

ATTACHMENT B

Finding of Nuisance and Order of Abatement



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CODE ENFORCEMENT

3015 H Street • Eureka CA 95501
Phone: (707) 476-2429 • Fax: (707) 268-3792

January 8, 2018

Nathan Megazzi-Verco and Donald Garcia
6147 Walnut Drive
Eureka, CA 95503

Re: Service of Administrative Hearing Finding of Nuisance and Order of Abatement
Property location: 6147 Walnut Drive, Eureka, California, APN: 303-063-029

Dear Mr. Magazzi-Verco and Mr. Garcia:

Please see attached the Administrative Hearing Finding of Nuisance and Order of Abatement from the hearing held on December 11, 2017, from the Hearing Examiner, Jacquelyn Larson, with the University of the Pacific McGeorge School of Law.

Sincerely,

Shauna Soeth
Code Compliance Officer

Attachment: Administrative Hearing Finding of Nuisance and Order of Abatement

INSTITUTE FOR ADMINISTRATIVE JUSTICE
UNIVERSITY OF THE PACIFIC
MCGEORGE SCHOOL OF LAW
3200 Fifth Avenue
Sacramento, CA 95817
Telephone: 916-739-7049

Property address:
6147 Walnut Drive
Eureka, CA 95503

**COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CODE ENFORCEMENT DIVISION**

In the matter of:)	ADMINISTRATIVE HEARING
)	FINDING OF NUISANCE AND
Nathan Megazzi-Verco and Donald)	ORDER OF ABATEMENT
Garcia)	
(Property Owners))	
APN: 303-063-029-000)	
)	
and)	
)	Case No.: 15CEU-56
Notice to Abate Nuisance issued by)	
<u>COUNTY OF HUMBOLDT</u>)	

I. INTRODUCTION

This matter was heard on December 11, 2017, via video conference in Sacramento, California, before Jacquelyn Larson, Hearing Officer for the Institute for Administrative Justice, University of the Pacific, McGeorge School of Law.¹ The purpose of the hearing was to determine whether to uphold the Notice to Abate Nuisance (Exhibit J), issued by the County of Humboldt (County) and dated October 20, 2017, that states conditions on the property at 6147 Walnut Drive, Eureka, California (Property), constitute a nuisance.

II. APPEARANCES

Bernadette Arwood, Code Enforcement Investigator, and Bob Russell, Deputy Director for Humboldt County Planning and Building Department, appeared on behalf of the County, with Deputy County Counsel John Nguyen. No appearance was made by or on behalf of Nathan Megazzi-Verco and Donald Garcia (Property Owners).² The County offered Exhibits A-Q, all of

¹ Humboldt County Code states that the Code Enforcement Unit shall set hearings under Chapter 1 before a Hearing Officer appointed by the Humboldt County Board of Supervisors pursuant to California Government Code Section 27720. (HHC section 351-8(i)). Government Code section 27720 states that “[t]he board of supervisors of any county may establish the office of county hearing officer. The duties of the office are to conduct hearings for the county or any board, agency, commission, or committee of the county.”

² Mr. Nguyen read into the record a letter left by the Property Owners stating that they were at the building in Conference Room A at 11 a.m. earlier the morning of December 11, 2017. The letter stated that they had documentation of repairs, but did not elaborate. The County’s Notice of Code Enforcement Appeal Hearing dated

which were admitted as evidence. The Hearing Officer received testimony from Officer Arwood. The record was closed and the matter submitted for decision.

III. JURISDICTION

The Planning and Building Department, Code Enforcement Division (Department), has found that conditions on the Property constitute a nuisance as defined in Division 5, Chapter 1, section 351-3 of the Humboldt County Code (HCC). Those findings resulted in the October 20, 2017, Notice to Abate Nuisance (Notice) issued by the Department pursuant to HCC section 351-7, notifying the Property Owner to abate the nuisance. (HCC section 351-7).

Section 351-7 of the HCC provides that whenever the Code Enforcement Unit has found and determined after inspection that a public nuisance exists on a property, the Code Enforcement Unit shall prepare, and serve upon each Owner a "Notice to Abate Nuisance." The Owner may then file with the Code Enforcement Unit an appeal of the determination that a Nuisance exists on the affected Property. (HCC Section 351-8(g)). Upon receipt of an appeal of the determination that a Nuisance exists on the affected Property, the Code Enforcement Unit shall set the matter for hearing before the Hearing Officer, and serve a "Notice of Code Enforcement Appeal Hearing" upon each Appellant. (HCC Section 351-9). Notice may be served by personal service, by first class and certified mail and by posting at the Property, or by publication. (HCC Section 351-6(a)).

In the present case, the Department asserts that the conditions on the Property, as specified on the October 20, 2017, Notice (Exhibit J), violate sections of the HCC. The Property Owners appealed the decision (Exhibit L). The Department issued a Notice of Code Enforcement Appeal Hearing, setting the scheduled hearing for December 11, 2017, at 1:00 p.m. (Exhibit M). The Notice of Code Enforcement Appeal Hearing was mailed by first class and certified mail to the Property Owners at the Property on November 9, 2017 (Exhibit M). However, there was no testimony or certification that the Notice of Code Enforcement Appeal Hearing was posted on the Property, as required by HCC section 351-6(a)(ii).

