



COUNTY OF HUMBOLDT

AGENDA ITEM NO.  
**K-1**

For the meeting of: **August 9, 2016**

Date: **July 13, 2016**  
To: **Board of Supervisors**  
From: **County Counsel's Office, Code Enforcement Unit**  
**Blair Angus, Assistant County Counsel**  
Subject: **Administrative Abatement Hearing**  
**Tyrone Okane-Morgan and Bruce Okane**  
**3863 D Street, Eureka, California, AP# 018-193-014**

RECOMMENDATION(S):

That the Board of Supervisors, pursuant to Humboldt County Code sections 351-21 and 351-22

- (1) Open the hearing.
- (2) Hold an administrative hearing to determine whether a public nuisance exists on the subject property.
- (3) Adopt the attached Findings of Nuisance and Order of Abatement consistent with the evidence presented at the hearing.
- (4) Close the hearing.

SOURCE OF FUNDING:

Costs to prepare this agenda item and address the nuisances described to date have been born by the General Fund. The action before your Board may result in the recovery of some or all of these costs.

Prepared by Jason Sheets and Jeff Conner CAO Approval *Cheryl Dillingham*

REVIEW: Auditor \_\_\_\_\_ County Counsel *[Signature]* Personnel \_\_\_\_\_ Risk Manager \_\_\_\_\_ Other \_\_\_\_\_

TYPE OF ITEM:  
 Consent  
 Departmental  
 Public Hearing  
 Other \_\_\_\_\_

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT**  
Upon motion of Supervisor \_\_\_\_\_  
Seconded by Supervisor \_\_\_\_\_

Ayes  
Nays  
Abstain  
Absent

**SEE ACTION SUMMARY**

PREVIOUS ACTION/REFERRAL:

Board Order No. \_\_\_\_\_

Meeting of: \_\_\_\_\_

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

**Kathy Hayes, Clerk of the Board**

DISCUSSION:

This matter is before your Board sitting as a quasi-judicial tribunal to make a finding that a nuisance does or does not exist on the property.

Humboldt County Code §351-2 defines a “nuisance” as including:

- “(a) Any condition declared by any statute of the State of California or ordinance of the County of Humboldt to be a nuisance....
- (c) Any condition, act, or failure to act, which is dangerous to human life, or unsafe or detrimental to the public health or safety.....
- (d) Any attractive nuisance which may prove dangerous to human life, or unsafe, or detrimental to the public health and safety.....
- (f) Any establishment, use or operation of buildings, land or property contrary to the provisions of the ordinances of the county.”

On January 28, 2016, the Code Enforcement Unit (CEU) received a referral from the Division of Environmental Health concerning the property at 3863 D Street in Eureka (hereinafter referred to as the Property). The referral alleged that there were violations of State Codes dealing with hazardous materials. On February 4, 2016, the CEU received an additional referral from the Planning Division alleging a violation of County Code dealing with an attractive nuisance. An inspection warrant was served on the Property on February 11, 2016. The investigation and resulting inspection confirmed that the residence on the Property had been severely damaged by an explosion related to a “honey-oil” hash lab. One room was completely destroyed with the walls knocked to the ground and there was major damage to the northern half of the house. Evidence of violations of County Code dealing with the indoor cultivation of medical marijuana for personal use as well as construction (electrical wiring) without permits were also observed. On March 3, 2016, a Notice of Nuisance was served on the owners and the document was recorded on March 9, 2016, at the Humboldt County Recorder’s Office. The Notice of Nuisance sent to the address listed in the Humboldt County Tax Collector’s database was returned as unclaimed.

The Humboldt County Drug Task Force served a search warrant on the Property and they removed all of the growing marijuana plants, technically abating the violation. The equipment used to cultivate the marijuana was removed by persons unknown after the search warrant and before the structure was secured, limiting the likelihood that the violation will continue. Concurrent with CEU’s investigation, a contractor was hired by the owner’s insurance company. The contractor removed the debris from the destroyed room including the roof, braced the north wall against collapse and secured the remains of the structure, including placing temporary fence around the perimeter of the Property.

The CEU was able to contact one of the owners, Tyrone Okane-Morgan (hereinafter referred to as the Owner). The Owner was unsure if he wanted to repair the structure, have the structure demolished or just sell the property in “as-is” condition. He claimed to be waiting for his insurance company before he could determine which course to take. The CEU has since learned that the insurance company has paid off the Owner’s claim, however, there has been no further communication with the Owner about his plans, nor has the Owner submitted an application for either a building permit or a demolition permit to the Building Division.



The CEU believes that an Order of Abatement is necessary to ensure timely corrective action of the violations. The Order of Abatement is based on the following:

1. The violation still present Property include conditions that violate both state and local law.
2. The violation is: Humboldt County Code Section 331-2, construction without permits.
3. The violation has created conditions that are unsafe and detrimental to public health and safety, and constitute a public nuisance, which should be abated.

Therefore, the CEU requests that your Board find that a nuisance exists on the subject property and order the property owner to abate the nuisance within thirty days of the service of the attached Findings of Nuisance and Order of Abatement.

FINANCIAL IMPACT:

If your Board adopts the proffered recommendations, there will not be an immediate financial impact. However, if the owners of the property do not complete the necessary actions within the time allotted by your Board, then the CEU will have the authority to abate the violations. The Code Enforcement Trust Fund is the primary source of monies for abatements conducted by the CEU. The balance of the Code Enforcement Trust Fund is currently about \$12,000. However, there are significant revenues that have not yet been credited to the fund as well as several potential expenditures on other abatements that have either been ordered by your Board or will be presented to your Board in the near future.

Today's recommended action supports the Board's Strategic Framework by enforcing laws and regulations and creating opportunities for improved health and safety.

OTHER AGENCY INVOLVEMENT:

None at this time

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Find that a public nuisance does not exist, and terminate the abatement proceeding. This alternative is not recommended as there are serious violations of State and County code on this property that are impacting the health, safety and welfare of the public including those persons occupying the property.

ATTACHMENTS:

- A. Proposed Findings and Order
- B. Exhibit Packet – to be provided no later than August 2, 2016

**BOARD OF SUPERVISORS  
COUNTY OF HUMBOLDT**  
825 FIFTH STREET  
EUREKA, CALIFORNIA 95501    PHONE (707) 445-7471

**CORRECTED FINDINGS OF NUISANCE & ORDER OF ABATEMENT**

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In Re: Abatement Hearing

Tyrone Okane-Morgan and Bruce Okane  
3863 D Street, Eureka, California; AP# 018-193-014

August 9, 2016

WHEREAS, Humboldt County Board of Supervisors (Board) considered the evidence concerning conditions on the subject property, including relevant documents, writings, codes, ordinances and oral testimony; and

WHEREAS, the Board declares that the conditions on the property are public nuisances in that the conditions are detrimental to the health, safety, comfort and general welfare of the public and persons residing in the neighborhood

***Now therefore the Board Finds:***

1. The property located at 3863 D Street, Eureka, California is located in a Residential: Single Family zone, in the unincorporated area of Eureka, Humboldt County, California, referred to as Assessor's Parcel No. 018-193-014; and

2. The staff of the Code Enforcement Unit for the County of Humboldt confirmed the existence of violations on the property; and

3. The property owners were served with a Notice of Nuisance pursuant to Humboldt County Code §351-12 &13, describing the conditions constituting the violations and ordering abatement of those conditions and that the Notice of Nuisance was posted on the property pursuant to said County Code; and

4. The property owners have had significant and reasonable time to correct all violations but have refused and/or failed to meet the deadlines prescribed by the Notice; and



5. The property owners were served with a Notice to Abate Nuisance pursuant to Humboldt County Code §351-15; to wit, the Notice to Abate Nuisance was posted on the property pursuant to said County Code and the property owners were sent a certified letter containing the Notice to Abatement Nuisance with the date and time of the hearing; and

6. The property owners have the legal responsibility for maintenance of the property, including abatement of all violations and compliance with all orders of the County; and

7. The violation still exists at the property and the property remains in violation of Humboldt County Code Section 331-28 construction without permits; and

8. The conditions on the property are public nuisances in that the conditions are detrimental to the health, safety, comfort and general welfare of the public and persons residing in the neighborhood.

