



Office of the City Manager

## **REVISED AGENDA MATERIAL for Supplemental Packet 1**

**Meeting Date:** March 11, 2025

**Item Number:** 17

**Item Description:** Appeal of Special Assessment Tax Lien – 1806 Walnut St

**Submitted by:** Jordan Klein, Planning & Development Department Director

The materials have been revised to reduce the amount of the lien by \$220 from \$6,450 to \$6,230 to remove penalty fees assessed in June 2023, two weeks after the lien appeal was received. Included with this supplemental material are revised versions of the staff report, Resolution (Attachment 1), and Lien Detail Amounts (Attachment 3), with changes tracked to reflect the new information. Attachment 2 (Appeal Letter) is also re-attached here for completeness, but has not been revised.



Office of the City Manager

**PUBLIC HEARING**

March 11, 2025

To: Honorable Mayor and Members of the City Council  
From: Paul Buddenhagen, City Manager  
Submitted by: Jordan Klein, Director, Planning and Development Department  
Subject: Appeal of Special Assessment Tax Lien – 1806 Walnut St

**RECOMMENDATION**

Conduct a public hearing and, upon conclusion, adopt a Resolution rejecting the property owners’ appeal, and allowing the special assessment lien for 1806 Walnut Street (APN 057-2049-004) to be recorded with the County of Alameda as written and approved by the City Manager.

**FISCAL IMPACTS OF RECOMMENDATION**

The proposed lien of \$6,23450 reflects the inspection service fees charged to Peter and Philip Wright for failure to have housing violations corrected at the time of each reinspection. The lien amounts include a \$250 administrative lien fee for each case. The owners filed an appeal request before the lien was processed.

1806 Walnut St	Unit 1 Amount	Unit A Amount	Unit 10 Amount	Total
2023 Lien	\$400	\$400	-	
2024 Lien	\$1,74820	\$1,74820	\$1,2060	
Administrative lien fee	\$250	\$250	\$250	
<b>Total Lien</b>	<b>\$2,39470</b>	<b>\$2,39470</b>	<b>\$1,45510</b>	<b>\$6,23450</b>

**CURRENT SITUATION AND ITS EFFECTS**

On May 16, 2023, the Rental Housing Safety Program (RHSP) sent Philip and Peter Wright a letter notifying them liens would be placed for unpaid inspection service fees at 1806 Walnut St. This property is managed by the K&S Company, which manages numerous rental properties in Berkeley. The unpaid fees covered Unit 1 for \$650, Unit A for \$650 and the common area case for \$650. Each lien amount comprised the first reinspection service fee of \$400 and an administrative lien fee of \$250. On May 26, 2023, owner Peter Wright sent an appeal of the special assessment lien at 1806 Walnut

St. The fees for the common area case were subsequently paid, leaving the Unit 1 and Unit A fees outstanding.

Re-inspections continued at the property and additional fees were accrued that were not paid. RHSP sent lien notices to Philip and Peter Wright on April 17, 2024. After receiving the 2024 lien notices, property manager Jonathan Hicks of K&S Company emailed the City on April 22, 2024 to request that a decision be made regarding their 2023 appeal. Upon review, staff discovered the first reinspection fees for Unit 1 and Unit A had been included in the 2024 lien amount and sent a corrected lien letter to the owner on April 30, 2024. Jonathan Hicks emailed [RHSPbilling@berkeleyca.gov](mailto:RHSPbilling@berkeleyca.gov) on May 1, 2024 asking to appeal the 2024 lien amounts for 1806 Walnut St. A City Council hearing is required to resolve the appeal.

The appeal by the property owner's agent is included as Attachment 2 to this staff report. The issues raised, and staff's responses, are summarized below:

#### **ISSUE 1:**

In his May 26, 2023 letter, owner Peter Wright stated "I believe the amount of the fines is incorrect due to an apparent change in City of Berkeley staff personnel handling the inspections/reinspections during the process. The resulting miscommunication/misunderstanding with the property manager, K&S, caused excessive and unnecessary fines to be levied."

