



COUNTY OF HUMBOLDT

For the meeting of: 9/24/2024

File #: 24-1205

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Departmental

Vote Requirement: Majority

SUBJECT:

Status of Code Enforcement Proceedings at 473 Quarry Road in Trinidad

RECOMMENDATION(S):

That the Board of Supervisors:

1. Receive the staff update and provide comment.

STRATEGIC PLAN:

This action supports the following areas of your Board's Strategic Plan.

Area of Focus: Safe & Healthy Communities

Strategic Plan Category: 1001 -Support and sustain partnerships between public safety and partner agencies to enhance public safety in our communities

DISCUSSION:

Executive Summary

This report is to update the Board on the ongoing Code Enforcement activity at 473 Quarry Road, Trinidad (APN 515-172-010-000.) This property has a long-standing set of violations including solid waste, junk vehicles, unpermitted structures, and unpermitted sewage disposal. The property has been the subject of action by the court and by an Administrative Hearing Officer, and the violations persist. Code Enforcement did not follow through with an abatement scheduled in 2022 to pursue discussions with the property owner to determine if there are feasible alternatives to abatement. This effort has not resulted in a successful alternative and for lack of alternatives to bring about compliance, abatement is the necessary next step.

Project History

This property is located at 473 Quarry Road; Trinidad APN 515-172-010-000 This property was originally served a Notice of Nuisance on May 15, 2001 by the Humboldt County Community Assistance Unit. The 2001 Notice of Nuisance Violations included:

1. HCC section 311-10.1 Building/property use or operation in violation of zoning code
2. HCC 314-81.1 Use of mobile homes and trailers as residence
3. HCC 314-87.1 Secondary dwelling unit without permits
4. HCC 311-11 Building conditions endanger life, health, safety or welfare of public
5. HCC 311-11.5 Non-approved water system
6. HCC 331-28 Construction of building/structure in violation of building, plumbing and/or electrical codes

7. HCC 611-3 Unapproved sewage disposal system

This property was served second Notice of Nuisance on Oct. 31, 2007. The 2007 Notice of Nuisance included:

1. HCC 314-81.1 Use of mobile homes and trailers as residence
2. HCC 331-28 Construction of building/structure in violation of building, plumbing and/or electrical codes
3. HCC 352-26 Junk Vehicles
4. HCC 371-2 Maintaining a Junkyard
5. HCC 521-4 Storage and Removal of solid waste
6. HCC 611-3 Unapproved sewage disposal system
7. HCC 612-6 Sewage/sewage system creating a nuisance

On Aug. 24, 2017, Notice to Abate Nuisance and Notice of Violation and Proposed Administrative Civil Penalty was served. The violations included:

1. HCC 354-1 Junk and/or Inoperable Vehicles
2. HCC 611-3 Unapproved sewage Disposal System
3. HCC331-28 Construction of Building/Structure in Violation of Building, Plumbing and/or Electrical Codes
4. HCC 314-81.1 Use of a Recreational vehicle or Mobile Home as a Residence
5. HCC 331-11.5 Non-approved water supply system
6. HCC 371-2 Maintaining a Junkyard
7. HCC 521-4 Improper storage and removal of solid waste
8. HCC 351-2(c) Building Conditions Endanger Life, Health, Safety or Welfare of the public
9. UHC 1001.11 Unsanitary conditions
10. HCC 314-87.1 Secondary Dwelling Unit Without Permits
11. UHC 1001 & H&S 17920.3 Substandard Housing
12. HCC 311-10.1 Property/Building Use in Violation of Zoning Codes

On Sept. 2, 2017, a Code Enforcement Appeal Hearing Request for was submitted by Mr. Garth. His appeal request was for the determination that a violation had occurred and appealing the amount of the proposed administrative civil penalty.

This property was served an Amended Notice to Abate Nuisance on Nov. 3, 2017. The 2017 Amended Notice to Abate Nuisance included:

13. HCC 354-1 Junk and/or Inoperable Vehicles
14. HCC 611-3 Unapproved sewage Disposal System
15. HCC331-28 Construction of Building/Structure in Violation of Building, Plumbing and/or Electrical Codes
16. HCC 314-81.1 Use of a Recreational vehicle or Mobile Home as a Residence
17. HCC 331-11.5 Non-approved water supply system
18. HCC 371-2 Maintaining a Junkyard
19. HCC 521-4 Improper storage and removal of solid waste
20. HCC 351-3c Building Conditions Endanger Life, Health, Safety or Welfare of the public

21. UHC 1001.11 Unsanitary conditions
22. HCC 314-87.1 Secondary Dwelling Unit Without Permits
23. UHC 1001 & H&S 17920.3 Substandard Housing
24. HCC 311-10.1 Property/Building Use in Violation of Zoning Codes

This property was served a second Amended Notice to Abate Nuisance on Dec. 19, 2017. This notice was recorded and had an appeal filed. The 2017 second Amended Notice to Abate Nuisance included:

