

Defendant wants \$1M in attorneys' fees from SLT

By Kathryn Reed

Both sides in a lawsuit involving the city of South Lake Tahoe and Tahoe Pines Lodge say they won. Now they each want the other to pay their respective attorneys' fees.

The property owner's attorneys are seeking more than \$1 million, citing evidence why the city should essentially be punished for how it handled the case.

"The court should award attorney fees to HF Lenders II, in care of Mr. Cobrae, in the amount of \$6,159.87, and to Mr. Cobrae on his own account in the amount of \$949,085.28. This substantial attorney fee is merited under the standards articulated, and is in the interest of justice to full incentive attorneys to litigate against the city in future attempts to illegally seize entitlements from other property owners," court documents read.

Darren Cobrae bought the property in December 2014. Between then and when the city filed the lawsuit in February 2015, 41 administrative citations were issued. The city wanted Cobrae to cleanup and fix things, some of which were the result of fire damage, but there was also water damage, mildew, illegal construction, improper doors and some rooms without deadbolts.



Tahoe Pines Lodge has had issues with upkeep and problem guests for years.
Photo/LTN

The city had issued a notification of substandard house to Sue Pebley, the prior owner, because she had run the place into the ground. It was Cobrae's intent to fix the place up – and it has been.

"Since we filed the lawsuit all those items were corrected," City Attorney Tom Watson told *Lake Tahoe News*. "Code enforcement is to apply the laws consistently on all of our properties for the protection of the people who live there."

This property is more for long-term guests instead of tourists.

The city contends it took filing the lawsuit and the attempt to get it into a receivership for the health and safety issues to be fixed.

Cyrus Sanai, lead attorney for Cobrae, told *Lake Tahoe News*, "This is a pretty extraordinary case of abuse of power by the city against a small business man."

Deputy City Attorney Nira Doherty in her opening statements earlier this year before El Dorado County Superior Court Judge Warren Stracener said the evidence a receiver should take over "comes in the declarations of the code enforcement supervisor

and building official who stated that no repairs have been made to the property up until the time of the filing of the motion and petition. ... The history of this property shows that there has been no attempt to correct any violations of this property until the receivership was filed."

Sanai believes the city did all it could to take over the property, citing how the building inspector was not allowed at one point to go to the hotel.

An email that is part of the court record from building inspector Dave Walker to Cobrae says, "You asked if I could come by and inspect your property at 966 Modesto next week but I have been instructed by legal that request cannot be accommodated."

In his deposition, Walker said it is unusual for anyone in the City Attorney's Office to tell him not to inspect a property.

Eventually, the city dropped the case – saying all the infractions had been corrected. Dropping the suit is why Sanai believes his client won.

"We were willing to let this go because our position was we got what we wanted," Watson said. That is why the city believes it won.

The case allows the winner to seek attorneys' fees. Sanai filed for them first. The enhanced amount is because of the alleged egregious nature of the suit to begin with. Once those documents were filed the city countered, saying it had won and therefore owed \$70,000 for its time involved.

A July 28 court date is scheduled before Stracener to decide the attorneys' fees matter.