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Leaving Us No Choice: Oakland's Lawsuit Against Caltrans

By John Russo

Eradicating blight has been one of the primary goals for Oakland throughout the past decade. We have cited, fined and, in some cases, demolished blight-ridden private properties that have not met a basic 'good neighbor' standard.

For more than ten years the abysmal condition of Caltrans' vacant lots, yards, highway ramps and overpasses in Oakland have been a source of misery: diminishing our quality of life, reducing property values, inviting dumping, and creating dangerous conditions. Recently, the Oakland Fire Department identified twenty different Caltrans lots along Highways 24 and 13 where overgrown vegetation are literal 'tinder boxes' primed to spark another hill's fire. Oakland residents, many of whom are active in Caltrans Adopt-a-Spot program, have consistently expressed frustration with Caltrans complaint-driven reaction to landscape maintenance and litter removal and called our office for help.

In October and November 2004, the Oakland City Attorney's Office sent abatement notices to Caltrans with photos of blighted sites and issued a public records request for documentation of their maintenance schedule. Copies of these notices, along with numerous phone calls, were sent to State Senator Perata in the hope that he might use his considerable talent and political clout to help clean up the problem. In January and March of this year, we received data in response to our public records request that was undecipherable and correspondence explaining our evidence of blight was 'stale.' In April a television station aired an investigative report on Caltrans' blight in Oakland and following the report Caltrans officials contacted us to talk about establishing a maintenance agreement.

The draft agreement was modeled on a successful partnership the City Attorney's Office established with Union Pacific Railroad (UP) addressing blight abatement on their right-of-way properties. The agreement stipulated that if an area was not cleaned within 72 hours of notice, the City would clean it and send a bill to UP. Since the signing of the agreement in November 2003, we have never had to send an invoice and UP has become a much better neighbor.

In July of this year, Caltrans made it clear they would not sign any legally-binding maintenance agreement. So, after too many meetings and promises, but no formal agreement, the City had no choice but to seek relief from an authority who could

make the State clean-up its mess. On August 8th, the Oakland City Attorney's office filed in Superior Court a public nuisance lawsuit against Caltrans.

Three days after our complaint was filed, Caltrans Director Will Kempton, accompanied by State Senator Don Perata, finally took action. Caltrans showed up in Oakland and made a good effort to begin cleaning their mess. All of us who live in Oakland should be grateful and encouraged by this start.

But we need much more. Although Senator Perata suggested, quite unfairly, that Oaklanders themselves were the source of the Caltrans' blight problem, the senator's finger-pointing at his constituents ignores Caltrans' failure to control overgrown weeds on state property. This isn't litter; this is blight and a fire hazard. Nor does Senator Perata's attempt to blame Oakland residents for Caltrans' dereliction of its duties as a property owner explain how a skateboard park could have existed on a Caltrans right-of-way without being discovered for over a year. A more reasonable explanation would be that Caltrans is not regularly inspecting or cleaning or maintaining its property.

Oakland doesn't like having to file this lawsuit, but we can't shrink from our responsibilities to our people. We hope to resolve this issue with Caltrans quickly. It's in our collective interest to work together for the public good. A simple, legally binding maintenance agreement to be a good neighbor will solve the problem and establish a fair standard.

