

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BEAUMONT, CALIFORNIA, UPHOLDING THE DECISION OF THE  
HEARING PANEL AND ORDER TO ABATE PUBLIC NUISANCE AT 1421  
FAIRCLIFF STREET, BEAUMONT, CALIFORNIA**

**WHEREAS**, Ezekwesili Ihuefo Iloputaife (“Applicant”) applied for a permit for a structural addition of 2,780 square feet with extensive interior remodeling for real property located at 1421 Faircliff Street, Beaumont, California (APN 428-100-028) (the “Property”) and owned by Nneka I. Iloputaife (the “Owner”).

**WHEREAS**, on May 1, 2017, permit BP2017-00691 (the “Permit”) was issued to the Applicant for the addition and the remodel of the Property and on July 16, 2018, an inspection was conducted and it was determined a reinspection was needed. Subsequent inspections were conducted on July 19, 2018, August 7, 2018, and August 13, 2018, all requiring reinspection. An inspection was scheduled for August 15, 2018 but was not conducted due to no one answering at the residence.

**WHEREAS**, on June 4, 2019, a letter was sent from the City to the Applicant stating that permit BP2017-00691 had expired.

**WHEREAS**, on September 4, 2019, the City’s building official visited the Property at the Applicant’s request. On September 10, 2019, the City’s building official sent a letter (the “September 10, 2019, Letter”) to Applicant summarizing the visit, and the fact that Applicant had built onto the Property beyond the scope of the expired Permit and provided a list of some of the following problems present at the Property:

There are a few things worth noting in order for you to proceed with your project considering the direction and scope of work already performed. The areas in which you have undertaken work which are not covered by the approved plans will require City approval before proceeding with construction or inspection of those areas.

- The front has a 2nd story dormer pop-out which has been enlarged into an enclosed room. This area has lateral design issues with improper seismic bracing as currently constructed. Due to the amount of glazing added, energy efficiency must be addressed with revised T-24 energy calculations.

- The rear deck has been covered by a solid 2nd story roof of over 400 sf which is not on the approved plans. Lateral structural support for this area is lacking which should be addressed with structural calculations. Also, the roof joists may be overspanned unless the grade lumber used is select structural. The tie-in from the patio roof to the house is not visible and the out-of-plane (pull away) connection should be detailed in the revised plans and verified.

- The stair rise/run doesn't comply with Code since the steps were noticeably inconsistent when walking them. This is simply worth noting so they can be corrected at framing stage rather than at a later date.

In order to proceed, revised plans should be prepared indicating the increased scope of work. Structural calculations and T-24 energy calculations will also be needed. Once approved, an additional permit (or addendum) will be issued to allow the additional areas to be constructed. Prior to investing any substantial design team time, I recommend that either you or your design professional visit the Planning Division with schematics of the increased areas to make sure heights, areas, and setbacks will comply with the Zoning Ordinance, prior to incurring design costs.

**WHEREAS**, as a result of the above inspection of the Property and notes of the inspector, Applicant was no longer able to continue construction on the Property and, if so desired, was required to reapply for a permit along with submission to the City of the above-required structural plans.

**WHEREAS**, on March 18, 2020, another letter was sent from the City to Applicant again stating permit BP2017-00691 was expired.

**WHEREAS**, on March 19, 2020, as a follow up to the expired permit, the City's Code Enforcement provided a Courtesy Notice for the following issues:

**8.32.060 - Building Code violations;** All premises, both permanent and temporary, including, but not limited to, buildings, structures, or appendages, maintained in violation of the uniform building codes adopted by the City pursuant to Sections 15.04.010, 15.08.010, 15.12.010, 15.16.010, 15.17.010 and 15.20.010 of the Beaumont Municipal Code, or subject to any of the following conditions, are declared a public nuisance.