#### **RESPONSE 1:**

##### **Claim of Incorrect Fees and Miscommunications Due to Staff Changes**

Staff changes are a normal part of business operations. During the case, there was a change in inspectors, but inspection procedures remained consistent, and each inspector followed protocols and fees were assessed according to the adopted fee schedule. Housing supervisors and staff ensured inspections were scheduled and completed accurately. This case has been thoroughly reviewed by multiple levels of management, confirming the accuracy and appropriateness of all fees involved.

#### **ISSUE 2:**

On May 1, 2024, property manager Jonathan Hicks appealed the 2024 lien for additional unpaid fees, stating "We would like to appeal all fees highlighted in yellow on the attached excel sheet, as we were in compliance for unit #10 and #1 as of the inspection on 3/13/23 and were appealing the violation charges from thereafter. Those penalty charges continued past the date the city wrote off the units in compliance, which we don't feel is fair to ownership since the appeal was in-place and the violations were cleared."

**RESPONSE 2:**

If owners do not pay inspection services fees, penalty fees accrue per the fee scheduled established by City Council with resolution 68,940-N.S. Penalty fees accrue because balances are unpaid, not because violations have or have not been corrected.

<b>PENALTY FEES</b>		
<b>FEE TYPE</b>	<b>FEE DESCRIPTION</b>	<b>AMOUNT OF FEE</b>
Late Payment Fee	Penalty fees will be assessed for every reinspection or annual flat fee delinquent 1-30 days.	10% of the delinquent amount when 1-30 days late
	Additional penalty fees will be assessed for every reinspection or annual flat fee delinquent 31+ days.	40% of the delinquent amount when 31+ days late

**BACKGROUND**

The Rental Housing Safety Program randomly selected 1806 Walnut St for proactive inspections. Five units out of 13, along with the common area, were chosen for inspection. Units 1, 5, 7, 10, Unit A, and the common areas were inspected on 10/13/2022, and housing violations were identified in all inspected areas. A representative from the property management company was present and accompanied the inspector during the initial inspection.

The first re-inspections were scheduled for December 20, 2022. Representatives of the owner or property management company were not present. The tenants in Units 5 and 7 were available, allowing the inspector to verify and close the corrected violations in these units. No one answered at Unit 1 and Unit A, so the inspector left door tags. The tenant in Unit 10 requested a reschedule, which was granted. Some common area violations were accessible and verified as corrected, while others could not be confirmed.

Second re-inspections for Units 1, 10, Unit A, and the common areas were scheduled for February 8, 2023. Again, no representatives of the owner or property management company were present, and a door tag was left on the front door of the building. Third re-inspections were scheduled for March 13, 2024. The owner’s representative was present, and violations in Units 1, 10, and Unit A were verified as corrected, closing these cases. Some common area violations were corrected, but issues such as the missing Carbon Monoxide alarm in the Laundry Room and required ground fault circuit interruption protection remained unresolved. A fourth re-inspection was scheduled for May 2, 2023. The owner’s representative was present, and the remaining common area violations were corrected, closing the case.

**Fees Assessed**

- Units 1 and Unit A: Assessed \$400, \$600, and \$800 each for three re-inspections.
- Unit 10: Assessed \$400 and \$600 for the first and second re-inspections.
- Penalty fees were applied for unpaid re-inspection fees.
- Common area case: Fees paid and not included in the lien.

**Notification of Owners**

The intent to inspect letter was mailed to the owner's legal address, notifying them of the proactive inspections. A property manager was present during the initial inspection, indicating the notice was received. All subsequent notices were sent to this address and there was no returned mail from the owner. The owner did not request to have copies of notices sent to additional mailing addresses.