*NOW, THEREFORE, IT IS HEREBY:*

**ORDERED:**

1. The forgoing findings, including the findings of conditions constituting a public nuisance on the subject property, are incorporated herein by reference and made a part hereof;
2. That the property owner abate all violations of the Humboldt County Code as described above. The property owner shall take the following actions:  

§331-28      Construction without permits  
*Corrective Actions:* a) apply for and obtain a building permit to correct the electrical wiring done without permits as well as to repair the damage from the explosion and then complete the requirements of the permit(s), or  
b) Apply for and obtain a demolition permit and complete the demolition of the structure including the proper disposal of the generated waste.
3. That the abatement of all violations be completed within 30 days of the service of these Findings of Nuisance and Order of Abatement, including a final inspection by the Code Enforcement Unit;

Findings of Nuisance and  
Order of Abatement  
August 9, 2016  
Page 3

4. That the Code Enforcement Unit is directed to take all necessary steps to assure the abatement is completed as ordered. If the property owner fails to comply with this order the Code Enforcement Unit shall be empowered and authorized to abate said nuisance and shall return to the Board for authorization for a transfer of funds to abate such nuisance, and that the costs of abatement shall become a lien on the subject property.

Dated: 8/9/16



\_\_\_\_\_  
Chair, Humboldt County Board of Supervisors





**CODE ENFORCEMENT UNIT**  
**COUNTY OF HUMBOLDT**  
825 Fifth Street, Eureka, California 95501  
Telephone (707) 476-2429 -- Telecopier (707) 445-6297

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In Re: ADMINISTRATIVE ABATEMENT HEARING

Case No. 16CEU-5

COUNTY v. TYRONE OKANE-MORGAN & BRUCE OKANE

A.P. No. 018-193-022

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August 9, 2016  
1:30 p.m.

**EXHIBIT PACKET**

The following exhibits are submitted on behalf of the Code Enforcement Unit in the above-referenced matter:

EXHIBIT A-- Location maps (2 pages)

EXHIBIT B-- Quitclaim Deed (2 pages)

EXHIBIT C-- Notice of Nuisance dated February 26, 2016 with Proof of Service (7 pages)

EXHIBIT D – Notice to Abate Nuisance dated July, 7, 2016 with Proof of Service (4 pages)

EXHIBIT E- Copies of relevant sections of Humboldt County Code [§§ 331-11, 331-2, and 314-55.1] (17 pages)

EXHIBIT F –Photographs of subject property; January 27, 2016 (2 Pages)

EXHIBIT G- Photographs of subject property; February 11, 2016 (4 pages)

EXHIBIT H- Phonographs of subject property; February 13, 2016 (1 page)

EXHIBIT I- Photographs of subject property; February 19, 2016 (1 page)

Dated:

CODE ENFORCEMENT UNIT

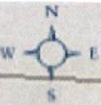
  
\_\_\_\_\_  
Jason Sheets  
Deputy County Counsel

Administrative Abatement Hearing, County v. Tyrone Okane-Morgan & Bruce Okane  
A.P. No. 018-193-022

**EXHIBIT "A"**

Location Maps





WILLOW ST

01819439

01819440

01819310

01819301

01819210

01819201

01819436

01819435

01819318

01819302

01819211

01819202

City of Eureka

01819321

01819303

01819212

01819203

01819437

01819320

01819304

01819213

01819204

D ST

01819312

01819305

E ST

01819214

01819205

01819441

01819313

01819306

01819215

01819206

01819443

01819421

01819314

01819307

01819216

01819207

01819442

01819422

01819316

01819308

01819217

01819208

01819444

01819317

01819309

01819218

01819209

SILVER TIP LN

OAK ST

000002







Administrative Abatement Hearing, County v. Tyrone Okane-Morgan & Bruce Okane  
A.P. No. 018-193-022

**EXHIBIT "B"**

Quitclaim Deed

000004

2007-35141-2

Recorded — Official Records  
Humboldt County, California  
Carolyn Crnich, Recorder

Recorded by MCLENDON & ANDERSON INC  
Rec Fee 10.00  
No PCOR 20.00  
Clerk: LH Total: 30.00  
Nov 30, 2007 at 13:33

Recording Requested By:

McCLENDON & ANDERSON, INC.

Mall Tax Statement To and  
When Recorded Return To:

BRUCE FRANK O'KANE  
3334 I STREET  
EUREKA, CA 95501

**QUITCLAIM DEED**

*Transfer between Parent + Child from Trust*

Documentary Transfer Tax \$ 0 Value Less Than \$500 Gift  
Computed on full value of property conveyed \_\_\_\_\_, or computed on full value less liens and encumbrances remaining at time of sale \_\_\_\_\_  
A.P. No: 701-330-011

**FOR NO CONSIDERATION:**

TARYN THEREZE O'KANE, Successor Trustee of the DAWN A. STAUP TRUST, UDT October 29, 2003,

**HEREBY REMISES, RELEASES AND FOREVER QUITCLAIMS TO:**

BRUCE FRANK O'KANE, a single man,

Humboldt

the following described property in the County of ~~Sutter~~ State of California:

**See Exhibit "A" attached hereto and incorporated herein by reference.**

Dated: November 6, 2007

*Taryn Thereze O'Kane*  
\_\_\_\_\_  
TARYN THEREZE O'KANE  
Successor Trustee

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF HUMBOLDT )

On November 6, 2007, before me, Leslie Ames, Notary Public, personally appeared TARYN THEREZE O'KANE, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity and that by her signature on the instrument the person or entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

*Leslie Ames*  
\_\_\_\_\_  
Signature of Notary Public



①

000005



**EXHIBIT "A"**

The following described property in the City of Eureka, County of Humboldt, State of California, more particularly described as follows:

Lot 14 in the subdivision of Block 41 in the Russ Claim Addition to the City of Eureka as per map recorded in Book 4, Page 6 of Maps, in the Office of the County Recorder of Humboldt County, California.

A.P.N. 018-193-014

2007-35141-2

(3)

000006

Administrative Abatement Hearing, County v. Tyrone Okane-Morgan & Bruce Okane  
A.P. No. 018-193-022

**EXHIBIT "C"**

Notice of Nuisance

000007





Recording Requested By & For Benefit Of:  
**COUNTY OF HUMBOLDT**  
When Recorded, Mail To:  
**CODE ENFORCEMENT UNIT**  
Courthouse Bldg., 825 Fifth Street  
Eureka, California 95501  
707.476.2429

Exempt From Fees Per Gov't C. § 27383

**2016-004516**

Recorded - Official Records  
Humboldt County, California  
Kelly E. Sanders, Recorder  
Recorded by: HUMBOLDT CO CODE ENFORCEMENT

Pages: 7

Recording Fee: \$ 0.00  
Tax Fee: \$0  
Clerk: in Total: \$0.00  
Mar 09, 2016 at 02:53:38

\*\*\* CONFORMED COPY \*\*\*

## NOTICE OF NUISANCE

Owner: Tyrone Okane- Morgan & Bruce. F. Okane  
Address of Subject Premises 3863 D Street Eureka, CA 95503-602 A.P. # 018-193-014

**NOTICE IS HEREBY GIVEN** that conditions described on "Attachment A" exist on premises situate in the County of Humboldt, State of California, as described on Attachment "B", which are in violation of state law and the Humboldt County Code. These conditions exist to an extent that endanger the life, limb, health, property, safety or welfare of the public and, as such, constitute a "nuisance". Therefore,

**YOU ARE HEREBY ORDERED** to **immediately abate** said nuisance. Failure to immediately abate said nuisance may result in:

- **Imposition of an administrative penalty.** The Code Enforcement Unit may impose an administrative penalty upon you, in which event you may be liable for a monetary penalty of between \$250 to \$10,000 per violation, for each and every day the violation exists. In that case, the penalty shall be made a special assessment against the premises, shall become a lien upon the property and may be collected at the same time and in the same manner as is provided for the collection of ordinary county taxes and, further, shall be subject to the same interest and the same procedure of foreclosure and sale in the case of delinquency as is provided for in ordinary county taxes, and/or it may be collected as a personal obligation against you; and/or

- **Commencement on an abatement proceeding before the County Board of Supervisors.** If corrective action is not undertaken and diligently pursued to abate the nuisance within thirty (30) days from service on you of this Notice of Nuisance, then the Code Enforcement Unit may apply to the Board of Supervisors of Humboldt County for an order to abate the nuisance. In the event the Code Enforcement Unit applies to the Board of Supervisors for an order to abate the nuisance, the cost of such abatement may become a charge against the premises and in that event may be made a special assessment against the premises which may be collected at the same time and in the same manner as is provided for the collection of ordinary county taxes and may be subject to the same penalties and interest, under the same procedure of foreclosure and sale, in the case of delinquency, as is provided for in ordinary county taxes; and/or

- **Commencement of a civil action.** In the event the Code Enforcement Unit commences a civil action for injunctive relief and to abate the nuisance, you may be liable for monetary damages including the costs of abatement, civil fines and penalties, as well as for court costs and attorney's fees.

**Please be advised** ~ Violation of Humboldt County Code is a misdemeanor, punishable by imprisonment in the County Jail for a term not exceeding six (6) months, or a fine up to \$1,000, or both such fine and imprisonment, for each day of a violation.