**8.32.070 - Zoning ordinance violations;** Any premises, including, but not limited to, any building, sign or other structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of the City's zoning ordinance, as amended, and any use of premises, including, but not limited to, land or building, established, conducted, operated or maintained contrary to the provisions of the City's zoning ordinance, as amended, is declared a public nuisance. Any and all uses not expressly permitted in the City's zoning ordinance, as amended, are not permitted, and are declared a public nuisance.

Upon observation of the premises, the following additional violations were noted:

**8.20.020 - Nuisance vehicles;** The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property, not including highways, is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a

hazard to health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or part thereof, on private or public property not including highways, except as expressly hereinafter permitted is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this Chapter.

**8.32.030 - Refuse & Waste;** *"Refuse and waste matter"* is defined for the purpose of this Chapter as unused or discarded matter or material; having no substantial market value, and which consists of such matter and material as rubbish refuse, debris, and matter of any kind, (including, but not limited to, rubble, asphalt, concrete, plaster, tile, rocks, bricks, soil, building materials, crates, cartons, containers, boxes, machinery or parts thereof, scrap metal and other pieces of metal, ferrous or nonferrous, furniture or parts thereof, trimmings from plants or trees, cans, bottles and barrels. Refuse and waste matter as defined which by reason of its location and character is unsightly and, interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community, or which would materially hamper or interfere with the prevention or suppression of fire upon the premises is declared a public nuisance.

**8.32.050 - Sewage on ground;** It is declared a nuisance to permit any part of the contents of any privy, vault, cesspool, septic tank, water closet, urinal, pipe, sewer line, or any sewage, slop water or any other filthy water, matter or substance, to flow or discharge upon the ground or upon the surface of any premises, or in any public street or other public place.

**8.32.110 - Insect and Vermin;** Any premises, including, but not limited to, any building, vacant lot, setback, yard, vehicle, or place, maintained in such a manner as to permit the breeding or harboring therein or thereon of flies, bedbugs, cockroaches, black widow spiders, lice, fleas, termites or any other insects or vermin is declared a public nuisance.

**8.32.180 - Premises Maintenance;** Maintenance of premises in such a condition so as to cause significant diminution in use, enjoyment, or value of adjacent premises; or in such a condition so as to be detrimental to the public health, safety, or general welfare; or in such a condition so out of harmony or conformity with the maintenance standard of adjacent premises as to cause substantial diminution of the enjoyment, use or property values of such adjacent premises is declared a public nuisance.

**17.06.100F - Parking on yard prohibited;** Rear yards shall not be used for off-street parking of vehicles.

**8.32.210 - Salvage materials;** Any lumber, junk, trash, debris, refuse, waste matter or other salvage materials visible from a public right-of-way or adjoining premises is declared a public nuisance.

**WHEREAS,** on Upon reinspection of the property by Code Enforcement, all issues with the exception of the most important items, *i.e.*, the Building Code and Zoning Violations had been remedied.

**WHEREAS,** in January 2021, Code Enforcement again observed construction at the property. Upon checking with Building and Safety, it was determined there was no active permit on file for the construction taking place. Code Enforcement issued a citation for Beaumont Municipal Code Section 8.32.060 (building code violation) and Beaumont Municipal Code Section 8.32.070 (zoning code ordinance violation) on January 7, 2021. Those ordinances provide as follows:

**Beaumont Municipal Code Section 8.32.070,** provides as follows:

“Any premises, including, but not limited to, any building, sign or other structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of the City’s Zoning ordinance, as amended, and any use of premises, including, but not limited to, land or building, established, conducted, operated or maintained contrary to the provisions of the City’s zoning ordinance, as amended, is declared a public nuisance.

Any and all uses not expressly permitted in the City’s zoning ordinance, as amended, are not permitted, are declared a public nuisance;”

**Beaumont Municipal Code Section 8.32.060,** provides as follows:

All premises, both permanent and temporary, including, but not limited to, buildings, structures, or appendages, maintained in violation of the uniform building codes adopted by the City pursuant to Sections 15.04.010, 15.08.010, 15.12.010, 15.16.010, 15.17.010 and 15.20.010 of the Beaumont Municipal Code, or subject to any of the following conditions, are declared a public nuisance.