Mr. Nguyen read into the record a letter signed by Nate and Linda Megazzi, which was left with the County and addressed to Officer Arwood, that stated on December 11, 2017, the morning of the hearing, they were at the hearing location from 11:00 a.m. to 11:45 a.m. Mr. Nguyen stated the Notice of Code Enforcement Appeal Hearing correctly listed the date and time of the hearing as December 11, 2017, at 1:00 p.m. (Exhibit M).

The Hearing Examiner concludes that the efforts made by the County to notify the Property Owner of the alleged violations and the hearing were adequate. Although the notice did not fulfill the requirements of the HCC, due process was met. The due process clause of the Fourteenth Amendment requires, "at a minimum . . . that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing". . . . (*Mullane v. Central Hanover Tr. Co.* (1950) 339 U.S. 306, 313). In this case, the Property Owners received notice of the hearing. This is evidenced by proof of mailing via regular and certified mail (Exhibit M), and

November 9, 2017 (Exhibit M), stated that the hearing was scheduled for "December 11, 2017, at 1:00 p.m. in Conference Room A of the Humboldt County Courthouse . . ." [*Emphasis in the original*].

by the fact that the Property Owners appeared at the right place on the right day, albeit at the wrong time. Although the County did not show that it had fulfilled the notice requirements as listed in HCC section 351-6(a)(ii) by mailing *and* posting the hearing notice on the Property, the notice was adequate since the Property Owners had notice and a meaningful opportunity to be heard.

IV. STANDARD OF PROOF

In nuisance abatement hearings held under the provisions of the HCC, Division 5, Chapter 1, the Hearing Officer “shall determine whether or not a Nuisance exists on the affected Property.” If a nuisance is found not to exist on the affected Property, the Hearing Officer shall terminate the abatement proceedings. If a nuisance is found to exist on the affected Property, the Hearing Officer “shall order each Owner . . . of the affected Property to abate such Nuisance within ten (10) calendar days after service of a ‘Finding of Nuisance and Order of Abatement,’ or such longer period which the Hearing Officer finds reasonable.” (HCC section 351-12).

No burden of proof is specified in the HCC. Since the HCC is silent as to the burden of proof, the County shall have the burden of showing by a preponderance of the evidence that the condition of the premises constitutes a public nuisance.³

V. ISSUES

1. **Do conditions on the Property as identified in the Notice and Order constitute a public nuisance?**
2. **If so, what action must be taken to correct the violation(s)?**

VI. BACKGROUND

According to Officer Arwood’s testimony, on May 9, 2017, Code Enforcement received a complaint about the accumulation of solid waste, junk vehicles, garbage, and substandard housing on the Property. On September 28, 2017, Officer Arwood inspected the Property and took photographs of the conditions in violation of the HCC (Exhibit H, pages 36-52). She testified that she observed two junk vehicles at the front of the Property to the right of the driveway, and two other junk vehicles in the rear of the Property for a total of four junk vehicles (Exhibit H, pages 36-37). She observed various amounts of solid waste and garbage throughout the Property, including plastic, scrap wood, scrap metal, and rubbish (Exhibit H, pages 38-39, 41). She observed a recreational vehicle parked at the back of the Property that was being used as a place of habitation (Exhibit H, page 40). Officer Arwood testified that Ms. Megazzi-Verco told her that the Property Owners were living in the recreational vehicle while repairs were being done on the residence. A soft structure was erected in the back yard, which had no foundation, and appeared to be covering tools and household products (Exhibit H, page 52).

³ Under California Evidence Code section 115, the standard of proof at an administrative hearing is proof by preponderance of the evidence, “[e]xcept as otherwise provided by law.” (*San Benito Foods v. Veneman* (1996) 50 C.A.4th 1889, 1892, 58 C.R.2d 571.)

In and around the house on the Property, Officer Arwood observed exposed electrical wiring, damaged and nonfunctioning plumbing, broken down and non-operating appliances, and evidence of water and rodent intrusion (Exhibit H, pages 43-51). Officer Arwood observed mold and grease had collected on the ceiling (Exhibit H, pages 43, 45), a bucket was positioned underneath the sink to collect water from the faulty plumbing (Exhibit H, page 44), the stove was inoperable, some electrical wires near the water heater and on the porch were exposed and had been chewed through by rodents (Exhibit H, pages 47, 49), the gutters were failing, and there was water damage to the house (Exhibit H, pages 48, 50). Officer Arwood testified that the Property Owners informed her that no water or electricity was being provided to the house.

Officer Arwood issued the Notice to Abate Nuisance on October 20, 2017, which was served on the Property Owners on October 25, 2017. The Humboldt County Department of Health and Human Services issued a Notice and Order of Substandard Housing to the Property Owners that noted the substandard conditions and the required corrections; the notice was mailed and posted on the Property by Officer Arwood on November 30, 2017, and December 1, 2017, respectfully (Exhibit K).