**Reinspections and Fees Justification**

Tenants occupied the units during the period violations were observed, raising safety concerns. The re-inspections and fees incentivize timely correction of violations to ensure tenant safety. Despite ample time, the owners failed to address the violations promptly.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

Inspection Service fees and penalties allow the enforcement of the Berkeley Housing Code and protect the safety of tenants. They should not be reduced unless they were assessed incorrectly.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Jenny McNulty, Resilient Buildings Program Manager, Planning and Development Department, (510) 981-7451

Attachments:

- 1: Resolution
- 2: Appeal letter
3. Detail of Lien Amounts
- 4: Administrative Record
- 5: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

DENIAL OF OWNER'S APPEAL AND IMPOSITION OF LIEN FOR UNPAID INSPECTION SERVICE FEES AT 1806 WALNUT STREET

WHEREAS, Council established the Rental Housing Safety Program (RHSP) on August 23, 2001 with Ordinance No. 6,651-N.S.; and

WHEREAS, per BMC Chapter 19.40.080, the City Manager or their designee may periodically inspect every residential rental unit in any real property in the City; and

WHEREAS, Council adopted the current inspection service fees per Resolution No. 68,940-N.S. on May 28, 2019; and

WHEREAS, 1806 Walnut St were randomly selected for proactive housing inspections at Units #1, #5, #7, #10, #A and the common area, and the owners were mailed an Intent to Inspect letter on August 18, 2022; and

WHEREAS, violations were identified that were not corrected by the second re-inspection, and inspection service fees were assessed that were not paid for units #1, #10, and #A; and

WHEREAS, Philip and Peter Wright are the Owners of said rental property at 1806 Walnut Street, Berkeley, California; and

WHEREAS, the owners were served with Notices of Proposed Lien and Hearing Rights on May 16, 2023 and April 30, 2024, and on May 1, 2024 the City received a timely objection to the proposed liens by the Owner; and

WHEREAS, a hearing on property owners' objections was conducted on March 11, 2025 by the Council of the City of Berkeley; and

WHEREAS, in evaluating the testimony given during the hearing, the Council of the City of Berkeley considered and made determinations as to the credibility of the witnesses, the weight of the evidence, and the extent to which the evidence was cumulative and/or probative.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council finds that the proposed lien amount totaling \$6,23450 is an accurate sum of the inspection fees and associated costs, and dismisses the appeal and upholds the proposed liens, and authorizes the City Manager or their designee to effectuate the recording of said liens with the County of Alameda.

May 26, 2023

City of Berkeley Planning and Development Division  
% City Clerk  
2180 Milvia Street - 1st Floor  
Berkeley, CA 94704

RE: Request for Hearing Cases # 22-939, # 22-943, # 22-692 and all pending cases for 1806 Walnut St cust #58119-256485, #58119-256160, #58119-256161, #58119-256162

Dear City Council,

Please accept this letter as an official request (within the 10 day notice period) for a hearing for the cases listed above with regard to the Housing Code Enforcement inspections and fees for the property located at 1806 Walnut Street in Berkeley.

I believe the amount of the fines, reinspection fees, and liens is incorrect due to an apparent change in City of Berkeley staff personnel handling the inspections/reinspections during the process. The resulting miscommunication/misunderstanding with the property manager, K&S, caused excessive and unnecessary fines to be levied.

Our property has never had a previous fine or violation and we have worked toward operating in a safe manner in compliance with all City of Berkeley agencies.

Thank you for your time and effort to help resolve this issue.

Sincerely,



Peter Wright  
1580 Hawthorne Terrace  
Berkeley, CA 94708  
peterwright1963@gmail.com  
(510) 334-6936

CC K&S Property Management, 1035 San Pablo Ave St 12, Albany CA 94706

**From:** [McNulty, Jenny](#)  
**To:** [Jonathan Hicks](#)  
**Cc:** [RHSPBilling](#)  
**Subject:** RE: 1806 Walnut St. - RHSP Fines  
**Date:** Wednesday, May 01, 2024 12:48:19 PM

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Dear Jonathan,

You can submit your appeal by email to [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) and copy [RHSPbilling@berkeleyca.gov](mailto:RHSPbilling@berkeleyca.gov).