Dated: 2/26/16

  
\_\_\_\_\_  
Jason Sheets  
Deputy County Counsel

A.P. No: 018-193-014 File No: 16CEU-5

000008



## "Attachment A"

Code Section	Nature of Violation	Corrective action required
<input type="checkbox"/> § 311-10.1	Building/property use or operation in violation of zoning code	Apply for permits from Planning & Building Dept.
<input type="checkbox"/> § 312-3	Development within coastal zone without permit(s)	Cease use and/or development & apply for permits
<input type="checkbox"/> § 314-45.1	Cottage industry violation	Apply for/obtain permits from Planning Dept. or cease use
<input type="checkbox"/> § 314-81.1	Use of mobile homes or trailers as place of habitation	Disconnect utilities and cease use as residence
<input type="checkbox"/> § 314-87.1	Secondary dwelling unit without permits	Apply for/obtain permits from Planning & Building Dept.
<input checked="" type="checkbox"/> § 331-11	Building conditions endanger life, health, safety or welfare of public [H&S§17920.3]	Apply for permit for repair, securement or demolition
<input type="checkbox"/> § 331-11.5	Non-approved water supply system	Apply for permits for system or removal
<input type="checkbox"/> § 331-14	Grading without permits	Apply for and obtain permits
<input checked="" type="checkbox"/> § 331-2	Construction of building/structure in violation of building, plumbing and/or electrical codes	Apply for and obtain permits
<input type="checkbox"/> § 352-26	Junk vehicles	a) Restore vehicle(s) to operative condition, and/or b) Remove inoperable vehicles, and/or c) Store inoperable vehicles within enclosed structure
<input type="checkbox"/> § 371--2	Maintaining a junkyard	a) Contain all debris within 200 square-foot area, and/or b) Contain all debris within an enclosed structure, and/or c) Remove all debris
<input type="checkbox"/> § 511-1	Failure to obtain permit for food establishment	Apply for and obtain permit
<input type="checkbox"/> § 521-4	Storage & removal of solid waste	Contain & dispose of all solid waste properly
<input type="checkbox"/> § 521-10	Improper disposal of solid waste	Properly remove solid waste. No burning or burying of solid waste.
<input type="checkbox"/> § 611-3	Unapproved sewage disposal system	Apply for & receive permit from Environmental Health Department for sewage disposal system
<input checked="" type="checkbox"/> § 314-55.1	Indoor Medical Marijuana Ordinance	Maintain growing area of indoor medical marijuana to 50 square feet or less.

Remarks:

A.P. No. 018-193-014

000009



"Attachment B"

The following described property in the City of Eureka, County of Humboldt, State of California, more particularly described as follows:

Lot 14 in the subdivision of Block 41 in the Russ Claim Addition to the City of Eureka as per map recorded in Book 4, Page 6 of Maps, in the Office of the County Recorder of Humboldt County, California.

A.P.N. 018-193-014

PROOF OF SERVICE

STATE OF CALIFORNIA    )  
  ) ss.  
COUNTY OF HUMBOLDT    )

I, LACY MITCHELL, say:

I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, Eureka, California; that on March 1, 2016, I served a true copy NOTICE OF NUISANCE; NOTICE OF INTENT TO RECOVER COSTS

XX by placing a true copy of the aforementioned document in a sealed envelope individually addressed to each of the parties and caused each such envelope to be deposited with the U.S. Postal Service and/or picked up by an authorized representative, on that same day with fees fully prepaid at Eureka, California, in the ordinary course of business as set forth below: ( Certified Mail )

**Tyrone Okane-Morgan and Bruce Okane  
Post Office Box 20223  
Riverside, California 92516**

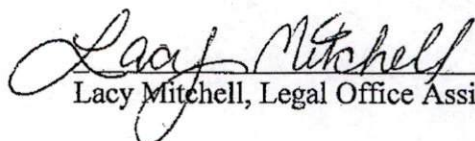
\_\_\_\_\_ by personally delivering a true copy thereof to the person as forth below.

\_\_\_\_\_ by placing a true copy thereof in the designated place at Court Operations to the attorney/parties named below.

\_\_\_\_\_ by fax

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 1<sup>st</sup> day of March, 2016, at the City of Eureka, County of Humboldt, State of California.

  
\_\_\_\_\_  
Lacy Mitchell, Legal Office Assistant



PROOF OF SERVICE

STATE OF CALIFORNIA    )  
  ) ss.  
COUNTY OF HUMBOLDT    )

I, LACY MITCHELL, say:

I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, Eureka, California; that on March 1, 2016, I served a true copy **NOTICE OF NUISANCE; NOTICE OF INTENT TO RECOVER COSTS**

XX by placing a true copy of the aforementioned document in a sealed envelope individually addressed to each of the parties and caused each such envelope to be deposited with the U.S. Postal Service and/or picked up by an authorized representative, on that same day with fees fully prepaid at Eureka, California, in the ordinary course of business as set forth below: ( Certified Mail )

**Tyrone Okane-Morgan and Bruce Okane  
Post Office Box 8023  
Lancaster, California 93539**

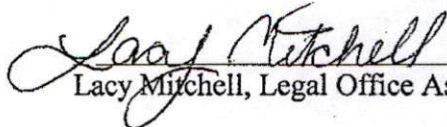
\_\_\_\_\_ by personally delivering a true copy thereof to the person as forth below.

\_\_\_\_\_ by placing a true copy thereof in the designated place at Court Operations to the attorney/parties named below.

\_\_\_\_\_ by fax

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 1<sup>st</sup> day of March, 2016, at the City of Eureka, County of Humboldt, State of California.

  
\_\_\_\_\_  
Lacy Mitchell, Legal Office Assistant



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>CODE ENFORCEMENT UNIT</b> <b>COUNTY OF HUMBOLDT</b> <b>825 FIFTH STREET, ROOM 110</b> <b>EUREKA, CA 95501</b> TELEPHONE NO.: (707) 476-2429      FAX NO. (Optional): (707) 445-6297 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: <b>CODE ENFORCEMENT UNIT</b> DEFENDANT/RESPONDENT: <b>TYRONE OKANE - MORGAN &amp; BRUCE OKANE</b>	CASE NUMBER:
<b>PROOF OF SERVICE OF SUMMONS</b>	Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
  - a.  summons
  - b.  complaint
  - c.  Alternative Dispute Resolution (ADR) package
  - d.  Civil Case Cover Sheet (served in complex cases only)
  - e.  cross-complaint
  - f.  other (specify documents): **NOTICE OF NUISANCE**
3. a. Party served (specify name of party as shown on documents served):  
**TYRONE OKANE - MORGAN & BRUCE OKANE**
  - b. Person served:  party in item 3a       other (specify name and relationship to the party named in item 3a):
4. Address where the party was served:  
**3863 D STREET, EUREKA**
5. I served the party (check proper box)
  - a.  by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): \_\_\_\_\_ (2) at (time): \_\_\_\_\_
  - b.  by substituted service. On (date): \_\_\_\_\_ at (time): \_\_\_\_\_ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3b): \_\_\_\_\_
    - (1)  (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - (2)  (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - (3)  (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
    - (4)  I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): \_\_\_\_\_ from (city): \_\_\_\_\_ or  a declaration of mailing is attached.
    - (5)  I attach a declaration of diligence stating actions taken first to attempt personal service.



PLAINTIFF/PETITIONER: CODE ENFORCEMENT UNIT

CASE NUMBER:

DEFENDANT/RESPONDENT:

OLANE & OKANE

- c.  by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3)  with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4)  to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

d.  by other means (specify means of service and authorizing code section):

POSTED PROPERTY 2/3/2016 1410 HOURS

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a.  as an individual defendant.
- b.  as the person sued under the fictitious name of (specify):
- c.  as occupant.
- d.  On behalf of (specify):

under the following Code of Civil Procedure section:

- |   |   |
|---|---|
| <input type="checkbox"/> 416.10 (corporation)                     | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation)             | <input type="checkbox"/> 416.60 (minor)                               |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee)                 |
| <input type="checkbox"/> 416.40 (association or partnership)      | <input type="checkbox"/> 416.90 (authorized person)                   |
| <input type="checkbox"/> 416.50 (public entity)                   | <input type="checkbox"/> 415.46 (occupant)                            |
|   | <input type="checkbox"/> other:                                       |

7. Person who served papers

- a. Name: Jeff Conner
- b. Address: 825 Fifth Street
- c. Telephone number: 476-2429
- d. The fee for service was: \$ 0.00

e. I am:

- (1)  not a registered California process server.
- (2)  exempt from registration under Business and Professions Code section 22350(b).
- (3)  registered California process server:
- (i)  owner  employee  independent contractor.
- (ii) Registration No.:
- (iii) County:

