on objections. You may read and copy (at your own expense) any written report or other memoranda which were relied upon by the Vector Control Technician in declaring the public nuisance. You may appear at the hearing with or without counsel, and you may request a list of any witnesses who may testify for the City at the hearing.

*A Vibrant and Healthy Berkeley for All*

**A FAILURE TO APPEAR AT THE HEARING ON OBJECTIONS SHALL BE DEEMED A WAIVER OF YOUR RIGHT TO A HEARING AND AN ADMISSION THAT YOU HAVE NO OBJECTION TO THE DECLARATION OF PUBLIC NUISANCE AS STATED HEREIN. YOU ARE FURTHER ADVISED THAT IF YOU FAIL TO APPEAR AT THE HEARING AND YOU HAVE NOT ABATED THE DECLARED NUISANCE BY June 21, 2014 IN THE MANNER DESCRIBED ABOVE, THE CITY MAY ABATE THE NUISANCE WITHOUT FURTHER NOTICE TO YOU.**

For further questions or concerns, please contact the Manager of Environmental Health at (510) 981-5310.



Health, Housing &  
Community Services Department  
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## NOTICE OF DECISION

July 2, 2014

Encampment at Gilman Street Overpass

Re: Encampment at Gilman Street Overpass, Berkeley, CA

Dear Occupant (s):

As a result of the City's Declaration of Public Nuisance and Notice to Abate dated June 10, 2014, regarding the above referenced property, a Hearing on Objections was scheduled for **June 20, 2014 at 10:00 am**. The Hearing was scheduled in accordance with Section 11.40.090 of the Berkeley Municipal Code (BMC).

Your objections to the Declaration of Public Nuisance (BMC Section 11.40.040) were heard at the hearing where you submitted photographs taken on June 19, 2014 demonstrating that the area has been cleaned up and that there is no longer a public health hazard. You also stated that there is no animal or human waste present in the camp, that the rodents existed at the site prior to the camp, and that you do not believe that the camp contributed to the increase in the number of rodents in the area; if anything, you believe that the rodent population has gone down because Bruce (an occupant of the camp) has been killing them. You also stated that there are no rodent burrows within the camp that they are present on the edge of the camp. You also believe that the accumulations causing the rodent harborage have been removed and hence, there is no longer a public health nuisance.

In accordance with Section 11.40.100 I am overruling the objections because the camp activity and accumulations are contributing to rodent harborage and creating a public nuisance. On June 10, 2014, City Public Work Crews removed approximately 2 cubic yards of garbage from the North East edge of the camp. On or about June 17, 2014 Cal Trans removed another large pile of garbage from the South East side of the encampment. Since there is no garbage service to the encampment, waste generated during the course of living in the area will accumulate and attract rodents. The personal accumulations at the encampment include food and large bags of dry dog food. This open-air storage of food will continue to attract rodents. In addition, the personal accumulations that are being stored on the ground surface such as tents, bicycle parts, tarps, plywood, and bags of clothing will provide harborage for rodents.

As of this date the property has not been cleaned up. The **accumulation of food waste, trash, debris, personal belongings, and animal waste must be removed completely and disposed of properly**. If the nuisance is not completely corrected by July 15, 2014, without further notice, the City will abate the nuisance by removing all property.

*A Vibrant and Healthy Berkeley for All*

Sincerely,

Manuel M. Ramirez, REHS  
Manager of Environmental Health

Cc: Osha Neumann and Luke Diamond, East Bay Community Law Center



July 3, 2014

VIA U.S MAIL AND E-MAIL TO:

Manuel M. Ramirez, Christine Daniels, and Members of the Berkeley City Council  
Central Administrative Offices, 2180 Milvia Street  
Berkeley, CA 94704

**Re: Appeal to City Council of Notice of Decision**

Mr. Ramirez, Ms. Daniels, and Members of the City Council,

Pursuant to Berkeley Municipal Code 1.24.180 the "Occupants" of the "Encampment" at the Gilman Street Overpass in Berkeley hereby request a hearing before the Berkeley City Council of their objections to the Notice of Decision by Manuel Ramirez, dated July 2, 2014 declaring that their presence under the overpass has caused a public nuisance.

The individuals living at the Gilman Street Underpass object to the decision on the following grounds: 1) the Gilman Street Underpass occupants are there through no fault of their own, and they are actively working with numerous city agencies to find new housing where they can reside; 2) efforts by community organizations such as the East Bay Community Law Center, Homeless Action Center, Berkeley Food and Housing Project, and the Oakland based Trust Clinic, to relocate the individuals at the Gilman Street Underpass have been and continue to be successful; 3) the individuals at the underpass have made significant and successful efforts to maintain the area in which they are living and to keep it as clean and sanitary as possible given the fact that the city has refused to provide them with any means to remove trash and garbage or containers in which to hold it; 4) the mandate that the "Occupants" must remove their personal belonging constitutes a requirement for them to live without shelter, without means of transportation and without protection from the elements; 5) a nuisance action is an inappropriate way to deal with the city's concerns because the ordinance clearly applies to private owners of property, however the people living under the overpass unfortunately own nothing; and 6) the decision to declare a public nuisance at the underpass effectively constitutes an eviction for the inhabitants, and will only force them to move to other parts of the city that are more dangerous and where it will be more difficult for agencies to contact them, provide services, and help them transition into more permanent housing.

Sincerely,

A handwritten signature in black ink, appearing to read "Osha Neumann", is written over a horizontal line.

Osha Neumann  
Attorney for "Occupants."

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**EAST BAY COMMUNITY LAW CENTER**

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