



STAFF REPORT

To: Planning Commission

Prepared by: William L. Dillard, Code Enforcement Inspector

GENERAL INFORMATION

Property Owner: Kenneth W. & Rachell DeVaney

Location: 50 Brodia Ct., Martinez, CA.

Proposal: Appeal hearing for Administrative Citation #132, re: M.M.C.
Section 22.12.020 (I) – Protects properties from illumination

RECOMMENDATION

Uphold Staff's finding of non-compliance with M.M.C. Section 22.12.020 (I) – regarding the placement of flood lights at the front of the residence that are directed onto other properties.

CASE HISTORY

On 02/14/2013 a complaint was received from a resident in the area of Brodia Ct., of flood lights from 50 Brodia Ct. being turned on at night and the light was shining onto their residence. On 02/19/2013 a second complaint was received, that the flood lights appear to be coming on via a timer and left on all night.

I contacted the resident at 50 Brodia Ct. (Mr. and Mrs DeVaney) and hand delivered a Courtesy Warning Notice (Exhibit "A") for violation of Section: 22.12.020 (I) – Protects properties from illumination. The Notice required the flood lights to be directed downward so as not to directly illuminate any other property, with compliance requested within three days. Photo's were taken of the two flood lights (Exhibit "B") and I attempted to explain to the DeVaney's that the flood lights had to be directed downward. I was met with abusive language and told to leave.

On 02/25/2013 complainant contacted me at City Hall and advised the flood lights were still being turned on at night. Complainant showed me a picture taken with his cell phone from his bedroom window that showed a flood light directed at his residence. (unable to make a copy of cell phone picture). I showed a copy of the Exhibit "B" photo's to Building Inspector Dennis Williams and was advised the flood lights were installed incorrectly for permanent use.

The flood lights have been installed with extension cords and require an electrical permit for proper installation.

On 02/26/2013, myself and Inspector Dennis Williams went to 50 Brodia Ct and left a second Courtesy Warning Notice (Exhibit "C"). Inspector Williams confirmed the flood lights required proper permits to be installed permanently. Photo attached (Exhibit "D").

On 03/05/2013 an inspection of 50 Brodia Ct. found the flood lights still in place. An Administrative Citation (Exhibit E) was issued to the owners of 50 Brodia Ct. for non-compliance to Municipal Code Section 22.12.020 with a clarification from the California Green Building Standards Code 5.106.8 (3) – Light pollution reduction (Exhibit "F").

On 03/18/2013 a one hundred dollar check and letter was received by City Finance requesting an appeal hearing for Citation #132. (Exhibit "G"). On 03/19/2013 a letter was mailed to Mr. & Mrs. Devaney scheduling a hearing to be held at City Hall on April 9, 2013 at 7:00 pm. (Exhibit "H").



BUILDING DEPARTMENT
CODE ENFORCEMENT DIVISION
CITY OF MARTINEZ (925) 372-3598

525 HENRIETTA STREET
MARTINEZ, CA 94553

COURTESY WARNING NOTICE

Date: 2/20/2013

Time:

Infraction Other

Name:

Property Owner: Kenneth & Rachel Devaney

Address:

Address: 50 Brodia Ct., Martinez, Ca.

Parcel # 377-050-047

Site Address: 50 Brodia Ct., Martinez

Date Notified 2/20/2013

Method of Delivery: Mail

Code Violations:

Flood Light at front of residence is directed at neighbor's residence.

Municipal Code Reference(s):

Section: 22.12.020 (I) – Protects properties from illumination.

Violation May Be Corrected By:

Flood light at front of residence required to be directed downward so as not to directly illuminate any other property.

COMPLIANCE IS REQUESTED WITHIN THREE DAYS OF THIS NOTICE

Failure to comply can result in an Administrative Citation of \$100.00 per notice of non-compliance.

INFORMATION ABOUT THIS NOTICE. This violation is a public offense which is not punishable by imprisonment. A person charged with this violation shall not be entitled to a trial by jury, shall not be entitled to have the public defender or other counsel appointed at public expense for representation unless he is arrested and not released on his written promise to appear, his own recognizance, or a deposit of bail. Except as otherwise provided by law, all provisions of law relating to misdemeanors shall apply to infractions, including but not limited to powers of peace officers, jurisdiction of courts, periods for commencing action and for bringing a case to trial and burden of proof. (*References Calif. Penal Code Sections 17, 19c, 19d.*)

Signature of Responsible Party _____

Issuing Officer: W. L. Dillard, Code Enforcement Inspector 925-372-3598

EXHIBIT "A"



EXHIBIT "B"

02/20/2013



EXHIBIT "B"

02/20/2013



BUILDING DEPARTMENT
CODE ENFORCEMENT DIVISION
CITY OF MARTINEZ (925) 372-3598

525 HENRIETTA STREET
MARTINEZ, CA 94553

COURTESY WARNING NOTICE

Date: 2/26/2013

Time:

Infraction Other

Name:

Property Owner: Kenneth & Rachel Devaney

Address:

Address: 50 Brodia Ct., Martinez, CA.