Officer Arwood testified that she conducted a drive-by site inspection on December 7, 2017; she testified that the recreational vehicle in the back yard was still visible, she heard a generator running, and saw light coming from within the recreational vehicle. She testified that the number of junk vehicles on the Property had also increased, including a grey Volkswagen with a broken-out windshield.

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

ISSUE 1: Do conditions on the Property as identified in the Notice and Order constitute a public nuisance?

Section 351-3 of the HCC defines nuisance, in relevant part, as “any condition declared by any statute of the State of California or ordinance of the County to be a nuisance” (HCC section 351-3(a)), and “any use of buildings or Property that is contrary to the provisions of the ordinances of the County of Humboldt” (HCC Section 351-3(f)).

Violation 1: HCC section 354-1, Junk and/or Inoperable Vehicles

Section 354-1 of the HCC states that “[t]he accumulation and storage of junk vehicles on private or public property not including highways is hereby found to create a condition tending to reduce the value of property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the public health, safety and general welfare.” The section continues: “Therefore the presence of a junk vehicle on private or public property not including highways, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter.”

A “junk vehicle” is defined as “a vehicle or part thereof which is either (1) Substantially wrecked, dismantled, or inoperative and its salvage value and cost of repair together exceed its market value if repaired; or (2) Inoperative for a period of thirty (30) consecutive days or more.” (HCC section 354-2(e)).

Officer Arwood testified that on September 28, 2017, she observed four junk vehicles on the Property, two by the driveway and two in the rear (Exhibit H, pages 36-37). One photograph shows an old white, rusted pick-up truck with its bumper hanging off, junk and rubbish piled inside and on the vehicle, and weeds growing up and around the tires (Exhibit H, page 36). Another photograph shows a blue Chevrolet pickup truck with junk and rubbish piled inside the cab and a flat tire (Exhibit H, page 37). Officer Arwood testified that she conducted a drive-by site inspection on December 7, 2017, where she observed the same vehicles she saw during her September 28, 2017, inspection on the Property as well as a grey Volkswagen with a broken out windshield.

Officer Arwood’s testimony, corroborated by the photographs, demonstrates the presence of junk vehicles on the Property in violation of HCC section 354-1. Section 354-1 has declared this violation to constitute a public nuisance. The County therefore has shown by a preponderance of the evidence a public nuisance per se under HCC section 351-3(a).

Violation 2: HCC section 521-4, Improper Storage and Removal of Solid Waste

HCC section 521-4 states that it is “unlawful for any person to store or remove solid waste or source-separated materials” except as provided in the chapter. (HCC section 521-4(a)).

“Solid Waste” is defined to mean “all putrescible and nonputrescible solid, semisolid, and liquid wastes; including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.” (HCC section 521-3(j)).

Section 521-4(b)(1) of the HCC permits that “[a]ny person may occasionally store excess non-putrescible solid waste in appropriate receptacles adjacent to the regular solid waste container while waiting for a regularly scheduled collection.”

Officer Arwood testified that on September 28, 2017, and December 7, 2017, she observed various piles of solid waste and garbage throughout the Property, including plastic, scrap wood, scrap metal, and rubbish (Exhibits H, pages 38-39, 41, 52; Q). The photographs also show piles of wood, milk crates, scrap metal, cardboard boxes, and garbage.

Officer Arwood’s testimony, corroborated by the photographs, demonstrates the improper storage of solid waste on the Property in violation of HCC section 521-4. The County has therefore shown by a preponderance of the evidence a violation of HCC section 521-4. This is a therefore a nuisance under HCC Section 351-3(f).

Violation 3: HCC section 314-81.1, Use of a Recreational Vehicle or Mobile Home as a Residence

Per HCC section 314-81.1.1, manufactured homes and recreational vehicles shall be used as residences only in manufactured home parks and special occupancy parks, or in any public camping area, subject to the applicable provisions of the Health and Safety Code of the State of California. Recreational vehicles, as opposed to manufactured homes, may only be used as a temporary residence, and then only with Special Temporary Use permits and only for up to six (6) months. (HCC 314-81.1.1.5).

Officer Arwood testified that she observed a recreational vehicle on the back side of the Property being used as a place of habitation (Exhibits H, page 40, Q). Officer Arwood testified that the Property Owner had informed her that they were living in the recreational vehicle while repairs were being done on the house. Officer Arwood also testified that she conducted a drive-by site inspection on December 7, 2017, and that the recreational vehicle in the back yard was still on the Property, and she heard a generator running and saw lights coming from within the recreational vehicle.

Officer Arwood's testimony, corroborated by the photographs, demonstrates that a recreational vehicle is being used on the Property as a residence. The County has therefore shown by a preponderance of the evidence a violation of HCC section 314.81.1. This is a therefore a nuisance under HCC Section 351-3(f).

Violation 4: HCC section 371-2, Maintaining a Junkyard

No wrecking and salvage yard is allowed in Humboldt County unless certain conditions are met, including obtaining a use permit. (HCC section 371-2). A "wrecking and salvage yard" is defined as "any aggregate area of more than 200 square feet within any parcel, lot or contiguous lots of real property which is used as a place where imported waste, inoperable machinery, inoperable motor vehicles or discarded or salvaged materials are disassembled, handled, placed, processed, baled, packaged or stored." (HCC section 371-1).