8.  I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9.  I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 3/7/2016

Jeff Conner

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

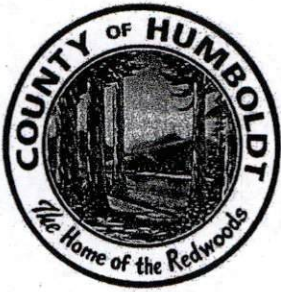
(SIGNATURE)

Administrative Abatement Hearing, County v. Tyrone Okane-Morgan & Bruce Okane  
A.P. No. 018-193-022

**EXHIBIT "D"**

Notice to Abate Nuisance





Recording Requested By & For Benefit Of:  
**COUNTY OF HUMBOLDT**

When Recorded, Mail To:  
**CODE ENFORCEMENT UNIT**  
Courthouse Bldg., 825 Fifth Street  
Eureka, California 95501  
(707) 476-2429

# NOTICE TO ABATE NUISANCE

[Humboldt County Code § 351-12]

Address of Premises: 3863 D Street, Eureka, California ;  
AP# 018-193-014

To: Tyrone Okane-Morgan and Bruce Okane

NOTICE IS HEREBY GIVEN TO APPEAR before the Board of Supervisors of the County of Humboldt, on August 9, 2016, at the hour of 1:30 p.m., or as soon thereafter as the matter can be heard, in the Supervisor's Chambers, located at 825 5th Street, Eureka, California,

TO SHOW CAUSE, if any there be, why such conditions listed on "Attachment A" should not be condemned as a nuisance and why such nuisance should not be abated by the undersigned enforcement official.

[Continued on next page]

000016

Notice to Abate Nuisance

Page Two

At the time and place specified in this notice, the Board shall proceed to hear the testimony of the undersigned enforcement official, his/her assistants or deputies, the testimony of the owner or his/her representatives, and the testimony of other competent persons concerning the conditions constituting such nuisance, the estimated cost of abatement, and other matters which the Board may deem pertinent.

You may appear at the hearing with an attorney or other representative, call and cross-examine witnesses and present evidence on your behalf.

Upon the conclusion of the hearing, the Board may terminate the abatement proceedings, or it may order you to abate the nuisance, prescribing the requirements of such abatement and prescribing a reasonable time, not less than thirty (30) days, for the completion of such abatement.

Such order may further provide that, in the event such abatement is not commenced, prosecuted and completed within the terms set by the Board, the undersigned enforcement official shall be empowered and authorized to abate said nuisance. Upon the expiration of the time limits set by the Board, the undersigned enforcement official shall abate said nuisance. The materials contained in any nuisance abated by the enforcement official may be sold in the same manner as surplus County personal property is sold, and the proceeds from such sale shall be paid to the County into a revolving fund.

The order may further provide that the cost of such abatement shall become a charge against the premises and shall be made a special assessment against the premises; and that said special assessment may be collected at the same time and in the same manner as is provided for the collection of ordinary county taxes and shall be subject to the same penalties, interest, under the same procedure of foreclosure and sale in the case of delinquency as is provided for in ordinary county taxes.

Dated: July 11, 2016



Jason Sheets  
Deputy County Counsel



## "Attachment A"

Code Section	Nature of Violation	Corrective action required
<input type="checkbox"/> § 311-10.1	Building/property use or operation in violation of zoning code	Apply for permits from Planning & Building Dept.
<input type="checkbox"/> § 312-3	Development within coastal zone without permit(s)	Cease use and/or development & apply for permits
<input type="checkbox"/> § 314-45.1	Cottage industry violation	Apply for/obtain permits from Planning Dept. or cease use
<input type="checkbox"/> § 314-81.1	Use of mobile homes or trailers as place of habitation	Disconnect utilities and cease use as residence
<input type="checkbox"/> § 314-87.1	Secondary dwelling unit without permits	Apply for/obtain permits from Planning & Building Dept.
<input checked="" type="checkbox"/> § 331-11	Building conditions endanger life, health, safety or welfare of public [H&S§17920.3]	Apply for permit for repair, securement or demolition
<input type="checkbox"/> § 331-11.5	Non-approved water supply system	Apply for permits for system or removal
<input type="checkbox"/> § 331-14	Grading without permits	Apply for and obtain permits
<input checked="" type="checkbox"/> § 331-2	Construction of building/structure in violation of building, plumbing and/or electrical codes	Apply for and obtain permits
<input type="checkbox"/> § 352-26	Junk vehicles	a) Restore vehicle(s) to operative condition, and/or b) Remove inoperable vehicles, and/or c) Store inoperable vehicles within enclosed structure
<input type="checkbox"/> § 371--2	Maintaining a junkyard	a) Contain all debris within 200 square-foot area, and/or b) Contain all debris within an enclosed structure, and/or c) Remove all debris
<input type="checkbox"/> § 511-1	Failure to obtain permit for food establishment	Apply for and obtain permit
<input type="checkbox"/> § 521-4	Storage & removal of solid waste	Contain & dispose of all solid waste properly
<input type="checkbox"/> § 521-10	Improper disposal of solid waste	Properly remove solid waste. No burning or burying of solid waste.
<input type="checkbox"/> § 611-3	Unapproved sewage disposal system	Apply for & receive permit from Environmental Health Department for sewage disposal system
<input checked="" type="checkbox"/> § 314-55.1	Indoor Medical Marijuana Ordinance	Maintain growing area of indoor medical marijuana to 50 square feet or less.

Remarks:



**PROOF OF SERVICE**

STATE OF CALIFORNIA    )  
  ) ss.  
COUNTY OF HUMBOLDT    )

I, LACY MITCHELL, say:

I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, Eureka, California; that on July 14, 2016, I served a true copy **NOTICE TO ABATE NUISANCE:**

XX by placing a true copy of the aforementioned document in a sealed envelope individually addressed to each of the parties and caused each such envelope to be deposited with the U.S. Postal Service and/or picked up by an authorized representative, on that same day with fees fully prepaid at Eureka, California, in the ordinary course of business as set forth below: ( Certified Mail )

**Tyrone Okane-Morgan & Bruce Okane**  
**P.O. Box 8023**  
**Lancaster, CA 93539**

**Tyrone Okane-Morgan & Bruce Okane**  
**P.O. Box 20223**  
**Riverside, CA 92516**

\_\_\_\_\_ by personally delivering a true copy thereof to the person as forth below.

\_\_\_\_\_ by placing a true copy thereof in the designated place at Court Operations to the attorney/parties named below.

\_\_\_\_\_ by fax

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 14th day of July, 2016, at the City of Eureka, County of Humboldt, State of California.

  
\_\_\_\_\_  
Lacy Mitchell, Legal Office Assistant



Administrative Abatement Hearing, County v. Tyrone Okane-Morgan & Bruce Okane  
A.P. No. 018-193-022  
**EXHIBIT "E"**  
Humboldt County Code Sections

**Humboldt County Code § 331-11**

**[Building conditions endanger life, health, safety  
or welfare of public]**



(d) Municipality, City, City Limits, Political Jurisdiction. "Municipality," "city limits" and "political jurisdiction" mean the County.

(e) City Council, Mayor. "City council" and "mayor" mean the Board of Supervisors.

(f) City Treasury. "City treasury" means the County Treasury.

(g) County Engineer. "County engineer" means the Director of the Department of Public Works or duly registered designee. (Ord. 2275, § 1, 05/28/2002)

(h) Board of Appeals, Board of Plumber Examiners. "Board of appeals" and "board of plumber examiners" mean the Humboldt County Building Appeals Board. (Ord. 777 § 5, 7/13/71; Ord. 2275, § 1, 05/28/2002)

**331-11. INCORPORATION OF UNIFORM CODES BY REFERENCE.**

Each of the following compilations, except as modified hereinafter, are hereby designated and adopted by reference as a part of this chapter with the same force and effect as if they were set out in full herein:

(a) California Building Code and Building Code Standards. (Ord. 2275, § 1, 05/28/2002)

1998 California Building Code, Volumes 1, 2, and 3, based on the 1997 UBC™, California Building Standards Commission and their respective successor provisions. (Ord. 2275, § 1, 05/28/2002)

(1) The following provisions of the California Building Code relating to administration are deleted: (Ord. 2275, § 1, 05/28/2002)

Sections 103, 104.1, 104.2.1, and 104.2.2 (Ord. 2275, § 1, 05/28/2002)

(2) Section 105, relating to administration, of the California Building Code is amended to read as follows: (Ord. 2275, § 1, 05/28/2002)

Section 105. BOARD OF APPEALS. (Ord. 2275, § 1, 05/28/2002)

Section 105.1. GENERAL. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals consisting of the members of the Planning Commission and who are not employees of the jurisdiction. The Building Official shall be ex officio member of and shall act as secretary to said board, but shall have no vote on any matter before the board. The board shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official. (Ord. 2275, § 1, 05/28/2002)