- A. Faulty weather protection including, but not limited to, crumbling, cracked, missing, broken, or loose exterior plaster or other siding, roofs, foundations or floors, broken or missing windows or doors, or unpainted surfaces causing dry-rot, warping, or termite infestation.
- B. Buildings or structures, or parts thereof, not completed within a reasonable time as per the determination of the City's Chief Building official and for which the permit for such construction has expired.
- C. Unoccupied buildings which have been left unlocked or otherwise open to or unsecured from intrusion by persons, animals or the elements or which are boarded up by a method or material not approved by the

City.

D. Fences or walls in a hazardous condition or which are in disrepair, or which hinder free access to public sidewalks.

E. Broken windows constituting hazardous conditions or inviting trespassers.

**WHEREAS**, since January 7, 2021, the City's Code Enforcement has continued to Cite the Applicant and Owner of the Property with citations as allowed per the Beaumont Municipal Code. On February 26, 2021, a formal stop work notice was posted at the property after scaffolding was observed installed at the Property. Between February 26, 2021, and April 20, 2021, City staff had telephone and email communication with Applicant. Staff sent a letter to Applicant on March 19, 2021, providing a path to compliance. As of April 20, 2021, compliance has not been achieved. Pictures showing the progression of unpermitted work, a list of citations and City correspondence are included in the record.

**WHEREAS**, Applicant has never submitted to the City the additional items set forth in the City's September 10, 2019, Letter, including, but not limited to, a new permit application and structural drawings.

**WHEREAS**, as a result of numerous citations issued against the Applicant and Owner, an administrative hearing was noticed and scheduled for April 22, 2021 (the "Administrative Hearing"). The Administrative Hearing was rescheduled due to the illness of a panelist, and ultimately heard on May 6, 2021. The hearing panel for the Administrative Hearing consisted of Elaine Morgan, Mandy Stephens and Allen McNabb (the "Hearing Panel"). Hearing participants were provided with a hearing packet, consisting of a Staff Report and exhibits. The Applicant and Owner submitted exhibits for consideration.

**WHEREAS**, after hearing all testimony and considering all exhibits, on May 25, 2021, the Hearing Panel issued its Decision and Order to Abate Public Nuisance (the "Administrative Decision"). The Hearing Panel determined:

- (a) that there is substantial evidence to support a finding that Section 8.32.060 Building Code Violations and 8.32.070 Zoning Ordinance Violations of the Beaumont Municipal Code (BMC) were violated,
- (b) that the Property is a residentially zoned property, the second story rear terrace/balcony, second story dormer and any and all other unpermitted work shall be abated as a public nuisance pursuant to BMC Section 8.32.420, and
- (c) that the owners thereof shall abate such nuisance within 30 days hereof or
- (d) submit plans accurately reflecting the increased scope of work and containing all other requested information for completeness to the Building Department for plan check, unless the owners file a timely appeal of this decision in accordance with BMC Section 8.32.420.

**WHEREAS** the Applicant and Owner appealed the holding of the Administrative Decision by filing a timely Notice of Appeal on June 8, 2021, pursuant to Beaumont Municipal Code § 8.32.495 (the “Appeal”). The Appeal packet submitted consisted of a Notice of Appeal, an Application for Appeal Hearing and a letter to City Manager, Todd Parton. In their Appeal package, Applicant and Owner asserted the following in their Notice of Appeal:

- Denial of a fair hearing
- No opportunity to confront important City Staff
- City manipulated hearing process creating “false narratives”
- Denial of their request for a variance
- City sent “new” inspector, rather than prior inspectors
- Owner did not receive a “General Stop Work Notice” prior to February 26, 2021
- Owner never stopped work for 180 days
- City is harassing and threatening Owner.

**WHEREAS**, pursuant to Beaumont Municipal Code Section 8.32.495, the City was required set the matter for the Appeal of the Administrative Decision for hearing “at the next regular City Council meeting at least 14 calendar days after the date of the mailing of the Notice of Hearing on the appeal.” The Appeal was scheduled for July 20, 2021, which complied with that code section.