Officer Arwood testified that on September 28, 2017, she observed various piles of solid waste and garbage throughout the Property, containing plastic, scrap wood, scrap metal, and rubbish (Exhibits H, pages 38-39, 41). The photographs show piles of wood, milk crates, scrap metal, cardboard boxes, and garbage (Exhibit H, pages 38-39, 41, 52). Officer Arwood testified that the piles of solid waste and garbage cover an area of more than 200 square feet. Officer Arwood also observed junk vehicles on the Property; her photographs show vehicles with junk and rubbish piled inside, around, and on the vehicles (Exhibits H, pages 36-37, Q).

Officer Arwood's testimony, corroborated by the photographs, demonstrates an aggregate area of more than 200 square feet is being used for storage of imported waste, inoperable machinery, inoperable motor vehicles or discarded or salvaged materials on the Property. The County has therefore shown by a preponderance of the evidence a violation of HCC section 371-2. This is a therefore a nuisance under HCC Section 351-3(f).

Violation 5: Uniform Housing Code (UHC) section 1001 and Health and Safety Code (HSC) section 17920.3 - substandard housing.

The UHC states that any building or portions thereof are substandard when they are insanitary, or have structural hazards, hazardous electrical wiring, hazardous plumbing, or faulty weather protection. (UHC 1001.2-1001.7). The HSC also notes that substandard building includes the lack of or improper kitchen sink, lack of hot and cold running water to plumbing fixtures in a dwelling unit, lack of required electrical lighting, the infestation of vermin or rodents, or visible mold growth. (HSC section 17920.3(a)(3), (5), (10), (12), and (13)).

Officer Arwood testified that she observed exposed electrical wiring, damaged and nonfunctional plumbing, broken down and non-operating appliances, and evidence of water and rodent intrusion (Exhibit H, pages 43-51). The photographs from September 28, 2017, show a vast area of mold and grease had collected on the ceiling (Exhibit H, pages 43, 45); and a bucket underneath the kitchen sink was being used to collect water from a faulty pipe (Exhibit H, page 44). Officer Arwood testified that the occupant informed her that no water or electricity was being provided to the house. Officer Arwood testified that some wires were exposed and had been chewed through by rodents near the water heater and on the porch (Exhibit H, pages 47, 49), the gutters were failing, and there was water damage to the house (Exhibit H, pages 48, 51).

Officer Arwood's testimony, supported by the photographs, demonstrates that the house on the Property is substandard. Since a nuisance includes "any use of buildings or Property that is contrary to the provisions of the ordinances of the County of Humboldt" (HCC section 351-3(f)), the County has shown a nuisance by the preponderance of the evidence.

Violation 6: HCC section 331-28, Construction of Building/ Structure In Violation of Building, Plumbing and/or Electrical codes

Section 331-28 of the HCC states:

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. . . . 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.

Officer Arwood testified that a soft structure was erected in the Property's back yard, it has no foundation, and appeared to be covering tools and household products (Exhibit H, page 52). The County maintains that no permit was acquired for the erection of this structure.

Officer Arwood's testimony, corroborated by the photograph, demonstrates the presence of the structure erected on the Property; furthermore, Officer Arwood testified that there was no permit issued for the structure in violation of HCC section 331-28. Section 331-28 has declared this violation to constitute a public nuisance. The County therefore has shown by a preponderance of the evidence a public nuisance per se under HCC section 351-3(a).

ISSUE 2: What action must be taken to correct the violation(s)?

Violation 1: HCC section 354-1, Junk and/or Inoperable Vehicles

The Notice to Abate Nuisance states the corrective action as 1) restore the vehicles to an operative condition, and/or 2) remove the inoperable vehicles from the Property, and/or 3) store the inoperable vehicles within an enclosed structure. The Hearing Officer finds that the corrective action reasonable and will order the abatement to be completed within three (3) months of the issuance of this order.

Violation 2: HCC section 521-4, Improper Storage and Removal of Solid Waste

The Notice to Abate Nuisance states the corrective action as contain and dispose of all solid waste properly; furthermore, the County requested the Property Owners be ordered to remove all garbage located on the Property to an approved disposal site. The County requested the Property Owners be ordered to either contain all debris/solid waste/scrap metal within a 200 square foot area, enclose it in an enclosed structure, or remove it from the Property to an approved disposal site.

The Hearing Officer finds the corrective action reasonable. The Property Owners shall remove all garbage located on the Property to an approved disposal site within one (1) month of the issuance of this order. All debris/solid waste/scrap metal shall be contained within a 200 square foot area, contained in an enclosed structure, or removed from the Property to an approved disposal site within two (2) months of the issuance of this order.