1. HCC 354-1 Junk and/or Inoperable Vehicles
2. HCC 611-3 Unapproved sewage Disposal System
3. HCC331-28 Construction of Building/Structure in Violation of Building, Plumbing and/or Electrical Codes
4. HCC 314-81.1 Use of a Recreational vehicle or Mobile Home as a Residence
5. HCC 331-11.5 Non-approved water supply system
6. HCC 371-2 Maintaining a Junkyard
7. HCC 521-4 Improper storage and removal of solid waste
8. HCC 351-3 Building Conditions Endanger Life, Health, Safety or Welfare of the public
9. UHC 1001.11 Unsanitary conditions
10. HCC 314-87.1 Secondary Dwelling Unit Without Permits
11. UHC 1001 & H&S 17920.3 Substandard Housing
12. HCC 311-10.1 Property/Building Use in Violation of Zoning Codes

The (appeal) Administrative Hearing Finding of Nuisance and Order of Abatement and Finding of Violation and Imposing Administrative Civil Penalty was heard June 11, 2018, by CALIFORNIA HEARING OFFICERS, LLP. This hearing included the original notices posted on Aug. 24, 2017 and both the subsequent amended notices served on Nov. 3, 2017 and also on Dec. 19, 2017. The Hearing Officer confirmed the following 10 nuisance violations. The Hearing Officer also ordered the property owner to pay administrative fines in the amount of \$40,500 to the county.

1. Humboldt County Code (HCC) section 354-1, junk and/or inoperable vehicles
2. HCC section 611-3, unapproved sewage disposal system
3. HCC section 331-28, construction of building/structure in violation of Building, Plumbing, and/or Electrical Codes
4. HCC section 314-81.1, use of a recreational vehicle or mobile home as a residence
5. HCC section 331-11.5, non-approved water supply system
6. HCC section 371-2, maintaining a junkyard
7. HCC section 521-4, improper storage and removal of solid waste
8. HCC section 351-2(c), building conditions endanger life, health, safety, or welfare of the public
9. HCC section 314-87.1, secondary dwelling unit without permits
10. HCC section 311-10.1, property/building use in violation of zoning codes

The (appeal) Administrative Hearing Finding of Nuisance and Order of Abatement and Finding of Violation and Imposing Administrative Civil Penalty was appealed to the Superior Court on August 10, 2018. An injunction for ruling on procedural issues was filed by Mr. Garth and heard on July 12, 2019. The court ruled that an Administrative Hearing Officer's Finding of Violation can be appealed by way of Government Code 53069.4(b) or challenged by way of writ, however pursuant to HCC 351.12(b) a challenge

to an Administrative Hearing Officers Findings of Nuisance and Orders of Abatement may only be brought by way of writ. Therefore, the Court was without jurisdiction to consider Appellant's challenges to Findings of Abatement Nuisance and Orders of Abatement. The Court further stated that the appeal should proceed by way of a De Novo hearing by a single judge.

On July 24-2019, Mr. Garth filed a Notice of Appeal of Order Refusing to Dissolve An Injunction to the First District Court of Appeals. Between July 24, 2019- Jan. 17, 2020, the court heard both Mr. Garth's opening brief and the county's response to brief. On Jan. 17, 2020, the Court heard the De Novo Appeal whether the 12 property conditions as identified in the Notice of Violation and Proposed Civil Penalty constitute a code violation, and whether Mr. Garth corrected the 12 property conditions and if no corrective actions were taken, then what amount of administrative civil penalty should be imposed. The Court found that the 12 code violations existed and continued to exist up to June 5, 2018, (this was 6 days prior to the (appeal) Administrative Hearing) and that Mr. Garth failed to correct the 12 code violations within the 10-day time period and issued an order imposing a total administrative civil penalty of \$50,000 for the 12 code violations.

On June 24, 2020, Mr. Garth filed a petition in the trial court seeking to appeal abatement and civil penalties orders imposed upon him by the County of Humboldt. This appeal was dismissed by the court.

Judgement on Appeal De Novo was filed in the Superior Court on Aug. 6, 2020. The judgement stated that the county has shown by a preponderance of evidence that the following violations constitute a public nuisance. These were the same violations that were confirmed by the (appeal) Administrative Hearing Finding of Nuisance and Order of Abatement and Finding of Violation and Imposing Administrative Civil Penalty that was heard on was heard June 11, 2018, by CALIFORNIA HEARING OFFICERS, LLP.