Parcel # 377-050-047

Site Address: 50 Brodia Ct., Martinez, Ca.

Date Notified 2/20/2013

Method of Delivery: Hand delivered and Mail

Code Violations:

Two flood lights at front of residence are directed at neighbor's residences.
Flood lights require electrical permit to be installed at front of residence.

Municipal Code Reference(s):

Section: 22.12.020 (I) - Protects properties from illumination. Section: 15.04.200 – Permit required.

Violation May Be Corrected By:

Flood lights at front of residence required to be removed until permit is received.

FINAL NOTICE – Failure to comply within three days will result in an Administrative Citation.

INFORMATION ABOUT THIS NOTICE. This violation is a public offense which is not punishable by imprisonment. A person charged with this violation shall not be entitled to a trial by jury, shall not be entitled to have the public defender or other counsel appointed at public expense for representation unless he is arrested and not released on his written promise to appear, his own recognizance, or a deposit of bail. Except as otherwise provided by law, all provisions of law relating to misdemeanors shall apply to infractions, including but not limited to powers of peace officers, jurisdiction of courts, periods for commencing action and for bringing a case to trial and burden of proof. (*References Calif. Penal Code Sections 17, 19c, 19d.*)

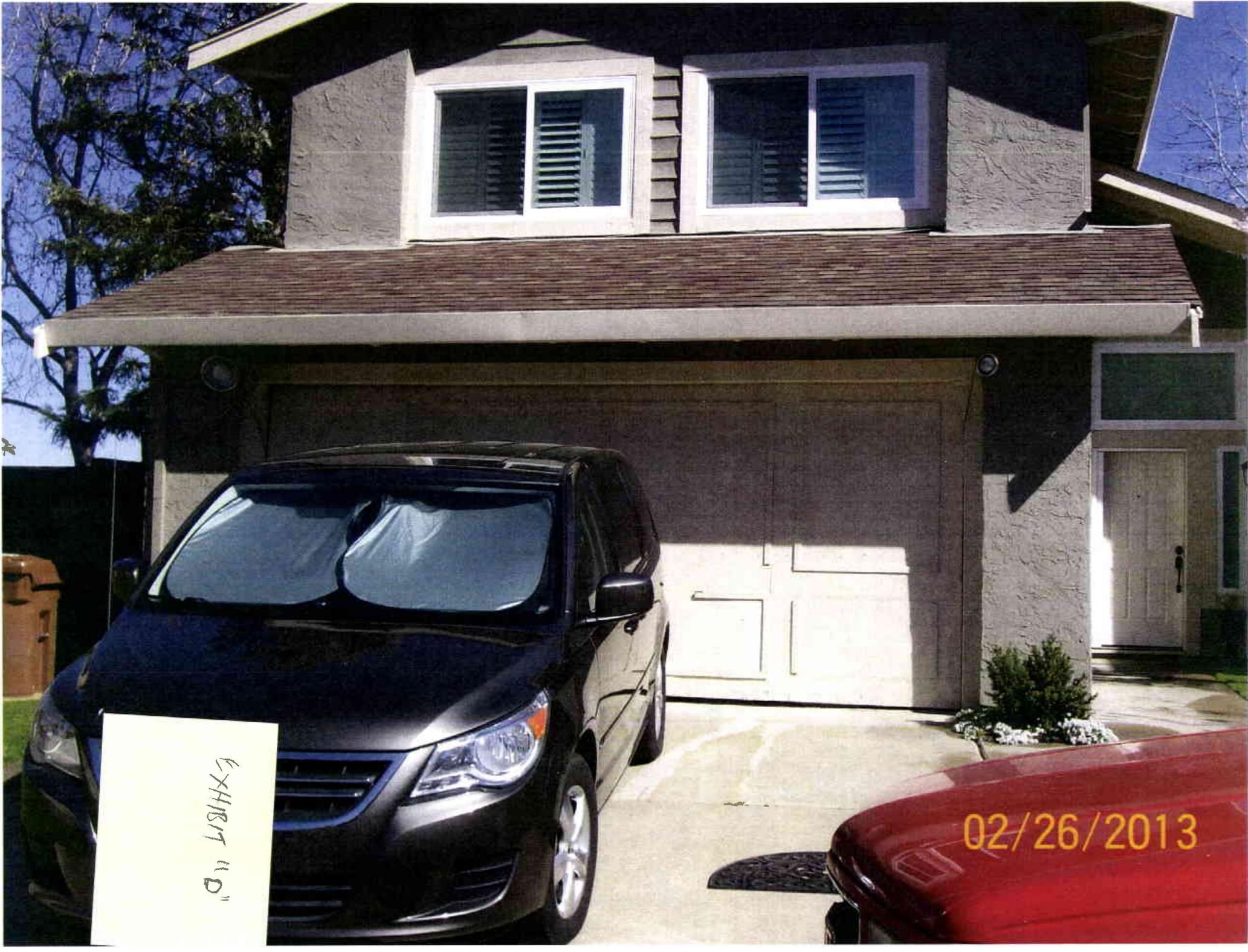
Signature of Responsible Party _____

Issuing Officer: W. L. Dillard, Code Enforcement Inspector 925-372-3598

EXHIBIT "C"

EXHIBIT "D"

02/26/2013





ADMINISTRATIVE CITATION
 City of Martinez
 Neighborhood Improvement Services