Violation 3: HCC section 314-81.1, Use of a Recreational Vehicle or Mobile Home as a Residence

The Notice to Abate Nuisance states the corrective action as disconnect utilities and cease use as residence; furthermore, the County requested the Property Owners be ordered to immediately discontinue the use of any and all recreational vehicles located on the Property as a residence. The Hearing Officer finds that the corrective action reasonable and will order the immediate discontinuance of using the recreational vehicle as a residence on the Property. In the alternative, the Property Owners may apply for and obtain a special use permit within ten (10) days of the issuance of this order; however, whether or not the County issues a permit is wholly within the discretion of the County.

Violation 4: HCC section 371-2, Maintaining a Junkyard

The Notice to Abate Nuisance states the corrective action as contain all debris within a 200 square-foot area, and/or contain all debris within an enclosed structure, and/or remove all debris; furthermore, the County requested the Property Owners be ordered to remove all garbage located on the Property to an approved disposal site. The County recommends that the Property Owners either contained all debris/solid waste/scrap metal within a 200 square foot area or in an enclosed structure, or remove it from the Property.

The Hearing Officer finds that the corrective action reasonable. The Property Owners will be ordered to remove all debris/solid waste/scrap metal from the Property, or contain it within a 200 square-foot area, or contain it in an enclosed structure within two (2) months of the issuance of this order.

Violation 5: Uniform Housing Code (UHC) section 1001 and Health and Safety Code (HSC) section 17920.3 - substandard housing.

The Notice to Abate Nuisance states the corrective action as correct or repair substandard conditions as listed on the Conditional Release of Health Hold from the Division of Environmental Health, including obtaining a building permit if necessary; furthermore, the County requested the Property Owners be ordered to remove all rodent droppings, rub parks, and urine in conformance with the Centers for Disease Control guidelines for safe and effective cleanup; close and repair all ingress holes to block entry into the dwelling by rodents, obtain and contract with a professional pest service to manage the infestation. The Hearing Officer finds that the requested corrective actions are reasonable and the Property Owner will be ordered to complete these tasks within ten (10) days of the issuance of this order.

The County requested the Property Owners be ordered to repair the leaking porch skylights to be made water-tight; repair or replace the non-functional kitchen stove; replace all failing or hazardous plumbing; replace all broken windows and install screens on all windows; and install working smoke and carbon monoxide detectors. The Hearing Officer finds that the requested corrective actions are reasonable and the Property Owner will be ordered to complete these tasks within ten (10) days of the issuance of this order.

The County requested the Property Owners be ordered to obtain and maintain electrical service to the dwelling. The Hearing Officer finds that the requested corrective action reasonable and the Property Owner will be ordered to complete this task within one (1) month of the issuance of this order.

The County requested the Property Owners be ordered to apply for and schedule a pre-site inspection to the Planning and Building Department and Division of Environmental Health for construction to abate the substandard housing conditions that require a permit as listed on the Notice and Order of Substandard Housing within a month, and submit a completed application within two months. The Hearing Officer finds the requested corrective actions reasonable and the Property Owners will be ordered to apply for and schedule a pre-site inspection with the Planning and Building Department and Division of Environmental Health for construction to

abate the substandard housing conditions that require a permit within one (1) month of the issuance of this order. The Property Owner will be ordered to submit a completed application within two (2) months of the issuance of this order.

Violation 6: HCC section 331-28, Construction of Building/ Structure In Violation of Building, Plumbing and/or Electrical codes

The Notice to Abate Nuisance states the corrective action as apply for and obtain permits; furthermore, the County requested the Property Owners be ordered to schedule a pre-site inspection for proper permits to the Planning and Building Division in order to permit the unpermitted soft-structured carport located on the Property, submit a completed application within one month, or in the alternative, remove the soft-structured carport from the Property within three months.

The Hearing Officer finds the requested corrective actions reasonable and the Property Owners will be ordered to apply for and schedule a pre-site inspection for proper permits to the Planning and Building Division in order to permit the soft-structured carport located on the Property within one (1) month of the issuance of this order. The Property Owner shall submit a completed application within two (2) months of the issuance of this order. In the alternative, the soft-structured carport should be removed from the Property within three (3) months of the issuance of this order.

Should the Property Owners fail to abate the nuisance conditions as ordered, the County may abate the conditions causing the nuisance on the Property; furthermore, those costs may be assessed against the Property. (HCC sections 351-8, 351-10, 351-12, 351-13, 351-15).

VIII. ORDER

1. The Department's Notice to Abate Nuisance dated October 20, 2017, is upheld.
2. The Department shall forthwith serve a copy on the owner of record in the same manner as set forth in HCC section 351-6 (HCC section 351-12).
3. The Property Owner shall immediately discontinue using the recreational vehicle on the Property as a residence. In the alternative, the Property Owners may apply for and obtain a special use permit within ten (10) days of the issuance of this order; however, whether or not the County issues a permit is wholly within the discretion of the County.
4. Within ten (10) days of the issuance of this order, the Property Owner shall remove all rodent droppings, rub marks, and urine in conformance with the Centers for Disease Control guidelines for safe and effective cleanup; close and repair all ingress holes to

block entry into the dwelling by rodents, and obtain and contract with a professional pest service.

