

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceeding, Meeting on November 2, 2021

RESOLUTION NO. 21-119

**RESOLUTION TO CONFIRM HUMBOLDT COUNTY CODE ENFORCEMENT
PROPOSED ADMINISTRATIVE CIVIL PENALTY ASSESSMENT AGAINST
WERNER WELTSCH, JONATHAN WELTSCH AND SARAH WELTSCH PURSUANT
TO HUMBOLDT COUNTY CODE SECTION 352-1 ET SEQ.**

WHEREAS, California Government Code section 53069.4 authorizes the County of Humboldt County to enact an ordinance imposing administrative civil penalty; and

WHEREAS, pursuant to this authority, the County enacted Humboldt County Code (“HCC”) sections 352-1 *et seq.* establishing certain administrative civil penalty and collection procedures; and

WHEREAS, on October 25, 2017, a Notice of Violation and Proposed Administrative Civil Penalty (“NOV”) was issued by the Humboldt County Code Enforcement Unit (“CEU”) to Werner Weltsch, Jonathan Weltsch and Sarah Weltsch (hereinafter referred to as “Responsible Party”) regarding the real property located at 6000 block of Elk River Road, Eureka, CA, APN 304-211-011 (hereinafter referred to as “Property”) for the following code violations of the HCC:

- (1) HCC section 371-2 Maintaining a Wrecking and Salvage Yard
- (2) HCC section 354-1 Junk and/or Inoperable Vehicles
- (3) HCC section 331.28 Building/Structure(s) in Violation of Building, Plumbing and/or Electrical Codes
- (4) HCC section 331.14 Grading Without Permits
- (5) HCC section 314-61.1 Development in a Streamside Management Area Without a Permit

pursuant to HCC sections 352-7 and 352-8; and

WHEREAS, on November 15, 2017, Responsible Party filed a request for hearing to appeal the determination that a code violation has occurred and/or the proposed amount of the administrative civil penalty; and

WHEREAS, on March 23, 2018, CEU served a Notice of Administrative Civil Penalty Hearing pursuant to HCC sections 352-9 and 352-10; and

WHEREAS, on April 9, 2018, an Administrative Civil Penalty Appeal hearing was held before Kimberly Buchholz of the McGeorge School of Law (hereinafter referred to as “Hearing Officer”) pursuant to HCC section 352-11; and

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WHEREAS, on May 8, 2018, the Hearing Officer issued a Finding of Violation and Order Imposing Administrative Civil Penalty pursuant to HCC section 352-12 that the cited code violations exist on the Property and imposed an administrative civil penalty in the amount of Thirty-Three Thousand Two Hundred Fifty Dollars (\$33,250.00) on Responsible Party; and

WHEREAS, on May 16, 2018, Responsible Party filed an appeal to the Humboldt County Superior Court pursuant to Government Code section 53069.4(b)(1) and HCC section 352-13, Weltsch vs. Humboldt County, Humboldt County Superior Court Case No. CV180417; and

WHEREAS, on February 14, 2019, the Responsible Party agreed to withdraw the appeal to the Humboldt County Superior Court and entered into a Compliance Agreement with the County of Humboldt to perform the corrective actions within specific timeframes in lieu of the County seeking enforcement and collection of the administrative civil penalty imposed by the Hearing Officer; and

WHEREAS, on August 21, 2019, CEU conducted a permit record search and inspection of the subject property and confirmed that conditions on the property had not significantly improved, nor were the required permits applied for by the Responsible Party within the timeframe specified in the Compliance Agreement; and

WHEREAS, on October 24, 2019, the CEU notified the Responsible Party that the conditions observed on the subject property are in breach of the Compliance Agreement and the administrative civil penalty in the amount of \$33,250.00 is now due and payable; and

WHEREAS, on May 28, 2018, CEU acquired jurisdiction to collect the final administrative civil penalty along with any and all administrative costs and/or attorneys' fees within twenty (20) calendar days after service of the Hearing Officer's decision pursuant to HCC section 352-14(a)(2); and

WHEREAS, CEU's jurisdiction to collect the final administrative civil penalty was stayed pursuant to the executed Compliance Agreement; and

WHEREAS, the Compliance Agreement states under section 2.G "Effect of Noncompliance" that: "in the event that the Responsible Party fails to comply substantially with the terms and conditions of this Agreement, the administrative civil penalty in the amount of

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Thirty-Three thousand Two Hundred Fifty Dollars (\$33,250.00) imposed by the Hearing Officer will become immediately due and payable.”

WHEREAS, on or about December 4, 2020, CEU issued the Notice of Administrative Civil Penalty Assessment on Responsible Party which included a statement that the Responsible Party may file a written objection to the proposed assessment pursuant to HCC sections 352-15 and 352-16; and

WHEREAS, on December 11, 2020, and December 14, 2020, Responsible Party filed a written objection to the proposed assessment; and

WHEREAS, on June 24, 2021, pursuant to HCC section 352-17, CEU set the matter for hearing before the Humboldt County Board of Supervisors for November 2, 2021; and

WHEREAS, on September 16, 2021, CEU served a Notice of Administrative Civil Penalty Assessment Appeal Hearing on Responsible Party pursuant to HCC sections 352-17 and 352-18; and

WHEREAS, on November 2, 2021, an Administrative Civil Penalty Assessment Appeal Hearing was held to hear testimony and consider evidence concerning the validity of the proposed assessment and any other matters deemed pertinent pursuant to HCC section 352-19; and

NOW, THEREFORE, BE IT RESOLVED that:

SECTION 1. The Board of Supervisors of the County of Humboldt finds that the proposed Administrative Civil Penalty Assessment is reasonable and valid.

SECTION 2. The Board of Supervisors confirm the proposed Administrative Civil Penalty Assessment of _____ Dollars and _____ Cents (\$ _____) on Responsible Party.

SECTION 3. The Board of Supervisors’ confirmation of the proposed assessment shall be final and conclusive as to all matters pertaining to the proposed assessment. The appeal of this Resolution shall be governed by California Code of Civil Procedure section 1094.6 including the time period to file the appeal.

SECTION 4. Pursuant to HCC sections 352-18, the Board of Supervisor’s final assessment may become a lien against the Property on which the violations occurred and/or

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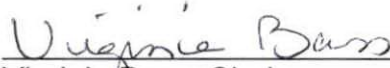
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existed which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure sections 697.310 *et seq.*

SECTION 5. CEU shall prepare and serve upon each Responsible Party a Notice of Administrative Civil Penalty Lien pursuant to HCC sections 352-21 and 352-22.

Dated: November 2, 2021



Virginia Bass, Chair
County of Humboldt Board of
Supervisors


Adopted on motion by Supervisor Bohn, seconded by Supervisor , and the following vote:

- AYES: Supervisors -- Wilson, Madrone, Bass, Bushnell, Bohn, Madrone
- NAYS: Supervisors --
- ABSENT: Supervisors --
- ABSTAIN: Supervisors --

STATE OF CALIFORNIA)
County of Humboldt)

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be an original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.



By Nikki Turner
Deputy Clerk of the Board of
Supervisors of the County of Humboldt,
State of California