**WHEREAS**, pursuant to Beaumont Municipal Code Section 8.32.370, the City was required to conduct the hearing on the Appeal of the Administrative Decision as follows:

The hearing shall be conducted formally, although the technical rules of evidence shall not apply, except that irrelevant and unduly repetitious evidence shall be excluded. All evidence taken shall be sworn evidence and the proceedings shall be recorded. During the course of the hearing, the Nuisance Abatement Hearing Officer may visit and inspect any premises involved in the proceeding.

**WHEREAS**, pursuant to Beaumont Municipal Code Section 8.32.370, the City Council, in reviewing the Appeal, could either affirm, reverse or modify, in whole or in part, the Administrative Decision.

**WHEREAS** the hearing on the Appeal of the Administrative Decision was held before the City Council on July 20, 2021 (the “City Council Hearing”) at which the following witnesses were present for the City:

Christina Taylor, Community Development Director

Kristine Day, Assistant City Manager  
Todd Parton, City Manager  
Pedro Rico, Building Official  
Scott Frazekas, (former) Interim Beaumont Building Official  
Michael Almandinger, Building Inspector  
Jack Huntsman, Community Enhancement Officer

**WHEREAS**, at the City Council Hearing, the City, on the one hand, and Applicant and Owner, on the other hand, provided evidence of their respective positions on the Appeal in the form of documentary evidence and testimony given under oath.

**WHEREAS**, at the City Council Hearing, Applicant and Owner agreed that they built beyond the scope of the City's Permit.

**WHEREAS**, at the City Council Hearing, Applicant and Owner agreed that they never submitted to the City the additional documentation set forth in the September 10, 2019, Letter.

**WHEREAS**, the City has levied the following fines against Applicant and Owner as the result of their failure to abate the nuisances as outlined above: \$ [REDACTED]. In addition, the City has incurred the following attorneys' fees resulting from the enforcement of the City's actions to abate the nuisances as outlined above: \$ [REDACTED]. Finally, the City has incurred the following staff costs resulting from the enforcement of the of the City's actions to abate the nuisances as outlined above: \$ [REDACTED]. The total amount of these fines, attorneys' fees and costs is \$ [REDACTED]. The Applicant and Owner are otherwise responsible for all of these costs.

**WHEREAS** the hearing on the matter of the Appeal of the Administrative Decision was continued to the next meeting of the City Council on August 3, 2021.

**WHEREAS**, the City Council has reviewed the Administrative Decision, the Appeal, the entire record, all evidence and testimony, and has determined that the Administrative Decision should be affirmed and should be upheld but that Applicant and Owner should be given additional opportunity to remedy the violations in manner as provide below.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEAUMONT DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Recitals.**

That the recitals, decision, findings, and determination set forth above are true and correct and hereby incorporated by this reference, as set forth above, as though set forth in full herein.

**Section 2. Findings, Affirmance and Order.**

In its capacity as appellate hearing officers considering the Appeal from the Administrative Decision, the City Council has found and determined that that the Administrative Decision is

affirmed in all parts, except as modified herein, and that there is substantial evidence to support a finding that Beaumont Municipal Code Section 8.32.060 (building code violation) and Beaumont Municipal Code Section 8.32.070 (zoning code ordinance violation) were violated, that the construction activities at the Property exceeded the work permissible under the plans and permit and that the violations constitute a public nuisance. Moreover, work was done on the property after the permit expired. The second story rear terrace/balcony of the Property, and second story dormer of the Property are not in compliance with what the City approved for construction at the Property, are in violation of the City Code and a public nuisance pursuant to Beaumont Municipal Code Section 8.32.420.

Within 30 days from the date of this Abatement Resolution, Applicant and Owner shall pay the City the sum of \$\_\_\_\_\_ for the fines, attorneys' fees and City staff costs the City has incurred as a result of the violations/nuisances specified in this Abatement Resolution or said sum shall become a lien on Property.