Citation # 132
 Case No. 2031043

Date of Citation 3/05/2013	Time: <input type="checkbox"/> AM <input type="checkbox"/> PM	Day of Week Tuesday
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Violation Location/Address
 50 Brodia Ct., Martinez, Ca. 94553

Citation Issued To (Owner or Business)
 Kenneth & Rachell Devaney

Address if different than violation

City	State	Zip
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Driver's License No.

You are being issued an Administrative Citation for this violation in lieu of Criminal Prosecution. Additional violations may result in Criminal Prosecution and/or additional Administrative fines.

This violation(s) was originally brought to your attention on 2/20/2013 & 2/26/2013 and you have not corrected or resolved the violation(s).

<input type="checkbox"/> 1 st VIOLATION \$100.00	Refer to the back of this citation for information on paying the amount indicated.
<input type="checkbox"/> 2 nd VIOLATION \$200.00	
<input type="checkbox"/> 3 rd VIOLATION \$500.00	

Violation Code & Section	Description of Violation(s)	Fine Amount(s)
M.M.C. 22.12.020	Flood Lights are directed at neighbor's residences.	\$100.00
C.G.B.S.C. 5.106.8 (3)	Light pollution reduction.	
FINE DUE BY: 3/18/2013	Total:	\$100.00

In addition to the fine the following corrections must be made by: 3/12/2013

Flood lights at front of residence are required to be removed until proper permit is received.

EXHIBIT "E"

Issuing Officer
 W. L. Dillard, Code Enforcement Inspector *[Signature]*

NOTE: TO AVOID ADDITIONAL CITATIONS, PLEASE COMPLY.

Questions regarding this citation, call Code Enforcement Department: 925-372-3598