5. Within one (1) month of the issuance of this order, the Property Owners shall remove all garbage located on the Property to an approved disposal site.
6. Within two (2) months of the issuance of this order, all debris, solid waste, and/or scrap metal shall be contained within a 200 square-foot area, or contained in an enclosed structure, or removed from the Property.
7. Within one (1) month of the issuance of this order, the Property Owners shall apply for and schedule a pre-site inspection for proper permits to the Planning and Building Division in order to permit the soft-structured carport located on the Property. Within two (2) months of the issuance of this order, the Property Owners shall submit a completed application to the Planning and Building Division to permit the soft-structured carport located on the Property. In the alternative, within three (3) months of the issuance of this order, the soft-structured carport should be removed from the Property.
8. Within one (1) month of the issuance of this order, the Property Owner shall repair the leaking porch skylights to be made water-tight; the kitchen stove shall be repaired or replaced; all failing or hazardous plumbing shall be replaced; replace all broken windows and install screens on all windows; and install working smoke detectors and carbon monoxide detectors.
9. Within one (1) month of the issuance of this order, the Property Owners shall obtain and maintain electrical service to the dwelling.
10. Within one (1) month of the issuance of this order, the Property Owners shall apply for and schedule a pre-site inspection to the Planning and Building Department and Division of Environmental Health for construction to abate the substandard housing conditions that require a permit, as listed on the Notice and Order of Substandard Housing (attached herein for reference). Within two (2) months of the issuance of this order, the Property Owner shall submit a completed application for construction to abate the substandard housing conditions that require a permit to the Planning and Building Department and Division of Environmental Health.
11. Within three (3) months of the issuance of this order, each of the inoperable vehicles shall be restored to an operative condition, or 2) stored within an enclosed structure, or 3) removed from the Property.

12. A Finding of Nuisance and Order of Abatement issued by the Hearing Officer shall be final in all respects. Any appeal of the Hearing Officer's Finding of Nuisance and Order of Abatement shall be governed by California Code of Civil Procedure section 1094.6, as such section may be amended from time to time. (HCC section 351-12(b)).

Date: January 5, 2018



Jacquelyn Larson, Hearing Officer
Institute for Administrative Justice
University of the Pacific, McGeorge School of Law



Public Health
529 I Street, Eureka, CA 95501
phone: (707) 445-6200 | fax: (707) 445-6097

November 22, 2017

Nathan Edward Megazzi-Vero
6147 Walnut Drive
Eureka, CA 95503

Certified Mail # 7015 1660 0000 0822 0596

Donald Anthony Garcia
6147 Walnut Drive
Eureka, CA 95503

Certified Mail # 7015 1660 0000 0822 0602

**Subject: Substandard Housing Conditions, 6147 Walnut Dr., Eureka, California,
APN 303-063-029, Legal description attached hereto as Exhibit 1**

NOTICE AND ORDER OF SUBSTANDARD HOUSING

This notice confirms that the inspection done on September 28, 2017, of the dwelling at the above location conducted by a Registered Environmental Health Specialist from the Humboldt County Division of Environmental Health (DEH) acting under the authority, and whose observations are reviewed and approved, by the Humboldt County Health Officer. The inspection revealed conditions that are in violation of the 1997 Uniform Housing Code (UHC) and the California Residential Code (CRC) adopted by the County Of Humboldt. The building has been found by the Health Officer to be Substandard Housing per Chapter 10, §1001 of UHC.

YOU ARE HEREBY NOTIFIED by the County Health Officer that the following conditions, injurious to the public health, exist at the above referenced location and are in violation of Humboldt County Code and render the building dangerous and substandard:

Inadequate Sanitation - UHC § 1001.2 (10) Lack of required electrical lighting.

- This residence was without electricity at the time of inspection. There was evidence that the occupants had been receiving electricity from a neighboring parcel using an extension cord that was still in place.

DHHS Administration
phone: (707) 441-5400
fax: (707) 441-5412

Mental Health
phone: (707) 268-2990
fax: (707) 476-4049

Social Services
phone: (707) 476-4700
fax: (707) 441-2096



Inadequate Sanitation - UHC § 1001.2 (12) Infestation of rodents.

- Evidence of rat infestation was noted throughout the dwelling. Evidence of the infestation included chew holes into walls, chewed electrical cable, rub marks, feces, and heavy odor of rat urine in the dwelling.

Inadequate Sanitation - UHC § 1001.2 (13) General dilapidation or improper maintenance.

- The roof gutter system was improperly modified/repared causing leaks into and down the sides of walls. The sheetrock in the enclosed porch had failed due to water damage from leaking roof and skylights. The kitchen stove/oven was broken and partially dismantled.

Inadequate Sanitation - UHC § 1001.2 (15) Lack of adequate garbage and rubbish storage and removal facilities.

- An approximately 6x6x7 foot shed was observed filled nearly to the roof with household garbage. An open barrel of garbage, an open bucket of food waste, and numerous bags of household garbage adjacent to an occupied RV were observed.