Section 105.2. Limitations of Authority. The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code. In addition, the board is limited to appeals filed pursuant to: (Ord. 2275, § 1, 05/28/2002)

1. Section 110. Administrative, California Mechanical Code
2. Section 203. Enforcement, Uniform Housing Code
3. Section 103.3. Title, Scope and Enforcement, Uniform Sign Code
4. Section 207. Enforcement and Permits, California Code for Building Conservation (Ord. 2275, § 1, 05/28/2002)



(3) Appendix 33, Grading and Excavation is found as Section 331-12 of the Humboldt County Code. (Ord. 2275, § 1, 05/28/2002)

(4) Section 106.2., Work Exempt from Permit, of the California Building Code relating to administrative is amended to read as follows: (Ord. 2275, § 1, 05/28/2002)

Section 106.2. PERMITS REQUIRED - EXCEPTIONS. No person, firm or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure in the County or cause the same to be done without first obtaining a separate building permit for each such building or structure from the Building Official except the following: (Ord. 2275, § 1, 05/28/2002)

1. Fences up to six feet (6') (1.8 m) and freestanding masonry walls up to forty-eight inches (48") (1.2 m) in height. (Ord. 2275, § 1, 05/28/2002)

2. Curbs, retaining walls and planter boxes that are not over 4 feet (1.2 m) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids. (Ord. 2275, § 1, 05/28/2002)

3. One-story detached accessory buildings used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet (11.15 m<sup>2</sup>). (Ord. 2275, § 1, 05/28/2002)

4. Television and radio antennas supported on roofs of Group R, Division 3 and Group U occupancies. (Ord. 2275, § 1, 05/28/2002)

5. Window awnings supported by an exterior wall of Group R, Division 3, and Group U occupancies when projecting not more than 54 inches (1.3 m). (Ord. 2275, § 1, 05/28/2002)

6. Repairs which involve only the replacement of component parts of existing work with similar materials for the purpose of maintenance, and which do not aggregate over One Hundred Dollars (\$100.00) in valuation in any twelve (12) month period and do not affect any electrical, plumbing, or mechanical installations. Repairs exempt from permit requirements shall not include any addition, change or modification in construction, exit facilities or permanent fixtures or equipment. (Ord. 2275, § 1, 05/28/2002)

7. Specifically, excepted from permit requirements without limit to valuation are: (Ord. 2275, § 1, 05/28/2002)

a. Decorating. (Ord. 2275, § 1, 05/28/2002)

b. Painting, papering and similar finish work. (Ord. 2275, § 1, 05/28/2002)

c. Installation of floor covering. (Ord. 2275, § 1, 05/28/2002)

d. Cabinet work. (Ord. 2275, § 1, 05/28/2002)

e. Moveable cases, counters and partitions not over 5 feet 9 inches (1.7 m) high. (Ord. 2275, § 1, 05/28/2002)

This section shall not be construed to require separate building permits for a dwelling and accessory buildings or structures on the same property which are described in the building permit application, plot plan and other drawings.



8. Agricultural buildings, other than milking barns, not intended for the use of the general public, on lands zoned Agriculture Exclusive, Agriculture General, or Timberland Production, or on lands shown by the General Plan as Agricultural and zoned Unclassified or on any other land zoned to permit agricultural uses as a principal use. The Chief Building Inspector shall issue an exemption upon confirming that the subject parcel is so zoned, and that all set-backs or other requirements will be observed.

Agricultural buildings are defined by Section 202-A of the Uniform Building Code as "a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged; nor shall it be a place used by the public." (Ord. 2275, § 1, 05/28/2002)

9. Detached patio covers which are less than 120 square feet in size and which are at least six feet (6') from any other structure. (Ord. 1101, § 1, 9/14/76; Ord. 1353, § 1, 9/18/79; Ord. 1876, § 16, 9/26/89; Ord. 2275, § 1, 05/28/2002)

10. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18927 L) and the ratio of height to diameter or width does not exceed 2:1. (Ord. 2275, § 1, 05/28/2002)

11. Platform and walks not more than 30 inches (762 mm) above grade and not over any basement or story below. (Ord. 2275, § 1, 05/28/2002)

12. Prefabricated swimming pools accessory to a Group R, Division 3 occupancy in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed 5,000 gallons (18927 L). (Ord. 2275, § 1, 05/28/2002)

(5) Any building or structure exempt from a building permit pursuant to subsection (4) above shall comply with all applicable zoning requirements, including setbacks, height, lot coverage, and permitted uses. (Ord. 2275, § 1, 05/28/2002)

(6) Section 3303, Protection of Pedestrians during Construction or Demolition. The following paragraph is added as the last paragraph of Section 3303.1, General, of the Building Code: (Ord. 2275, § 1, 05/28/2002)

ENCROACHMENT PERMITS. Pursuant to Chapter 1, Division 1, of Title 4 (commencing with Section 411-1) of the Cod of Humboldt County, an encroachment permit must be obtained prior to performing work in or placing materials on a County right of way. (Ord. 1101 § 4, 9/14/76; Ord. 2275, § 1, 05/28/2002)

(b) California Mechanical Code. (Ord. 2275, § 1, 05/28/2002)

1998 California Mechanical Code, based on the 1997 UMC™

(1) The following sections, subsections, and paragraphs of the California Mechanical Code relating to administration are deleted:

Section 108.1, General, and Section 108.2, Deputies (Ord. 2275, § 1, 05/28/2002)



(c) California Plumbing Code. (Ord. 2275, § 1, 05/28/2002)

1998 California Plumbing Code, based on the 1997 UPC™

(1) The following provisions are hereby deleted from the Uniform Plumbing Code which has been incorporated by reference herein-above: (Ord. 2275, § 1, 05/28/2002)

Sections 308.1, 312.0, Part II - Building Sewers, Sections 713 - 716, 718, 719, and 721 - 723. (Ord. 2275, § 1, 05/28/2002)

Building sewers shall comply with the County's water and sewer regulations. (Ord. 2275, § 1, 05/28/2002)

(d) California Electrical Code. (Ord. 2275, § 1, 05/28/2002)

1998 California Electrical Code, based on 1996 National Electrical Code®

(e) Uniform Housing Code. (Ord. 2275, § 1, 05/28/2002)

Uniform Housing Code, 1997 Edition, adopted and published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601. (Ord. 1101, § 1, 9/14/76; Ord. 2275, § 1, 05/28/2002)

(1) The following provisions of the Uniform Housing Code relating to enforcement are deleted: (Ord. 2275, § 1, 05/28/2002)

Sections 201.1, Authority. (Ord. 2275, § 1, 05/28/2002)

(2) Section 202 relating to the enforcement of the Uniform Housing Code is amended to read as follows: (Ord. 2275, § 1, 05/28/2002)

Section 202. SUBSTANDARD BUILDINGS. All buildings or portions thereof which are determined to be substandard as defined in this Code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures provided in Section H-1101 et seq. of this Code or as otherwise provided by law. (Ord. 1101 § 4, 9/14/76)

(f) Uniform Sign Code.

Uniform Sign Code (including the appendices thereto), 1997 Edition, adopted and published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601. (Ord. 1101, § 1, 9/14/76; Ord. 2275, § 1, 05/28/2002)

(1) The following provisions of the Uniform Sign Code are deleted:  
Sections 103.1, Authority. (Ord. 2275, § 1, 05/28/2002)

(g) California Building Conservation Code. (Ord. 2275, § 1, 05/28/2002)

1998 California Code for Building Construction, based on the 1997 UCBC™, California Building Standards Commission. (Ord. 2275, § 1, 05/28/2002)

(h) Historical Building Code. (Ord. 2275, § 1, 05/28/2002)

1998 California Historical Building Code, California Building Standards Commission. (Ord. 2275, § 1, 05/28/2002)

(i) Emergency Code 1998 Energy Code, California Building Standards Commission (Ord. 2275, § 1, 05/28/2002)



- (j) For all of the above cited codes, it is intended that the references include all of their respective successor provisions. (Ord. 2275, § 1, 05/28/2002)

**331-11.5 WATER SUPPLY REQUIREMENTS.**

(a) An applicant for a building permit must provide proof acceptable to the Chief Building Inspector and Health Department that each dwelling unit will be served by an individual water supply which will supply at least 720 gallons of potable water per day or by a public water supply which conforms to the requirements of the State of California Waterworks Standards (22 California Administrative Code § 64551 et seq.). (Ord. 2275, § 1, 05/28/2002)

(b) A "individual water supply" is a water system not required to conform with the California Safe Drinking Water Act (Health and Safety Code § 4010 et seq.).

(c) If the available water is not potable, the plans provided shall include the equipment needed to make the water potable.