### **Section 3.      Actions Ordered to Abate the Nuisance.**

The Applicant and Owner of the Property, and/or agents of the Owner, **shall immediately cease and desist from any work or construction activity at the Property** except as expressly authorized herein. Within the time frames set forth below, the Applicant and Owner of the Property and/or agents of the owner shall abate all of the violations/nuisances at the Property, by taking the following actions within the times specified below:

- (1) Within 30 days from the date of this Abatement Resolution, Applicant and Owner shall hire a licensed California structural engineer, at their own time and cost, to conduct any needed inspection, testing and analysis, including any needed destructive testing and actions needed to inspect concealed areas, in order to evaluate the structure present at the Property to determine whether or not that same structure is safe for habitation. A written document from the structural engineer certifying whether the structure at the Property is safe for habitation shall be delivered to the City within this 30-day period.
- (2) Within 90 days from the date of this Abatement Resolution, Applicant and Owner shall have a California licensed structural engineer prepare and submit plans and obtain City approval of said plans as well as a permit to complete work needed to abate/correct the violations/nuisance at the Property.
- (3) Within 210 days from the date of this Abatement Resolution, Applicant and Owner shall complete construction and obtain final City inspections and approval of the work contemplated in the City approved plans.
- (4) If any time limit, deadline or Condition set forth herein is not met by the stated deadline, City staff is directed to take all actions to obtain an order for abatement of the violations/nuisance from the superior court and/or appointment of a receiver over the Property to take any action authorized by law, including but not limited to, enforcement of this Abatement Resolution. City staff shall seek an order from the Court for reimbursement of all City costs and attorney fees.



(5) All costs related to the above Conditions and deadlines are the Applicant's and Owner's responsibility.

**Section 4. Authorization to Abate.**

The Owner(s), or a representative of the Owner(s), or any mortgagee, beneficiary under any deed of trust, or other person having interest or estate in Property, may, at his own risk and expense, abate the nuisance as set forth herein.

**Section 5. Appeal.**

If desired, the Owner(s) may seek judicial review of this Abatement Resolution. Judicial review must be sought within 90 days after the date of posting on the Property (Beaumont Municipal Code Section 8.32.530) a notice of the passage of the resolution declaring the nuisance to exist to contest the validity of any proceedings leading up to and including the adoption of the resolution; otherwise, all objections shall be deemed to have been waived, in accordance with BMC Section 8.32.495.

**Section 6. Certification.**

That the City Clerk shall certify to the passage and adoption of this resolution, enter the same in the book of original resolutions of the City and make a minute of passage and adoption thereof in the records of the proceedings of the City Council in the minutes of the meeting at which the same is passed and adopted.

**Section 7. Severability.**

That if any provision, section, paragraph, sentence or word of this Abatement Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Abatement Resolution as hereby adopted shall remain in full force and effect.

**Section 8. Repeal of Conflicting Provisions.**

That all the provisions heretofore adopted by the City Council that are in conflict with the provisions of this Abatement Resolution are hereby repealed.

**Section 9. Effective Date.**

That this Abatement Resolution shall take effect upon its adoption.

**PASSED AND ADOPTED** by the City Council of the City of Beaumont at a regular meeting held on the \_\_\_\_ day of August 2021 by the following vote:

**AYES**, and in favor thereof, Council members:

**NAYS**, Council members:

**ABSENT**, Council members:

**ABSTAINING**, Council members:

Dated: August \_\_\_\_, 2021

CITY OF BEAUMONT

By \_\_\_\_\_  
MIKE LARA  
MAYOR

By \_\_\_\_\_  
LLOYD WHITE  
MAYOR PRO TEM

By \_\_\_\_\_  
DAVID FENN  
COUNCIL MEMBER

By \_\_\_\_\_  
JULIO MARTINEZ III  
COUNCIL MEMBER

By \_\_\_\_\_  
REY SJ SANTOS  
COUNCIL MEMBER