Hazardous Electrical Wiring - UHC § 1001.5

- NM-B type cable in rafter area of enclosed porch observed to be chewed by rodents; a portion of cable had exposed (stripped of insulation) hot, neutral, and ground conductors were in contact with one another. The kitchen and bathroom outlet receptacles directly adjacent to the sinks lacked GFCI protection. Many of the light switch plates and receptacle outlet plates were missing. An exterior mounted GFCI was improperly secured and lacked a weather proof cover.

Hazardous Plumbing - UHC § 1001.6

- The waste lines serving the kitchen sink leaked so as to be nonfunctional. The TPR valve discharge pipe was undersized.

Faulty Weather Protection - UHC § 1001.8

- There was evidence of an ongoing roof leak in the enclosed porch. The master bedroom window and multiple enclosed porch windows were broken. The kitchen window had a bullet hole through the panes.

Hazardous or Insanitary Premises - UHC § 1001.11

- Greater than 40 waste tires were noted in multiple locations on the parcel.

Smoke alarms - CRC §R314

- No smoke/CO alarms were observed within the dwelling as required.

The above-described conditions were observed by DEH staff and concurred with by the Humboldt County Health Officer.

YOU ARE HEREBY NOTIFIED the building or portions thereof that are determined to be substandard are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Chapter 11 of the UHC.


The following corrections must be commenced by December 7, 2017, including the securing of all necessary permits, if any. These same corrections must be completed within such time as determined is reasonable per UHC §1101.2(3) (3.1).

1. Occupants must obtain/maintain electrical service to the dwelling.
2. All rodent droppings, rub marks, and urine must be cleaned up according to CDC guidelines for safe and effective cleanup. All ingress holes must be closed and repaired. Professional pest service must be contracted with to manage the infestation.
3. The roof gutter system must be repaired as required by building standards.
4. The leaking porch skylights must be made weather tight.
5. The water damaged sheetrock must be replaced.
6. The kitchen stove must be repaired or replaced.
7. Occupants must remove all garbage to an approved disposal site. Garbage and recyclables must be kept in suitable water tight receptacle with tight fitting covers and removed from premises at least once per week.
8. Due to the evidence of rodent damage to the wiring, all circuits and wiring should be assessed and repair by a licensed electrician. Correct other electrical deficiencies as noted above.
9. Failing or hazardous plumbing must be corrected.
10. All broken windows must be replaced and screens placed.
11. The roof leaks must be repaired/corrected.
12. The waste tires must be removed to an approved disposal site. Contact HCDEH LEA program for details of correct waste tire transport and disposal.
13. Install working smoke/CO detectors as required by CRC §R314.

Property owners are required to maintain buildings and structures in a safe and sanitary manner. Action must be taken to correct the above-identified conditions within the identified timeframe and must comply with Humboldt County Code and the requirements of this office. If the required corrective action and repairs are not commenced within the time specified, the Health Officer may order the building vacated and posted as uninhabitable to prevent further occupancy until the work is completed and may proceed to cause the work to be done and charge the cost thereof against the property or its owner. In addition, failure with this order constitutes a misdemeanor and may result in enforcement action against you pursuant to UHC §1401.1 and 1401.2.

RIGHT TO APPEAL: Any person having any record title or legal interest in the building and premises may appeal this Notice and Order or any action of the Humboldt County Health Officer to the housing advisory and appeals board provided the appeal is made in writing as provided in the UHC §1201 and Humboldt County Code §331-11 and filed with the Humboldt County Building Official within 30 (thirty) days from the date of service of this order (UHC §203.1, 1201.1). Failure to appeal will constitute a waiver of all rights to an administrative hearing and adjudication of the notice and order and any determination/action of the County Health Officer (UHC §1202).

Signed,



Donald Baird, M.D.
County of Humboldt Health Officer



Morgan Cook, Senior REHS
Division of Environmental Health

Enclosure(s):

UHC §1001.2 (10); 1001.2 (12); 1001.2(13); 1001.2 (15); 1001.5; 1001.6; 1001.8; 1001.11

CRC § R314; R315

Exhibit 1: Legal description

Conditional Release of Health Hold

Photo documentation

cc: Bernadette Arwood, Code Enforcement Unit
Chad Pasquini, Humboldt County Building Division

Chapter 1.06 JUDICIAL REVIEW OF COUNTY DECISIONS

1.06.010 State Law Applicable.

Pursuant to the provisions of Section 1094.6 of the [Code of Civil Procedure](#), the provisions of said section are made applicable to the decisions of the board of retirement of the Sacramento County employees retirement association, and to the decisions of all other commissions, boards, officers and agents of the County of Sacramento, except where a limitation of actions is otherwise provided by this code or the zoning code of Sacramento County. (SCC 421 § 1 (part), 1980.)

1.06.020 Judicial Review—Ninety-Day Limit.

Judicial review of any decision subject to the provisions of this chapter and [Code of Civil Procedure](#), Section 1094.6 may be had only if the petition for judicial review is filed within ninety days after the decision becomes final; provided, that pursuant to the provisions of Section 1094.6(d) of the [Code of Civil Procedure](#), if the petitioner files a request for the record within ten days after the date the decision becomes final, the time within which a petition for judicial review may be filed shall be extended to not later than the thirtieth day following the date on which the record is either personally delivered or mailed to the petitioner or his attorney of record, if he has one. (SCC 421 § 1 (part), 1980.)