(d) Violation of this section alone is not sufficient grounds for a building code abatement proceeding. (Ord. 1518, § 1, 3/30/82)

Humboldt County Code 331-28

[Construction of building/structure in violation of  
Building, Plumbing and/or Electrical Codes]



**331-25. PERSON MAY DO OWN WORK.**

Nothing in this chapter shall be construed as prohibiting any person from doing his/her own work or from employing any person to work on a building or structure to which the provisions of this chapter apply. (Ord. 777, § 9, 9/13/71)

**331-26. RECORDS.**

It shall be the duty of the Chief Building Inspector to keep a permanent record of all pertinent transactions under this chapter and to render a monthly report to the Board of Supervisors concerning such transactions. All fees collected by the Chief Building Inspector shall be turned over to the County Treasurer and placed in the general fund. The Auditor-Controller shall specify the method to be used in the handling of and accounting for said receipts. The Chief Building Inspector shall transmit to the County Assessor copies of all applications for building permits and copies of all completion reports pertaining to building permits. (Ord. 777, § 10, 7/13/71)

**331-27. LIABILITY.**

This chapter shall not be construed as imposing upon the County or upon any of its officers or employees any liability or responsibility for injury or damage resulting from any building, plumbing, electrical, heating, comfort-cooling or sign work approved or performed pursuant to this chapter or by reason of any inspection performed hereunder. (Ord. 777, § 11, 7/13/71)

**331-28. VIOLATIONS CONSTITUTING A PUBLIC NUISANCE.**

Any building or structure erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished, equipped, used, occupied or maintained contrary to the provisions of this chapter shall be and the same is hereby declared to be unlawful and a public nuisance. The County Counsel shall, upon order of the Board of Supervisors, commence necessary proceedings for the abatement, removal and/or enjoinder of any such public nuisance in the manner provided by law. Any failure, refusal, or neglect to obtain a permit as required by this chapter shall be prima facie evidence of the fact that a public nuisance has been committed in connection with the erection, construction, enlargement, alteration, repair, movement, improvement, removal, conversion or demolition, equipping, use, occupation or maintenance of a building or structure erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished, equipped, used occupied or maintained contrary to the provisions of this chapter. (Ord. 1101, § 5, 9/14/76)

Humboldt County Code § 314-55.1

[Indoor medical marijuana ordinance]



## 314-55.1 MEDICAL MARIJUANA LAND USES: INLAND

### 55.1.1 Authority and Title

Pursuant to the authority granted by Article XI, section 7 of the California Constitution, California Government Code section 25845, and California Health and Safety sections 11362.83 and 11362.768(f), the Board of Supervisors does hereby enact this Code, which shall be known and may be cited as the "Medical Marijuana Land Use Code".

### 55.1.2 Purpose and Intent

The purpose and intent of the Medical Marijuana Land Use Code ("MMLUC" or "this Code") is to regulate the cultivation of medical marijuana for personal use in a residence or detached accessory building in a manner that is consistent with State law and which promotes the health, safety, comfort, convenience, and general welfare of the residents and businesses within the unincorporated area of Humboldt County by balancing three primary needs: the needs of patients and their caregivers to have access to medical marijuana; the needs of residents, businesses, and communities to be protected from public health, safety, and nuisance impacts that can accompany the residential cultivation and processing of medical marijuana for an individual patient's use; and the need to eliminate, or at least limit to the extent possible, the harmful environmental impacts that can accompany marijuana cultivation.

Despite the three needs identified above, nothing in this Code shall be construed to: allow persons to engage in conduct that endangers themselves or others, or causes a public nuisance as defined herein; allow the use or diversion of medical marijuana for non-medical purposes; or allow any activity relating to the cultivation, processing, distribution, or consumption of marijuana that is otherwise illegal under the laws of the State of California. This Code is not intended to criminalize any activity which is otherwise permitted under state law and it is not intended to authorize conduct that is otherwise prohibited by state law.

### 55.1.3 Findings

The Board of Supervisors of the County of Humboldt hereby finds and declares the following:

1. In 1996, California voters approved Proposition 215 (codified as Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996").
2. The intent of the Compassionate Use Act is to permit the cultivation and possession of medical marijuana for the personal use of a seriously ill patient without fear of criminal prosecution against the patient, the patient's caregiver or the physician who recommended medical marijuana for the patient. The Act further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes."



3. In 2004, Senate Bill 420 (codified as Health and Safety Code sections 11362.7 et seq. and known as the "Medical Marijuana Program Act" or "MMPA") was enacted to clarify the scope of the Compassionate Use Act.
4. Neither the Compassionate Use Act nor the Medical Marijuana Program Act address land use or building code issues that may arise from the residential cultivation or processing of medical marijuana for personal use within the County.
5. In August 2008, the California Attorney General issued *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use* that were intended to further clarify California laws governing medical marijuana, and provide guidelines for patients and law enforcement to ensure that medical marijuana is not diverted for non-medical purposes.
6. The federal Controlled Substances Act (codified as 21 U.S.C. sections 801 et seq.) is a regulatory system designed to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. The Act lists marijuana as a controlled substance, classifying it as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, which has no currently accepted medical use in treatment, and has not been accepted as safe for use under medical treatment.
7. The United States Congress has provided that states are free to regulate in the areas of controlled substances, including marijuana, provided that state law does not positively conflict with the Controlled Substances Act (see 21 U.S.C. 903). The California Attorney General, citing to California case law, has opined that neither the Compassionate Use Act nor the Medical Marijuana Program Act conflict with the Controlled Substances Act because, in adopting these laws, California did not legalize medical marijuana, but instead exercised the state's reserved powers to not punish certain marijuana offenses under state law.
8. Law enforcement agencies report that depending upon the marijuana strain and whether it is grown indoors or outdoors, one plant may yield averages of roughly one-quarter to one and a half pounds of usable marijuana per plant. As of 2010, law enforcement indicates the value of illegal marijuana grown in the County to be roughly \$1,500 to \$4,000 per pound.
9. Due to the high monetary value placed upon marijuana, the County has experienced a number of home invasion robberies, thefts, and violent crimes, including homicides, related to marijuana cultivation. To defend against theft and armed robbery, some growers of marijuana have taken to arming themselves, which creates the potential for gunfire in the residential areas where indoor cultivation of marijuana is frequently occurring. The County has also experienced a number of residential fires from overloaded or improperly modified electrical systems used to power grow lights and exhaust fans for the cultivation of marijuana. Additionally, the County has experienced soil and water contamination due to leaks and improperly stored fuels and supplies for generators used to power grow lights and fans for off-the-grid marijuana grows.



10. Widespread indoor cultivation of marijuana in Humboldt County has led to a decrease in needed rental housing stock as rental homes are converted solely to structures to grow marijuana in, as well as excessive energy consumption to power the lights, fans, and other systems needed for a large indoor marijuana growing operation. As rental homes are converted to these grow structures, the character of the neighborhood around the grow structure deteriorates.
11. Marijuana that is grown indoors can lead to mold, mildew, and moisture damage to the building in which it is grown. Landlords, who thought they were renting a home for people to live in, later find that their property was turned into a structure to grow marijuana and extensively damaged by that use, requiring new flooring, walls, ceiling, electrical and plumbing work to return the home to a habitable state. Growing marijuana is susceptible to plant diseases, mold, mildew, and insect damage and may be treated with insecticides and herbicides that may harm human health when applied or when the chemical is disposed of in the trash or in the sewage disposal system.
12. Cultivation of marijuana may also result in private or public nuisances. Whether grown indoors or outdoors, marijuana plants, particularly as they mature, produce a distinctive odor that is often detectable far beyond property boundaries. This strong, distinctive odor can interfere with neighboring owners' use and enjoyment of their property. In addition, this odor of growing or "green" marijuana may alert malefactors to the location where marijuana is grown and thereby create the risk of burglary and robbery at that location.
13. The right of qualified patients and their primary caregivers under state law to possess and cultivate marijuana for personal medical purposes does not confer upon them a right to create or maintain a nuisance. By adopting this Code, which regulates the land use aspects of indoor residential cultivation of medical marijuana for personal use, the County anticipates a significant reduction in complaints regarding medical marijuana-related odors and residential mold and moisture issues affecting rental housing stocks, as well as a decrease in crime and fires related to the indoor cultivation and processing of medical marijuana.
14. The County finds that while the need for qualified patients and/or their caregivers to use and cultivate marijuana is authorized by state law, the potential land use impacts to the environment and to public health, safety and welfare as identified, necessitates that the County create regulations, such as this Code, to govern the indoor cultivation of medical marijuana in a residence for personal use in the County of Humboldt.
15. The County finds that the indoor cultivation of more than fifty (50) square feet of medical marijuana that is more than ten (10) feet tall per residence or detached accessory building, as defined herein, within the unincorporated area of the County will result in an unreasonable risk of crime, fire, and other nuisance-related impacts such as odors offensive to people living or working or recreating nearby, as well as resulting in the deterioration of the neighborhood character, decrease in rental housing stock, and excessive energy consumption and carbon dioxide emissions, along with the potential for



diesel fuel and oil pollution from generators. The indoor cultivation of more than fifty (50) square feet of medical marijuana that is more than ten (10) feet tall per residence or detached accessory building is hereby found and declared to be unlawful and a public nuisance.