Sincerely,

**Jenny McNulty**, Resilient Buildings Program Manager  
Rental Housing Safety Program / Building & Safety Division

**Phone:** (510) 981-7451

**Email:** [jmcnulty@berkeleyca.gov](mailto:jmcnulty@berkeleyca.gov)

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**From:** Jonathan Hicks <jhicks@kands.com>  
**Sent:** Wednesday, May 1, 2024 12:26 PM  
**To:** McNulty, Jenny <JMcNulty@berkeleyca.gov>  
**Cc:** RHSPBilling <RHSPBilling@berkeleyca.gov>  
**Subject:** Re: 1806 Walnut St. - RHSP Fines

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Good Afternoon Jenny,

Thanks for the response to my email.

We would like to appeal all fees highlighted in yellow on the attached excel sheet, as we were in compliance for unit #10 and #1 as of the inspection on 3/13/23 and were appealing the violation chargers from thereafter. Those penalty charges continued past the date the city wrote off the units in compliance, which we don't feel is fair to ownership since the appeal was in-place and the violations were cleared.

-Please let me know if you need me to fill an additional appeal form and if so, please provide that form so I can submit within the 10 days per your email.

Thanks,

*Jonathan Hicks*

*Property Manager*

*K&S Company Inc.*

*1035 San Pablo Ave. Suite #12*

*Albany, CA 94706*

*(p) 510-528-1900*

<http://www.kands.com/>

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**Customer Number:** 58119-256485  
**Case Number:** H2022-00942  
**Address:** 1806 WALNUT St 10

Transaction Date	Transaction	Amount
3/14/2023	Inspection Fee for 02/08/2023	\$ 400.00
4/13/2023	Inspection Fee for 03/13/2023	\$ 600.00
4/17/2023	Penalty Fee	\$ 40.00
5/15/2023	Penalty Fee	\$ 160.00
6/15/2023	Penalty Fee	\$ 60.00
<b>Balance Due</b>		<b>\$ 1,260.00</b>

**Customer Number** 58119-256160  
**Case Number** H2022-00692  
**Address** 1806 WALNUT St (Common)

Transaction Date	Transaction	Amount
1/10/2023	Inspection Fee for 12/12/2022	\$ 400.00
3/14/2023	Inspection Fee for 02/08/2023	\$ 600.00
3/15/2023	Penalty Fee	\$ 40.00
4/13/2024	Inspection Fee for 03/13/2023	\$ 800.00
4/17/2023	Penalty Fee	\$ 60.00
5/15/2023	Penalty Fee	\$ 240.00
6/9/2023	Inspection Fee for 05/02/2023	\$ 800.00
6/15/2023	Penalty Fee	\$ 80.00
6/29/2023	Payment	\$ (3,020.00)
<b>Balance Due</b>		<b>\$ -</b>

**Customer Number** 58119-256161  
**Case Number** H2022-00939  
**Address** 1806 WALNUT St #1

Transaction Date	Transaction	Amount
1/10/2023	Inspection Fee for 12/12/2022	\$ 400.00
3/14/2023	Inspection Fee for 02/08/2023	\$ 600.00
3/15/2023	Penalty Fee	\$ 40.00
4/13/2023	Inspection Fee for 03/13/2023)	\$ 800.00
4/17/2023	Penalty Fee	\$ 60.00
5/15/2023	Penalty Fee	\$ 240.00
6/15/2023	Penalty Fee	\$ 80.00
<b>Balance Due</b>		<b>\$ 2,220.00</b>