1.06.030 Record Preparation—Costs.

a. As provided in said Section 1094.6, any person who requests preparation of the administrative record shall be responsible for payment of the actual costs of transcribing or otherwise preparing the record. Actual costs shall include, but not be limited to: the salary and fringe benefit rates of pay by the County to personnel for time consumed in typing a transcript and reproducing, assembling and compiling the transcript and exhibits; the unit cost (including prorated rental) of equipment utilized in reproduction; the cost of materials and supplies; and the cost to the County of having a transcript typed when testimony has been recorded by a court reporter. Each board, commission, officer, employee or agent whose decision will be subject to the limitations established by this chapter may, from time to time, by resolution in the case of such boards and commissions and by written order in the case of such officers, employees and agents, determine and promulgate unit costs of preparing the record.

b. Before commencing preparation of a transcript or other record, the officer or employee responsible for preparation shall estimate the actual total cost. Preparation of the record shall not be commenced until the person requesting preparation of the record has deposited the full amount of the cost estimate.

c. If the deposit exceeds the actual cost, the difference shall be refunded. If the actual cost exceeds the estimate, the difference shall be paid when the record is delivered.

d. The limitations of action period shall not be extended pursuant to the provisions of Section 1094.6(d) or Section 1.06.020 of this code, beyond ninety days after the decision becomes final, unless the petitioner deposits pursuant to the provisions of subsection (b) of this section, the estimated actual total cost of preparing the transcript within ten calendar days after he has been furnished with the written estimate of such cost. (SCC 421 § 1 (part), 1980.)

1.06.040 Notice.

Every written decision or notice thereof to which the provisions of this chapter and Section 1094.6 of the [Code of Civil Procedure](#) apply, shall refer to and be accompanied, by attachment, by a copy of the provisions of this chapter. (SCC 421 § 1 (part), 1980.)

PROOF OF SERVICE VIA EMAIL & U.S. MAIL

I, Ly Lee, declare as follows:

I am employed in the County of Sacramento, California, the county where the mailing took place; I am over the age of 18 years and not a party to the within action. My business address is 3200 Fifth Avenue, Sacramento, California 95817. I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service.

On January 5, 2018, I served a copy of the following document:

**ADMINISTRATIVE HEARING FINDING OF
NUISANCE AND ORDER OF ABATEMENT
Nathan Megazzi-Verco and Donald Garcia
Case No.: 15CEU-56
Property Address: 6147 Walnut Drive, Eureka, CA 95503
APN: 303-063-029-000**

on the person named below by following ordinary business practice, placing a true copy thereof enclosed in a sealed envelope for collection and mailing with the United States Postal Service where it would be deposited for first class delivery, postage fully prepaid, that same day in the ordinary course of business, addressed as follows:

**Paula Mushrush
Planning & Building Department
Housing Division
3015 H Street, Eureka, CA 95501**

And via email addressed as follows:

PMushrush@co.humboldt.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on January 5, 2018, in Sacramento, California.



Ly Lee
Institute for Administrative Justice
McGeorge School of Law

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 Planning and Building; 3015 H Street, Eureka, CA 95503; that on January 8, 2018, I served a true copy of **SERVICE OF ADMINISTRATIVE HEARING FINDING OF NUISANCE AND ORDER OF ABATEMENT;**

_____ By placing a true copy thereof enclosed in a sealed envelope and depositing the envelope at my place of business for same-day collection and mailing with the United States mail, following our ordinary business practices with which I am readily familiar, addressed as set forth below:

 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 with return receipt requested: (First Class & Certified Mail)

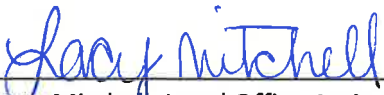
Nathan Megazzi-Verco
6147 Walnut Drive
Eureka, CA 95503

Donald Garcia
6147 Walnut Drive
Eureka, CA 95503

_____ by personally posting a copy thereof on the premises located at:

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

Executed on the 8th day of January, 2018 in 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, SHAUNA SOETH, 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 Planning and Building Department, 3015 H Street, Eureka, California; that on January 8th, 2018, I served a true copy of **ADIMINISTRATIVE HEARING FINDING OF NUISANCE AND ORDER OF ABATEMENT.**

_____ 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: (First Class & Certified Mail)

_____ by personally hand delivering a true copy thereof to the occupant who resides at the premises located at:

~~_____~~ by personally posting a true copy thereof on the premises located at:

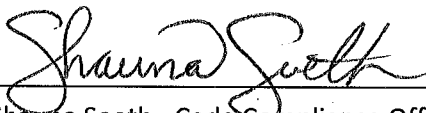
**6147 Walnut Drive
Eureka, CA 95503**

_____ by placing a true copy thereof in the designated place at Court Operations to the attorney/parties named below:

_____ by placing a true copy in the County's Mailroom designated to the attorney named below:

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

Executed on this 8 day of January, 2018, in the City of Eureka, County of Humboldt, State of California.



Shauna Soeth - Code Compliance Officer