16. The County further finds that the indoor cultivation of fifty (50) square feet or less of medical marijuana that is ten (10) feet tall or less per residence or detached accessory building, which is subordinate, incidental, and accessory to the residential use, within the unincorporated area of the County will achieve the goals of allowing qualified patients the ability to cultivate medical marijuana in their residence for their personal use, while minimizing, to the extent possible, the negative impacts on the neighbors, the neighborhood, local businesses, and the community from a qualified patient's medical marijuana cultivation and processing.

#### 55.1.4 Applicability and Interpretation

1. The indoor cultivation and processing of medical marijuana for personal use in a residence or detached accessory building within the jurisdiction of the County of Humboldt shall be controlled by the provisions of this Code, regardless of whether the cultivation or processing existed or occurred prior to the adoption of this Code.
2. Nothing in this Code is intended, nor shall it be construed, to exempt any indoor residential cultivation of medical marijuana for personal use, from compliance with the Humboldt County zoning and land use regulations, or all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements, or any other applicable provisions of the County Code, or any other applicable state or federal laws.
3. Nothing in this Code is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting marijuana cultivation, smoking, or other related activities by tenants.
4. The definitions in this Code are intended to apply to the MMLUC. Applicable definitions in Humboldt County Code section 313-135 et seq. and section 111-1 et seq. may also apply to this Code.

#### 55.1.5 Severability

If any section, subsection, sentence, clause, portion, or phrase of this Code or the application thereof, is held invalid, illegal, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of any other portions of this Code. The County hereby declares that it would have passed this Code and each section, subsection, sentence, clause, portion, or phrase hereof, regardless of the fact that any one or more section, subsection, sentence, clause or phrase has been declared illegal, invalid, or unconstitutional.

#### 55.1.6 Penalties



All of the remedies provided for in this section shall be cumulative and not exclusive for violations of this Code.

Any violation of this Code shall be, and the same hereby is declared to be, unlawful and a public nuisance and shall be subject to injunction, abatement or any other remedy available to the County under the applicable state and county laws, including the County's abatement and administrative penalty procedures.

#### 55.1.7 Definitions

Except where the context otherwise requires, the following definitions shall govern the construction of this Code:

*Cultivation of Medical Marijuana for Personal Use:* cultivation and processing of medical marijuana indoors in a residence or detached accessory structure by a qualified patient, or the primary caregiver on behalf of a qualified patient, which does not exceed fifty (50) square feet or ten (10) feet in height.

*Detached Accessory Building - Residential:* a building which is a) incidental and subordinate to the residence or residential use, b) located on the same parcel, and c) does not share at least ten (10) feet of common wall with the residence or other accessory building. A greenhouse may be considered a Detached Accessory Building if it is a fully enclosed, secure and lockable structure that has a roof supported by connecting walls extending continuously to a perimeter foundation or equivalent base to which the connecting walls are securely attached.

*Indoor(s):* within a fully enclosed and secure structure that has a roof supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached.

*Medical Marijuana:* marijuana, including concentrated cannabis or hashish, that has been recommended to an individual by a licensed physician for the treatment of an illness or disease pursuant to California Health & Safety 11362.5 et seq.

*Personal Medical Marijuana:* medical marijuana that is cultivated, processed, or stored for a single qualified patient's use.

*Primary Caregiver:* an individual designated by the qualified patient who has consistently assumed responsibility for the housing, health, or safety of that patient pursuant to statutory and case law.

*Qualified Patient:* a person who has a recommendation for medical marijuana by a California-licensed physician, and who is entitled to the protections offered by California Health & Safety Code Section 11362.5, and who may or may not have an identification card issued by the State Department of Public Health identifying the individual as a person authorized to engage in the use of medical marijuana.



*Residence*: any structure designed or used for residential occupancy, regardless of whether it is located in a residential zone.

*Residential Cultivation*: the growing of fifty (50) square feet or less that is ten (10) feet or less in height of medical marijuana indoors within a residence or detached accessory structure, as defined herein. Such cultivation shall be for a qualified patient's personal use and must be subordinate, incidental, and accessory to the residential use.

#### 55.1.8 Indoor Residential Cultivation for Personal Use

The County shall not interfere with an individual qualified patient's indoor residential cultivation of medical marijuana for that patient's personal use in the inland zones, so long as the cultivation is in conformance with this Code and state law.

In order to eliminate the potential nuisance and health and safety impacts to the greatest extent possible, indoor residential medical marijuana cultivation and processing for personal use shall be in conformance with the following standards:

1. Medical marijuana cultivation in a residence shall not exceed fifty (50) square feet or exceed ten (10) feet in height per residence on a parcel; and
2. Medical marijuana cultivation in detached accessory buildings shall not exceed fifty (50) square feet or exceed ten (10) feet in height per residence on a parcel; and
3. A total of fifty (50) square feet of indoor medical marijuana cultivation for personal use, which does not exceed ten (10) feet in height, is permitted for each residence on a parcel, regardless of whether the cultivation occurs in a residence or in a detached accessory building. In no case shall a residence or a detached accessory building have a total of more than fifty (50) square feet or more than ten (10) feet in height of medical marijuana cultivation area per residence on the parcel, regardless of the number of qualified patients or primary caregivers residing at the residence or participating directly or indirectly in the cultivation; and
4. The medical marijuana cultivation and processing area in the residence or detached accessory building shall be indoors, as defined herein, posted with a legible copy of the individual patient's medical marijuana recommendation, secured against unauthorized entry, and maintained for the exclusive use of the qualified patient; and
5. Grow lights for medical marijuana cultivation for personal use in a residence or a detached accessory building shall not exceed 1200 watts total; and
6. All electrical equipment used in the indoor cultivation of medical marijuana in a residence or a detached accessory building shall be plugged directly into a wall outlet or otherwise hardwired. The use of extension cords to supply power to electrical equipment used in the residential cultivation of medical marijuana is prohibited; and



7. The use of gas products (CO<sub>2</sub>, butane, etc.) for indoor medical marijuana cultivation or processing in a residence or a detached accessory building is prohibited; and
8. No toxic or flammable fumigant shall be used for indoor cultivation of medical marijuana in a residence or a detached accessory building unless the requirements of section 1703 of the California Fire Code have been met; and
9. On parcels that contain more than one residence, no odor of medical marijuana shall be detectable from the exterior of the residence or detached accessory building by a person of ordinary senses. On parcels that contain only one residence, no odor of medical marijuana shall be detectable from the property boundaries by a person of ordinary senses. To achieve this, the medical marijuana cultivation area shall be, at a minimum, mechanically ventilated with a carbon filter or other superior method to prevent the odor of marijuana from escaping the indoor cultivation area and negatively impacting neighbors and the surrounding community. Ventilation systems shall be installed in a manner that facilitates decommissioning and a return of the cultivation area to non-cultivation residential uses; and
10. From a public right of way, neighboring properties, or neighboring housing units, there shall be no visual or auditory evidence of indoor medical marijuana cultivation at the residence or detached accessory building that is detectable by a person of ordinary senses; and
11. Medical marijuana cultivation, processing, or transfers in a residence or detached accessory building are prohibited as a Cottage Industry or a Home Occupation, and are not eligible for an address of convenience; and
12. No sale, trading, or dispensing of medical marijuana is allowed on a parcel where residential cultivation of medical marijuana occurs; and
13. The qualified patient shall not cultivate medical marijuana for his or her personal use in more than one residence or detached accessory building within the jurisdiction of the County of Humboldt; and
14. The residence where medical marijuana is grown indoors for personal use shall maintain a kitchen and bathroom(s) for their intended use, and the kitchen, bathroom(s), and bedroom(s) shall not be used primarily for medical marijuana cultivation; and
15. No effluent, including but not limited to waste products, chemical fertilizers or pesticides shall be discharged into drains, septic systems, community sewer systems, water systems or other drainage systems including those that lead to rivers, streams and bays as a result of indoor residential cultivation of medical marijuana; and
16. The indoor residential cultivation of medical marijuana shall not adversely affect the health or safety of residents, neighbors, or nearby businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes associated with the cultivation of medical marijuana; and



17. The indoor residential cultivation of medical marijuana must comply with all applicable state and county laws, including fire and building codes.
18. A waterproof membrane or other waterproof barrier shall be installed in the cultivation area or beneath individual plants to protect the floor of the indoor cultivation area from water damage.