**Customer Number** 58119-256162  
**Case Number** H2022-00943  
**Address** 1806 WALNUT St #A

Transaction Date	Transaction	Amount
1/10/2023	Inspection Fee for 12/12/2022	\$ 400.00
3/14/2023	Inspection Fee for 02/08/2023	\$ 600.00
3/15/2023	Penalty Fee	\$ 40.00
4/13/2023	Inspection Fee for 03/13/2023	\$ 800.00
4/17/2023	Penalty Fee	\$ 60.00
5/15/2023	Penalty Fee	\$ 240.00
6/15/2023	Penalty Fee	\$ 80.00
	<b>Balance Due</b>	<b>\$ 2,220.00</b>

Summary	
Total Charges:	\$ 8,720.00
Total Payments:	\$ (3,020.00)
Net Amount Due:	\$ 5,700.00

**Case Number** H2022-00939  
**Address** 1806 WALNUT St #1

Transaction	Amount
2023 Lien	400
2024 Lien	1,82740
Administrative lien fee	250
<b>Total Lien</b>	<b>2,47390</b>

**Case Number** H2022-00943  
**Address** 1806 WALNUT St #A

Transaction	Amount
2023 Lien	400
2024 Lien	1,82740
Administrative lien fee	250
<b>Total Lien</b>	<b>2,47390</b>

**Case Number:** H2022-00942  
**Address:** 1806 WALNUT St 10

Transaction	Amount
2023 Lien	-
2024 Lien	1,2600
Administrative lien fee	250
<b>Total Lien</b>	<b>1,54450</b>

<b>Total Lien</b>	<b>645230</b>
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**Customer Number** 58119-256161  
**Case Number** H2022-00939  
**Address** 1806 WALNUT St #1

Transaction Date	Transaction	Amount
1/10/2023	Inspection Fee for 12/12/2022	\$ 400.00
3/14/2023	Inspection Fee for 2/08/2023	\$ 600.00
3/15/2023	10% Penalty Fee for 12/12/22 inspection	\$ 40.00
4/13/2023	Inspection Fee for 3/13/2023	\$ 800.00
4/17/2023	10% Penalty Fee for 2/8/23 inspection	\$ 60.00
5/15/2023	40% Penalty Fee for 2/8/23 inspection	\$ 240.00
<del>6/15/2023</del>	<del>10% Penalty Fee for 3/13/23 inspection</del>	<del>\$ 80.00</del>
<b>Balance Due</b>		<b>\$ 2,22140.00</b>

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**Customer Number** 58119-256162  
**Case Number** H2022-00943  
**Address** 1806 WALNUT St #A

Transaction Date	Transaction	Amount
1/10/2023	Inspection Fee for 12/12/2022	\$ 400.00
3/14/2023	Inspection Fee for 2/08/2023	\$ 600.00
3/15/2023	10% Penalty Fee for 12/12/22 inspection	\$ 40.00
4/13/2023	Inspection Fee for 3/13/2023	\$ 800.00
4/17/2023	10% Penalty Fee for 2/8/23 inspection	\$ 60.00
5/15/2023	40% Penalty Fee for 2/8/23 inspection	\$ 240.00
<del>6/15/2023</del>	<del>10% Penalty Fee for 3/13/23 inspection</del>	<del>\$ 80.00</del>
<b>Balance Due</b>		<b>\$ 2,22140.00</b>

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**Customer Number:** 58119-256485  
**Case Number:** H2022-00942  
**Address:** 1806 WALNUT St 10

Transaction Date	Transaction	Amount
3/14/2023	Inspection Fee for 2/08/2023	\$ 400.00
4/13/2023	Inspection Fee for 3/13/2023	\$ 600.00
4/17/2023	10% Penalty Fee for 2/8/23 inspection	\$ 40.00
5/15/2023	40% Penalty Fee for 2/8/23 inspection	\$ 160.00
<del>6/15/2023</del>	<del>10% Penalty Fee for 3/13/23 inspection</del>	<del>\$ 60.00</del>
<b>Balance Due</b>		<b>\$ 1,2600.00</b>

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