APPLICATION CHECKLIST DSA-SS	MANDATORY <input checked="" type="checkbox"/>	VOLUNTARY <input checked="" type="checkbox"/>
<p>5.106.8 Light pollution reduction. Comply with lighting power requirements in the <i>California Energy Code</i>, CCR, Part 6 and design interior and exterior lighting such that zero direct-beam illumination leaves the building site. Meet or exceed exterior light levels and uniformity ratios for lighting zones 1 – 4 as defined in Chapter 10 of the <i>California Administrative Code</i>, CCR, Part 1, using the following strategies:</p> <ol style="list-style-type: none"> 1. Shield all exterior luminaires or provide cutoff luminaires per Section 132 (b) of the <i>California Energy Code</i>. 2. Contain interior lighting within each source. 3. Allow no more than .01 horizontal lumen foot candles to escape 15 feet beyond the site boundary. 4. Automatically control exterior lighting dusk to dawn to turn off or lower light levels during inactive periods. <p>Exceptions:</p> <ol style="list-style-type: none"> 1. Part 2, Chapter 12, Section 1205.6 for campus lighting requirements for parking facilities and primary walkways. 2. Emergency lighting and lighting required for nighttime security. 	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<p>A5.106.9 Building orientation. Locate and orient the building as follows:</p> <ol style="list-style-type: none"> 1. When site and location permit orient the building with the long sides facing north and south 2. Protect the building from thermal loss, drafts and degradation of the building envelope caused by wind and wind-driven materials such as dust, sand, snow and leaves with building orientation and landscape features. 		<input checked="" type="checkbox"/>
<p>A5.106.9.1 Building orientation and shading. Locate orient and shade the building as follows:</p> <ol style="list-style-type: none"> 1. Provide exterior shade for south-facing windows during the peak cooling season. In Public School and Community College buildings, shade may be provided by trees, solar shade structures or other alternate methods. 		<input checked="" type="checkbox"/>
<p>5.106.10 Grading and paving. The site shall be planned and developed to keep surface water from entering buildings. Construction plans shall indicate how site grading or a drainage system will manage all surface water flows.</p>	<input checked="" type="checkbox"/>	
<p>A5.106.11 Heat island effect. Reduce nonroof heat islands by Section A5.106.11.1 and roof heat islands by Section A5.106.11.2.</p>		<input checked="" type="checkbox"/>
<p>A5.106.11.1 Hardscape alternatives. Use one or a combination of strategies 1 through 3 for 50 percent of site hardscape or put 50 percent of parking underground.</p> <ol style="list-style-type: none"> 1. Provide shade (mature within 5 years of occupancy). In Public School and Community College buildings, solar shade structures may be used in lieu of trees to provide required shade. 2. Use light colored/ high-albedo materials. 3. Use open-grid pavement system. 		<input checked="" type="checkbox"/>
<p>A5.106.11.2 Cool roof. Use roofing materials having solar reflectance, thermal emittance or Solar Reflectance Index (SRI) equal to or greater than the values shown in: Table A5.106.11.2.1 – Tier 1 or Table A5.106.11.2.2 – Tier 2</p>		<input checked="" type="checkbox"/>
DIVISION 5.2 – ENERGY EFFICIENCY		
General		
<p>5.201.1 Scope. For the purposes of mandatory energy efficiency standards in this code, the California Energy Commission will continue to adopt mandatory building standards.</p>	<input checked="" type="checkbox"/>	
Performance Approach		
<p>A5.203.1.1 Energy efficiency – 15 percent above Title 24, Part 6. Exceed <i>California Energy Code</i> requirements, based on the 2008 Energy Efficiency Standards, by 15 percent and meet the requirements of Division A45.6.</p>		<input checked="" type="checkbox"/>
<p>A5.203.1.2 Energy efficiency – 30 percent above Title 24, Part 6. Exceed <i>California Energy Code</i> requirements, based on the 2008 Energy Efficiency Standards, by 30 percent and meet the requirements of Division A45.6.</p>		<input checked="" type="checkbox"/>
Prescriptive Approach		
<p>A5.204.1 ENERGY STAR equipment and appliances. All equipment and appliances provided by the builder shall be ENERGY STAR labeled if ENERGY STAR is applicable to that equipment or appliance.</p>		<input checked="" type="checkbox"/>
<p>A5.204.2 Energy monitoring. Provide submetering or equivalent combinations of sensor measurements and thermodynamic calculations, if appropriate, to record energy use data for each major energy system in the building, including chillers, heat pumps, packaged AC systems, fans, pumps, cooling towers, boilers and other heating systems, lighting systems and process loads. This energy use data, once collected, shall be stored within a data management system.</p>		<input checked="" type="checkbox"/>

continued

EXHIBIT "F"

BRODIA COURT APPEAL REQUEST

CITATION #132

M.M.C.22.12.020-FLOOD LIGHTS DIRECTED AT NEIGHBORS RESIDENCES

Response: Flood lights are not directed at any properties.

C.G.B.S.C.5.106.8(3)-LIGHT POLLUTION

Response: No existing code upheld by the city of Martinez, or any other Bay area Cities.

We would like to bring this matter to an appeal with our paid fine as a deposit for the appeal process.

Kenneth & Rachel DeVaney
50 Brodia Court
Martinez, CA 94553

RECEIVED
3/18/2013

EXHIBIT "G"



CITY OF MARTINEZ

525 Henrietta Street, Martinez, CA 94553-2394

Kenneth & Rachel Devaney
50 Brodia Ct.
Martinez, Ca. 94553

SUBJECT: Notice of appeal hearing, Administrative Citation #132, Case No. 13-2031043.

Dear Mr. & Mrs. Devaney

The City of Martinez is in receipt of your letter (undated) requesting an appeal hearing and your check of \$100.00 as deposit.

Per Section 1.15.090 M.M.C. - An appeal of an administrative fine imposed by this chapter shall be heard by the Hearing Examiner on April 9, 2013. The hearing will be held at City Hall (Council Chambers) at 7:00 pm.

Failure to appear at the appeal hearing will constitute the forfeiture of the administrative fine and the fine shall become a final order or decision under this Chapter.

Per Section 1.15.090 (E) - At least (10) days prior to the hearing, the recipient of an Administrative Citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the Citation Officer to the Hearing Examiner.

Sincerely,

Dave Scola
Director of Public Works
(925) 372-3628

EXHIBIT "H"