Administrative Abatement Hearing, County v. Tyrone Okane-Morgan & Bruce Okane  
A.P. No. 018-193-022

**EXHIBIT "F"**

Photographs of Subject Property- January 27, 2016

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Administrative Abatement Hearing, County v. Tyrone Okane-Morgan & Bruce Okane  
A.P. No. 018-193-022

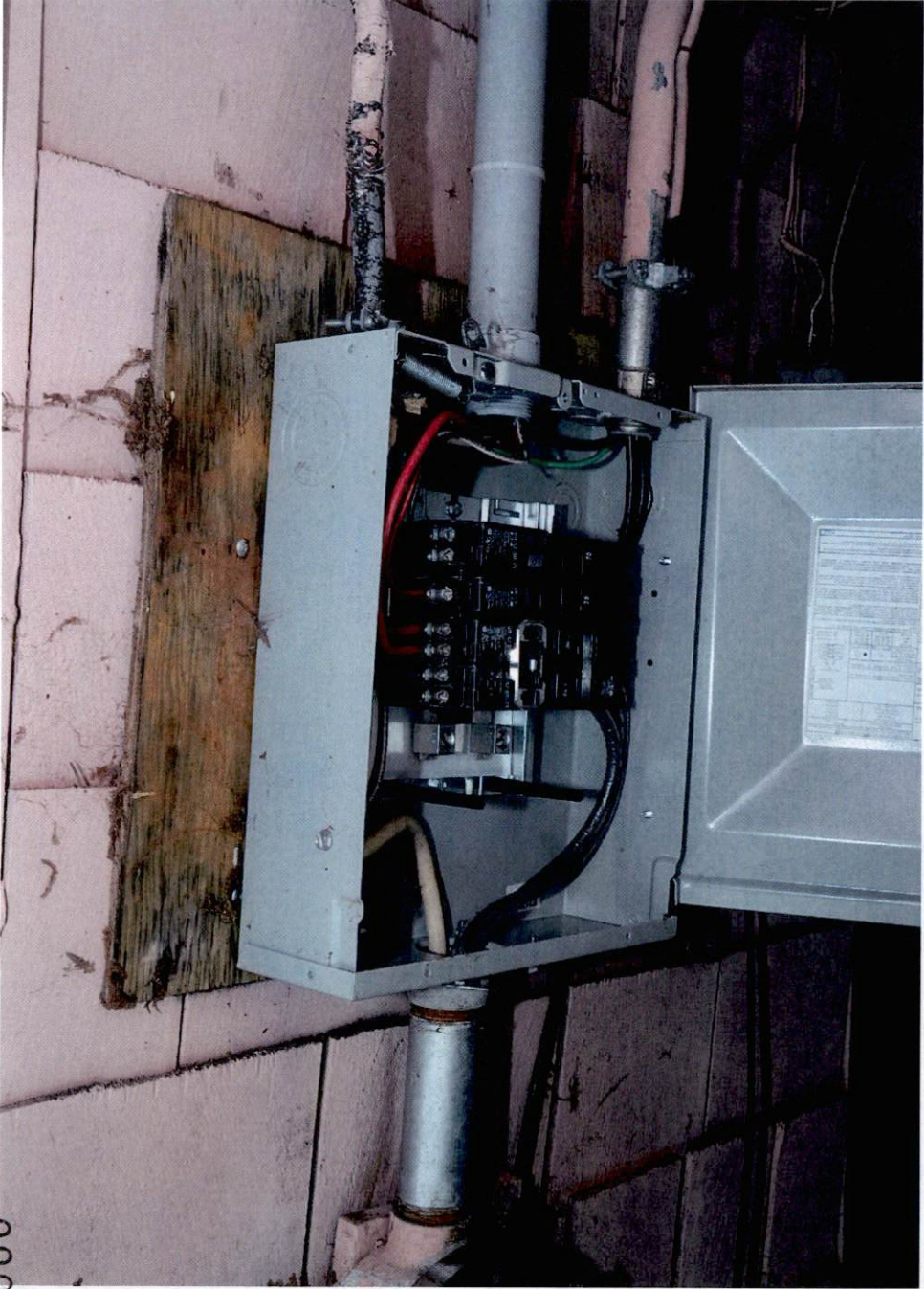
**EXHIBIT "G"**

Photographs of Subject Property- February 11, 2016

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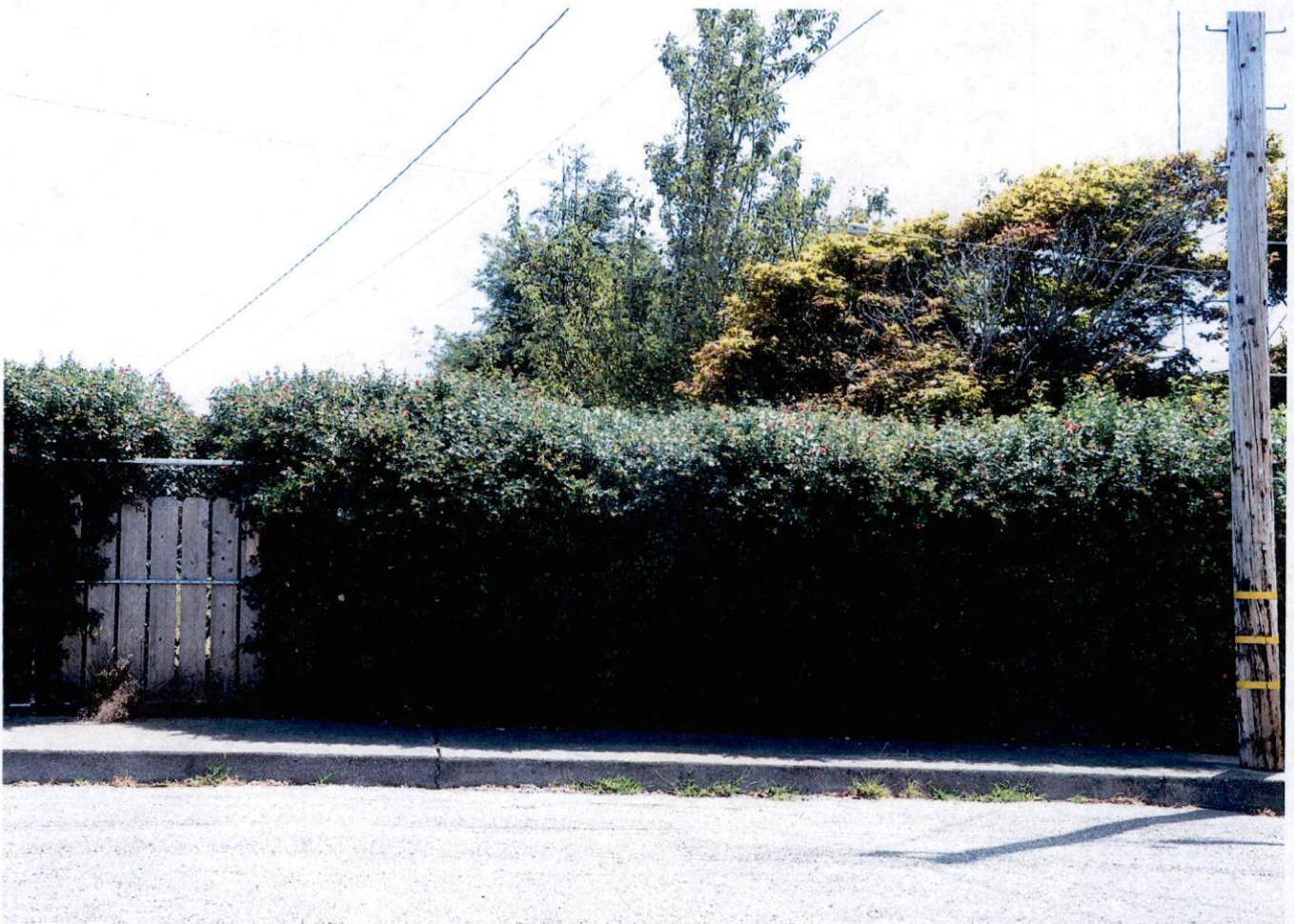
Administrative Abatement Hearing, County v. Tyrone Okane-Morgan & Bruce Okane  
A.P. No. 018-193-022

**EXHIBIT "H"**

Photographs of Subject Property- February 13, 2016

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Administrative Abatement Hearing, County v. Tyrone Okane-Morgan & Bruce Okane  
A.P. No. 018-193-022

**EXHIBIT "I"**

Photographs of Subject Property- February 19, 2016