1. Humboldt County Code (HCC) section 354-1, junk and/or inoperable vehicles
2. HCC section 611-3, unapproved sewage disposal system
3. HCC section 331-28, construction of building/structure in violation of Building, Plumbing, and/or Electrical Codes
4. HCC section 314-81.1, use of a recreational vehicle or mobile home as a residence
5. HCC section 331-11.5, non-approved water supply system
6. HCC section 371-2, maintaining a junkyard
7. HCC section 521-4, improper storage and removal of solid waste
8. HCC section 351-2(c), building conditions endanger life, health, safety, or welfare of the public
9. HCC section 314-87.1, secondary dwelling unit without permits
10. HCC section 311-10.1, property/building use in violation of zoning codes

The task of Appeal De Novo was limited to a determination of the appropriate civil penalties. The Court found that a daily, per violation penalty of \$50.00, for a maximum of ninety days was justified. Thus, the Court found that the total assessment of civil penalties for the 10 violations due to the county was \$45,000 and ordered payment. This Civil Penalty Lien was approved by the Board in the amount of \$62,431.79, which included \$17,431.79 in administrative costs at the time. The lien was recorded September 29, 2022, and there have been no payments on this to date.

Little progress was made in correcting the 10 confirmed violations, from the 2012 case, even after the decision by the Administrative Hearing and court proceedings, as a result the property was scheduled for abatement in 2021. In August 2021 Code Enforcement received a bid for an abatement that included demolition and removal of structures and the removal and disposal of all junk vehicles. The bid received in 2021 was over \$306,000.

There was controversy about the County abating this site, with residents of the site and other people planning to protest the abatement. Shortly before the abatement was to begin, the owner's counsel asked that the abatement process be halted to find an alternative path forward. As a result of this on Sept. 14, 2023, a meeting was held at the Planning and Building Department. In attendance was Supervisor Madrone, Charles Garth, Eugene Denson, Nichole Norris, Director Ford and CEU Investigator Soeth. Mr. Garth agreed to have all junk vehicles not being lived in removed by Oct. 15, 2023, this was not done. The possibility of amending the zoning ordinance to allow the substandard housing was discussed as a possibility. Mr. Denson indicated that he was working on a

petition to amend the Zoning Ordinance to create a Private Land Intentional Community Shelter Program that would benefit this property and other similar properties. This petition was on the Board agenda for March 12, 2024, with a staff recommendation to not accept the petition. It was requested the agenda item be pulled from the agenda. On April 12, 2024, Mr. Denson sadly passed away.

No additional information regarding the amendment to the Zoning Ordinance has been received or discussed. There does not appear to be an alternative to the County abating the violations on this property and Code Enforcement is in the preparatory stages of that work.

The preferred path of abating property is through a receiver. In this case the receiver responded that due to the number of junk vehicles, solid waste, structures that need to be removed and the environmental damage that has been done, a receivership is not feasible on this property. This leaves the County in the position of needing to abate the violations on this property.

As part of the work associated with the abatement in 2021 it was identified that there were additional junk vehicles on the site. In order to abate these additional junk vehicles, a secondary Code Enforcement case was opened, as new notices of violation and abatement needed to be placed on the property. The property owner filed an appeal, and that appeal has been on hold while efforts were made to explore an alternative solution to abatement. The last time Code Enforcement was onsite was March 3, 2022. Because the conditions of the property continue to change, an inspection will be required to properly notice any additional junk vehicles.

In order to efficiently complete the abatement process, the County will need to issue notices on all the new junk vehicles brought onto the site, allow an appeal of that to be submitted and then take the existing appeal and expected new appeal to the Administrative Hearing Officer. Once this is completed and without an appeal to the court then abatement can begin.

The steps and tentative time frame to initiate abatement are as follows:

1. Site Inspection	2 weeks
2. <u>Issue Notices to Abate Junk Vehicles and of Violation</u>	2 weeks
3. <u>Appeal Hearing</u>	9 weeks
4. <u>Order From Hearing Officer</u>	3 weeks
5. <u>Time for appeal to Superior Court</u>	13 weeks
6. <u>Tenant Relocation</u>	4 weeks
7. <u>Task Order Approval</u>	3 weeks
8. <u>Court Approved Inspection and Abatement Warrant</u>	2 weeks
9. <u>Obtain Necessary Permits</u>	1 weeks
<u>Total Time</u>	39 weeks

Seeking to obtain the inspection warrant next week would put the actual abatement during June of 2025.

SOURCE OF FUNDING:

County Abatement; General Fund, Code Enforcement (1100269) Nuisance Abatement (631130)

FINANCIAL IMPACT:

County-led abatements are paid out of monies set aside for county abatements in the General Fund and transferred to budget unit 1100-269. Pursuant to HCC section 351-24 after the Notice of Nuisance Abatement Assessment Lien is recorded "the Humboldt County Auditor-Controller shall enter each Nuisance Abatement Assessment upon the affected Property on the Humboldt County Secured Tax Roll. The Nuisance Abatement Assessment shall continue until it is paid, together with interest at the legal maximum rate computed from the Imposition date until payment is received. The Nuisance Abatement Assessment may be collected at the

same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary property taxes...". The Nuisance Abatement Assessment shall also have 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.

OTHER AGENCY INVOLVEMENT:

Environmental Health

DHHS

HCSO

ATTACHMENTS:

Attachment A - Status of Case Communication

PREVIOUS ACTION/REFERRAL:

Meeting of: N/A

File No.: N/A